

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2019ECI007
DA Number	DA-2019/6
Local Government Area	Bayside Council
Proposed Development	Integrated Development for the demolition of existing buildings and construction of a mixed use development including 2 x seven (7) storey buildings and 2 x six (6) storey buildings containing 96 hotel rooms, 444 serviced apartments, restaurant, commercial tenancies and basement parking
Street Address	146-154A O'Riordan Street Mascot
Applicant	Toplace Pty Ltd
Owner	JKN Park Pty Ltd
Number of Submissions	One (1) objection
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$111,285,541.00
List of All Relevant s4.15(1)(a) Matters	○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Botany Bay Local Environmental Plan 2013 ○ Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	• Architectural plans – PTW Architects • Statement of Environmental Effects and Clause 4.6 variation – LJB Urban Planning • Landscape Plans- iScape Landscape Architecture
Report by	Angela Lazaridis – Senior Development Assessment Planner

RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), as the Consent Authority, resolve to:

- a) That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the building height prescribed by cl4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- b) Grant a deferred commencement of Development Application No. 2019/6 for the demolition of existing buildings and construction of a mixed use development including 2 x seven (7) storey buildings and 2 x six (6) storey buildings containing 96 hotel rooms, 444 serviced apartments, restaurant, commercial tenancies and basement parking at 146-154A O'Riordan Street Mascot, subject to the conditions of consent in the attached Schedule and the following deferred commencement condition:
 - i. **DC1** The Proponent is to obtain the necessary approval from the owner of the property at 263 – 273 King Street, Mascot, to enter and carry out the proposed stormwater deviation work and disuse the section of the stormwater pipe and stormwater channel within this property. The period of the "Deferred Commencement" consent is to be limited to 6 months.
- c) That any objectors be advised of the Sydney Eastern City Planning Panel decision.

The reasons for the recommendation is as follows:

- a) The proposal is consistent and conforms with the objectives of the B5 Business Development zone and conforms with the desired future character of the precinct;
- b) The proposal will provide for an increase employment density and visitor accommodation on the site within the Mascot Business Development Precinct; and
- c) The proposal provides a considered built form response that will deliver a positive urban design outcome.

EXECUTIVE SUMMARY

Council received Development Application No. 2019/6 on 10 January 2019 for an integrated development application for the demolition of existing buildings on the site and construction of a mixed use development including 2 x seven (7) storey buildings and 2 x six (6) storey buildings containing 96 hotel rooms, 444 serviced apartments, restaurant, commercial tenancies and basement parking at 146-154A O'Riordan Street Mascot.

The Development Application is required to be referred to the Sydney Eastern City Planning Panel (SECPP) pursuant to Schedule 7 of the State Environmental Planning Policy (State and

Regional Development) 2011 as the Capital Investment Value of the proposal is greater than \$30,000,000.

The Development Application was originally notified as Integrated Development under Clause 91 of the Water Management Act 2000 and Section 4.8 of the EP&A Act as the development is deemed to be an aquifer interference activity as part of the development intercepts or extracts groundwater. The application was referred to Water NSW who had no objection to the proposal subject to conditions of consent.

The Development Application was advertised for a period of thirty (30) days between 24 January to 25 February 2019. One (1) submission was received and the issues raised are addressed in greater detail in the report below.

The key issues in the assessment of the development application include non-compliance with the building height and landscaping.

The development seeks a building height variation of 3.2 metres or 14.5% at its maximum non-compliance. The proposal results in non-compliances across all four buildings and is limited to the roof, parapet and lift overrun. There is no component of the development relating to floor area that is over the height limit. The applicant has provided a Clause 4.6 variation which has been discussed in the report below. Considering the nature of the site within the context of surrounding developments which have a much higher building height control and the recent planning proposal to increase the building height control on the western side of the site from 22 metres to 44 metres, the proposed non-compliance is supported.

The proposal is required to provide 30% landscaping on site. The plans demonstrate that 4,822.66sqm (28.3%) of landscaped area is provided for which is a departure of 283.34sqm (5.5%). Due to the extent of excavation proposed for the basements, the development provides appropriate deep soil along the boundaries of the development. Council's Landscape Architect has reviewed the plans and has imposed conditions of consent requiring greater areas of hard paving to be replaced with deep soil landscaped areas in addition to general landscaping conditions.

With regard to issues from external authorities, both Roads and Maritime Services (RMS) and Sydney Water originally did not provide concurrence to the development. Initially RMS raised issues relating to the location of the vehicular crossing close to the intersection of O'Riordan Street and Bourke Road and requested that the vehicular access be relocated to the northern side of the site away from the intersection with a deceleration lane proposed. This issue was raised late in the assessment of the application. After discussions between RMS and the Applicant, RMS conceded that the current location of the vehicular access is acceptable subject to conditions of consent.

Sydney Water had significant concerns relating to the development as there is currently a number of Sydney Water assets that traverse through the site in which the development is proposed to be built over. The assets are discussed in greater detail in the report below. After discussions between Sydney Water and the Applicant, concurrence was provided. However, upon review of the conditions of consent provided by Sydney Water, Council disagrees with the timing of the conditions particularly as they relate to owners consent which was timed to be provided prior to the issue of the Construction Certificate. Council's Development Engineer has recommended that the conditions be amended to form deferred commencement conditions. This was discussed with both Sydney Water and the Applicant. A detailed discussion relating to this issue is provided in the report below.

In summary, the proposed development application has been assessed against the relevant controls and on balance, Council is generally supportive of the proposal subject to deferred commencement conditions imposed in the consent, as attached in Schedule 1.

SITE DESCRIPTION

The subject site is identified as 146, 154 and 154A O’Riordan Street Mascot and comprises four parcels of land which are legally known as Lots 13, 14 and 15 in DP 1232496 and Lot A in DP402876. The site is located on the eastern side of O’Riordan Street between Coward Street to the north and King Street to the south.

The site has a total site area of 17,020.5sqm and is irregular in shape. The site has a street frontage length of 156.65 metres along O’Riordan Street, a 65.95 metre and 45.09 metre side depth along the northern elevation, a 79.18 metre eastern boundary length and a 173.02 metre southern boundary depth.



Figure 1. Locality Plan



Figure 2. Aerial Map of subject site

The site has a gradual fall of 200mm from west to east along its northern section, 1 metre from fall from north to south along its western section, an 800mm fall from north to south along its eastern section and a 400mm fall from west to east along its southern section. There are two Sydney Water owned assets that traverse the site which include a 1650mm wide brick sewer and 900mm-1050mm wide concrete stormwater infrastructure.

Currently on the site, there consists part one part two storey multi-unit warehouse development which includes a range of uses including Sushi Train, Work Ventures; Sydney ITEC Repair Station, Gearhouse Broadcast; Dawai Foods, Glassons Head Office, Ti-Freight Forwarders, T and P International Trading, IPL Communications, OKI Printing Solutions, Jet Services and Transport Services. The site contains a large area of hard paving which consists of car parking spaces, loading areas and driveway. The site contains a number of trees which are central to the site and are proposed to be removed. There is a large number of trees located on the eastern and northern boundaries which the majority are proposed to be retained.

The site is located within a 25-30 ANEF Contour, is within 800 metres of Mascot Station and is flood affected. The site was also subject to road widening along O'Riordan Street which has been carried out. The site is located within the Mascot Station Precinct and therefore design excellence is required to be assessed.



Figure 3. 146 O'Riordan Street (front elevation along O'Riordan Street)



Figure 4. 146 O'Riordan Street (front elevation along O'Riordan Street)



Figure 5. Photo taken within the site looking west towards O'Riordan Street



Figure 6. Photo taken within the site on the eastern boundary looking west

SURROUNDING LOCALITY

To the north of the site is Mascot Oval which is identified as Heritage Item No. 82- Mascot Park. This is currently utilized a recreation area. Associated with the oval, a Council car park is located directly adjoining the site. This car park is generally closed off to the public during the week and is opened when events are held at the oval.

To the east of the site is residential development, specifically low and medium density residential. The residential development is located on Macintosh Street and Forster Street with the majority of residential being single and two storey detached and semi-detached dwelling houses. The site directly to the east is 70 Macintosh Street which is a two storey townhouse development with their communal open space located to the rear and attached to the boundary of the subject site.



Figure 7. Mascot Oval in the background with Council car park in the foreground



Figure 8. Rear elevation of medium density development at 70 Macintosh Street to the rear of the site

To the south of the site comprises industrial warehouses and businesses as well as the stormwater channel that leads from Mascot Station.

On the opposite side of O’Riordan Street, there consists of predominantly office buildings and hotel/serviced apartment development. The development directly opposite is 19 Bourke Road which is the Holiday Inn. A recent determination by the SECPP has been approved for intensification of the hotel development. On the western side of O’Riordan Street consists of office towers at 185-189 O’Riordan Street (see figure 10) as well as the Pullman Hotel which is directly to the south of that site.

The Airport Tunnel runs along O’Riordan Street with the closest stop being Mascot Train Station which is located on the north-west of the subject site.

Further north of Mascot Oval on the northern side of Coward Street comprises of serviced apartments and hotel development owned by Meriton at 200 Coward Street. The proposed development is similar to that development with regard to the use and porte cochere usage.



Figure 9. Holiday Inn site located opposite the subject site



Figure 10. 185-1896 O’Riordan Street Mascot which is opposite the site

BACKGROUND

Development Application History

- 10 January 2019 – Development Application was lodged with Bayside Council
- 17 January to 25 February 2019 – The development application was publically notified as integrated development.
- 6 February 2019- The application was presented to the Bayside Traffic Advisory Committee Meeting for recommendations.
- 6 February 2019- RMS has requested additional information relating to SIDRA modelling files
- 1 March 2019- Sydney Water has requested additional information relating to buildings over their assets, flooding and stormwater
- 29 March 2019- Council sent the applicant an RFI with matters to be addressed from external and internal departments
- 11 April 2019 – The development application was presented to the Design Review Panel for assessment.
- 16 May 2019 – A briefing meeting was held with the Sydney Eastern City Planning Panel.
- 11 June 2019 – Council sent the applicant an RFI relating to planning matters
- 27 September 2019- Applicant provided additional information as requested by Council and other authorities.

- 18 November 2019- Additional information was received including landscape plans, flood assessment report and stormwater diversion works
- 5 December 2019- RMS provided a letter to Council not providing concurrence to the application. The applicant had a meeting with RMS in which concurrence was provided to them as the issues that they raised in their second letter to Council was too late in the process for them to push the applicant to comply. The letter of concurrence is dated 23 January 2020.
- 29 January 2020 – Sydney Water provided a letter to Council not providing concurrence to the application. The applicant had a meeting with Sydney Water in which some of the issues were resolved. Sydney Water provided Council with a letter of concurrence on 31 January 2020

Background History to Planning Proposal

On the 16th July 2019, the Bayside Local Planning Panel recommended that the 44m height of buildings applying to the site be amended to retain the 22m building height for 15m on the northern boundary.

At its meeting of 14th August 2019, Council recommended that the Planning Proposal (PP) be forwarded to the Department of Planning, Industry & Environment (DPIE) for Gateway Determination and with the requirement for a building height plane clause to be included in the LEP.

The Planning Proposal received Gateway Determination on 17th December 2019 allowing an increase to the maximum building height on the western side of the site from 22 metres to 44 metres. The conditions attached to the Gateway Determination included the requirement for a Building Height Plane clause for the northern and eastern boundaries to be included in the LEP to limit impacts on the adjoining heritage item; and adjoining R3 Medium Density Residential zone.

Currently, the proponent is updating the Planning Proposal to address the conditions of the Gateway Determination prior to public exhibition.

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, as amended, is for an integrated Development for the demolition of existing buildings and construction of a mixed use development including 2 x seven (7) storey buildings and 2 x six (6) storey buildings containing 96 hotel rooms, 444 serviced apartments, restaurant, commercial tenancies and basement parking.

The proposal is further broken down as follows:

- Demolition of all existing structures;
- Removal of all trees which have been earmarked for removal within the arborist report;
- Excavation for three (3) basement levels of car parking to contain a total of 536 car spaces and seven loading bays. The basement car park will be divided into two areas which is divided by the existing brick sewer;

- Construction of two x six (6) storey buildings along O’Riordan Street to consist of a hotel and serviced apartments (Building A and B). On the O’Riordan Street frontage, the ground level comprises commercial and neighbourhood shops as well as restaurant that is associated with the hotel development. The neighbourhood shops amount to 426sqm floor area, 196sqm of commercial floor area and 288sqm of restaurant floor area. The hotel includes bar and lounge, conference room, lounge and function room as well as office area;
- Construction of a two x seven (7) storey buildings along the eastern side of the site to contain serviced apartments (Building C and D);
- An internal driveway will be positioned between Building A and Building B and accessed via O’Riordan Street which will enable vehicular access to drop-off and pick-up points for visitors, loading areas as well as to the basement car parking levels;
- Building A which comprises the hotel contains a porte cochere at the rear of the building with internal access. The porte cochere area is close to three taxi drop-off and pick-up spaces as well as two coach spaces.

The below figures demonstrate the proposed development:



Figure 11. Proposed Site Plan



Figure 12. Eastern Elevation of the proposed development



Figure 13. Southern Elevation Plan



Figure 14. Western Elevation Plan



Figure 15. Northern Elevation Plan



Figure 16. Perspective looking south at the site from Mascot Oval



Figure 17. Perspective of the site looking south along O'Riordan Street



Figure 18. Perspective of the site viewed from the western side of O'Riordan Street

SECTION 4.15 CONSIDERATIONS

In considering the Development Application, the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development involves excavation for a basement car park. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant provided a detailed site investigation prepared by Trace Environmental dated 1 November 2018 as well as a Geotechnical Investigation prepared by Asset Geotechnical dated 20 December 2020. The application was referred to Council's Environmental Scientist for review and comment. The following comments were provided as follows:

“Groundwater is located at 3.6m bgl and the FFL of Basement 02 at 7.5m bgl and Basement 03 at 10.5m bgl. Therefore the basement will intercept groundwater and will require tanking as permanent dewatering is not allowed due to the already full allocation of water extraction in the area. Temporary site dewatering will be required. The site is impacted by AASS and PASS and a detailed ASSMP is required.

The DSI concluded that the site can be made suitable for the proposed use following implementation of a RAP that incorporates a data gap investigation, and the delineation, remediation and validation of soil impacts on the site. The DSI recommends that:

- the RAP should outline the remediation and/or management strategy for the identified impacts in fill material at the site for the proposed medium to high density residential land use,
- that the remediation and/or management requirements outlined in the RAP should consider the findings of the current DSI in the context of the final redevelopment design,
- the RAP should also include an unexpected finds protocol for the discovery of previously unidentified soil and/or groundwater impacts during hardstand removal and site redevelopment works,
- the RAP should incorporate a data gap investigation to assess the soil conditions in areas of the site that were inaccessible during the DSI including beneath current building footprints in the north-eastern, central and eastern areas of the site, and vertical delineation of identified impacts in fill material at SB-1, SB-7, SB-18, SB-21 AND SB-25 following demolition of site infrastructure and prior to site development.

I note that there were exceedances the HSL's for TRHC_{10-C16} (F2) residential use at SB-18 and SB 26 at 1.0-2.0m bgl and lead at SB26 at 1.0m bgl. There was no discussion as to the potential source of this contamination. Additionally, SB-18 sampling only extended to 1m bgl and there were no samples of soil or groundwater collected immediately downgradient of these areas to the south west. This needs to be further investigated to ensure there are no issues migrating from the site. This, however, is in the area proposed to be excavated for the basement carpark, and does not appear to extend below the footprint of the basement carpark excavation, and can be addressed via the RAP prior to the issue of a CC for excavation or construction works."

Council's Environmental Scientist is satisfied that the site could be made suitable for development and therefore the proposal satisfied SEPP No. 55.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle, metropolitan areas. The aims of the policy are (A) to protect the biodiversity values of trees and other vegetation in non-rules of the State and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument – Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP).

The applicant provided an arborist report prepared by Birds Tree Consultancy dated 8 August 2019. The proposal seeks to carry out the following works:

- Tree 3, 36, 38, 39, 40, 41, 42, 43, 44, 45 (has been removed) 46, 47, 48, 49, 50, 58, 60, 61, 62, 63, 64, 65, 66 & 67. Consent is granted for their removal.
- Trees 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45, 51, 52, 53, 54, 55, 56. 57 & 59 are to be retained and protected.

The application was reviewed by Council's Tree Preservation Officer as well as Landscape Architect who have imposed appropriate conditions of consent in the attached Schedule relating to protection of trees and preservation bond.

The proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Part 3L of the BBDCP 2013.

State Environmental Planning Policy (Infrastructure) 2007 and Section 138 of the Roads Act 1993

The proposal is identified as a traffic generating development under Schedule 3 - Traffic generating development and is to be referred to RMS as the development exceeds 4,000sqm in commercial area. Also the proposal triggers a referral under Clause 101 of the SEPP as the site fronts onto a classified road as well as Section 138 of the Roads Act 1993 as the proposal involves a new opening onto a classified road which will be connected by an internal road.

On 6 February 2019, RMS advised Council that concurrence is not provided until the applicant provides the following:

"Roads and Maritime has reviewed the submission and requires additional information to complete our assessment. In this regard, please provide Roads and Maritime with electronic SIDRA modelling files for verification and review, particularly to determine what impact the proposed development will have on Bourke Road/O'Riordan Street intersection and impacts of the proposed access will have on the network in terms of safety and efficiency."

The applicant provided additional information to Council in September 2019 to address concerns raised by RMS. This was forwarded onto that department for comment and a response was received on 5 December 2019 which did not provide concurrence to the development proposal and required the applicant to provide additional information for RMS to be satisfied of the application. That information is follows:

- "1. The proponent shall provide the electronic copies of all SIDRA model files for review. Any adjustments to the base values of the model shall be identified and supporting justification for each change provided.*
- 2. Survey data shall be provided to validate the volumes used for the SIDRA modelling.*
- 3. The access driveway shall be located at the most northern section of the site. Detailed analysis shall be submitted for the deceleration lane design considering deceleration from the approach speed to a stop, additional length required for storage of vehicles queuing while waiting to turn and diverge distance.*
- 4. A detailed plan identifying lane widths and footpath reserve widths for the deceleration lane shall be submitted.*
- 5. The provision of a narrow median within O'Riordan Street extending from the signals to the proposed access driveway is not supported as this will create a trap lane for any broken down vehicles. A solid line extending from the intersection of O'Riordan St and Bourke St to the driveway egress will be sufficient.*

6. The existing traffic generation for the site appears to be overestimated based on a site visit. The report shall be updated with survey information or with the use of traffic generation rates calculated from the approved development applications.”

This information was passed onto the applicant who disagreed with the information that was requested so late in the DA process particularly as the applicant stated that extensive traffic studies were carried out prior to the lodgement of the DA requiring a deceleration lane to be accommodated within their site. A meeting between RMS and the applicant was held on 23 January 2020 which consequently concurrence was provided by RMS for the proposal on the same date.

Councils' Development Engineer has raised concerns with the feedback provided by RMS particularly as it seems like there are a few outstanding issues that remain unresolved. This includes the driveway access off O'Riordan Street not complying with AS2890.2 figure 3.2 as well as the plans do not accurately show O'Riordan Street design as per the Airport North Works, as the northern part of the street/site as shown on the plans reverts to two lanes, not three lanes. Appropriate conditions have been imposed by Council to address these outstanding issues that should have been raised by RMS.

Clause 45

Clause 45 which relates to development likely to affect an electricity transmission or distribution applies to the development application. The application was referred to Ausgrid however no response was received for the application. Appropriate conditions relating to contacting Ausgrid prior to the issue of the construction certificate and generalized substation conditions have been imposed. Additionally, in accordance with Part 6 of the DCP 2013, it is required that any above-ground powerline is undergrounded therefore conditions have been imposed in the consent regarding this. The relevant clauses of the Infrastructure SEPP have been satisfied.

Botany Bay Local Environmental Plan 2013 (BBLEP)

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

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	-	The site is zoned B5 Business Development zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed serviced apartments, hotel, neighbourhood shops, commercial premises and associated restaurant and car parking are permissible within the B5 Business Development zone under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B5 zone: To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		are close to, and that support the viability of, centres.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No – Refer to Note 1 below	The maximum height allowed on the site is 22 metres. The proposed height is 25.2 metres. The applicant has provided a Clause 4.6 variation on the building height of the development. This is discussed in greater detail in Note 1 below.
What is the proposed FSR?	Yes	The maximum FSR allowed on the site is 3:1. The applicant has stated that the FSR proposed is 2.11:1 (35,870sqm). The proposal provides 61 amount of additional car parking which contributes to additional GFA. This results in 793sqm of additional floor area which has been calculated by Council. The figure results in a FSR of 2.15:1 (36,663sqm). The FSR continues to comply under BBLEP 2013.
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	Yes	The site was the subject of road widening along O’Riordan Street. Road widening has been carried out. The plans show the old and new boundaries of the site.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site is not a heritage item, it not located within a heritage conservation area. The site adjoins Item 82- Mascot Park which is located on the corner of O’Riordan Street and Coward Street. The application was referred to Council’s Heritage Advisor who had no objections to the proposal.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils (ASS)	Yes	The site is identified as being affected by Class 4 ASS. The applicant seeks to excavate three levels of basement. The contamination report prepared by Trace Environmental discusses acid sulfate soils and how they will be managed as part of the earthworks process.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.2 – Earthworks	Yes	The proposal seeks to excavate three levels of basement car park. The proposal is outside the zone of influence of Sydney Trains Airport rail corridor however there are Sydney Water and Council stormwater and sewer pipes that run through the site which have to be addressed in the civil drawings. These are discussed in greater detail in the stormwater management section of the report below.
6.3 – Stormwater management	Yes	There are two Sydney Water owned assets that traverse the site which include a 1650mm wide brick sewer and 900mm-1050mm wide concrete stormwater infrastructure. The application was referred to Sydney Water as there are buildings located over one of the pipes and construction of the basements would impede on the existing pipe. The applicant has proposed a stormwater pipe diversion which was provided to both Council and Sydney Water. Greater detail relating to stormwater is discussed under Part 3G of the BBDCP 2013, particularly relating to Sydney Waters concurrence and Council's comments.
6.8 – Airspace Operations	Yes	The site is subject to a maximum height of 51 metres AHD. The proposal is below the maximum RL height and therefore complies.
6.9 – Development in areas subject to aircraft noise	Yes	The subject site lies within the 25-30 ANEF contour. An Acoustic Report, prepared Day Design Pty Ltd on 19 December 2019, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.
6.15 – Active Street Frontages	Yes	The proposal provides ground floor neighbourhood shops and commercial premises at Building A and Building B which front onto O'Riordan Street which has been identified as an active street frontage area under the Active Street frontage map in the BBLEP 2013.
6.16 – Design Excellence	Yes	The site is located in the Mascot Station Key Precinct area therefore the proposal is to be assessed against Design Excellence. The proposal was presented to the design review panel in which greater detail in provided below in Note 2.

Note 1 – Variation to the Height of Building development standard

The applicant has provided a Clause 4.6 variation to the maximum permissible height of 22 metres as stipulated within the height of building map and pursuant under Clause 4.3 of the BBLEP 2013. A breakdown of the proposed heights across the development is as follows:

Building A

Roof: 21.94m – 22.99m (west); 22.5m – 23m (east)

Parapet: 23.1m – 23.6m (west)

Lift Overrun: 24.39m (west); 25.18m (east)

Building B

Lower Roof: 15.1m

Roof: 20.87m – 21.55m

Parapet: N/A

Lift Overrun: 23.37m (north); 23.35m (south)

Building C

Lower Roof: 14.16m (north); 14.1m (south)

Roof: 22.3m

Parapet: 23.22m

Lift Overrun: 25.2m

Building D

Lower Roof: 13.93m – 14.1m (east); 14.35m – 14.99m (west)

Roof: 22.6m

Parapet: 22.83m – 23.98m

Lift Overrun: 25.04m (east); 25.03m (west)

Therefore the proposal has a variation as follows:

Lower Roof: Complies

Roof: 0.3m to 1m (4.5%)

Parapet: 0.83m to 1.98m (9%)

Lift Overrun: 1.35m to 3.2m (14.5%)

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 32-44 metres. The proposed development does not change the approved height within DA-2018/1003 however as the proposal is a new application with a development that is over the BBLEP 2013, an assessment against Clause 4.6 is to be carried out.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. The applicant has provided a Clause 4.6 justification that states the following:

“The accompanying architectural drawings illustrate the heights of the buildings and include the 22m height line, indicating the minor areas they will exceed the LEP height control.

The application seeks a variation to the maximum height control by up to 3.2metres for the lift overrun on the western side of Building D. The minor additional increases to the height from the submitted DA relate to a response to the flooding assessment of the site and the required ground floor levels

As shown in the figures above, the parapet and lift overrun features in part exceed the control. These variations are reasonable as the parapet is a design feature to provide visual interest and the lift overruns have been positioned to be setback from the building edge to minimise visual impacts.

In addition, the northern end of Buildings B, C and D have been stepped down well below the maximum height to transition towards the heritage listed Mascot Park to the north and to minimise bulk and scale for the residential properties to the east.

A Planning Proposal has also been lodged to increase the height of part of the site along O’Riordan Street to 44 metres. Following consideration of the Planning Proposal it is intended that a subsequent DA will be lodged to add additional height to Buildings A & B. The height to the rear of the site is to remain at 22 metres with the minor variations under this DA to be assessed using Clause 4.6.

Is the Development consistent with the objectives of the zone?

Yes. The zoning of the land is B5 Business Development.

The proposed development maintains compliance with the objectives of the zoned B5 Business Development zone.

The objective of the B5 zone:

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres*

The development satisfies the objectives in the following ways:

- The proposed hotel and serviced apartment uses will provide an appropriate mix of uses, consistent with the objective of the zone. In addition, the desired future character for the Mascot Business Development Precinct, within the DCP, identifies this as a preferred use within this zone.*

- The accommodation will support the nearby business functions associated with the airport as well as surrounding businesses.
- The Pullman Hotel and Holiday Inn are located opposite the site on the western side of O'Riordan Street and are also on land zoned B5 Business Development. The proposed uses are suitable and appropriate given the proximity to both Sydney Airport and Mascot Railway Station.
- The proposed neighbourhood shops and commercial tenancies will suitably activate O'Riordan Street and increase pedestrian activity along the eastern side.
- The proposed uses can operate without adverse effects on the current adjoining commercial, hotel, residential, industrial and open space uses, as outlined in the accompanying SEE

The site is located within Mascot and identified in the DCP as being within the Mascot Business Development Precinct. The subject site is consistent with the desired future character of the precinct and will provide an appropriate mix of business uses that will contribute to the vitality of the nearby Mascot Station Town Centre and encourage the use of public transport.

It is therefore considered that the development, notwithstanding the variation to the development standard, achieves the objectives of the B5 Business Development zone. Is the Development Consistent with the Objectives of the Standard?

The proposed development will achieve compliance with the objectives of the development standard under Clause 4.3 of the Botany Bay LEP 2012. A detailed assessment against the objectives, relating to height, is provided below:

(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,

As demonstrated within this report the scale of the development is highly compatible with existing developments along O'Riordan Street, and this is evident in PTW Architects perspective below:



The heights along O’Riordan Street to the west and south are significantly higher at 44 metres. The highly articulated and modulated building form ensure that the minor exceedance does not result in excessive bulk and scale and provides a cohesive design.

The layout and positioning of the four new buildings is appropriate, with Building A and B suitably activating O’Riordan Street and the landscaping along the majority of the front, rear and side setbacks will soften the building form when viewed from Mascot Park to the north and less dense residential properties to the east. The following site plan prepared by PTW Architects demonstrates this:



(b) to ensure that taller buildings are appropriately located,

The stepping down of Building B, C and D at the western end to heights of between 13.93m and 14.99m will reduce the scale presented to the adjoining Mascot Park and eastern residential properties. The following perspective prepared by PTW Architects illustrates this:



(c) to ensure that building height is consistent with the desired future character of an area,

The proposed uses are compatible with the desired future character of the precinct and the minor height variation should be supported as the development is significantly lower than developments to the west and south and will transition appropriately with adjoining land uses without significant impacts.

The site is positioned within the Mascot Business Development Precinct which is identified is characterised by airport related commercial development as well as motels and serviced apartments. The development will satisfy the objectives and controls for this precinct in the following way:

- *Will encourage public transport usage due to proximity to airport, Mascot Station and bus services;*
- *Will improve the appearance of O'Riordan Street, which services as a gateway through the precinct, all buildings have been architecturally designed and modulated that the minor non-compliance with height will not be high discernible and will not cause any adverse overshadowing to adjoining properties; and*
- *The proposed buildings and uses are in an optimal position to service the needs of the surrounding locality. 2.14 The proposed development will achieve the desired future character and the minor height variations are acceptable in this instance.*

(d) to minimize visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

The accompanying shadow diagrams demonstrate the that setback of the buildings and additional height will maintain in excess of 2 hours of sunlight for the residential properties to the east.

The setback will be suitably landscaped to soften building form and the proposed setbacks will comply with the DCP to ensure adequate separation.

The minor variations are generally limited to the parapet heights and the lift overruns. The lift overruns are centrally located and will not be visible from the public domain. (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 proposed building form will be appropriate for the O'Riordan Street gateway location at the intersection with Botany Road. The minor variations will not be noticeable in the skyline given their minor non-compliance and location on the site. The building forms are appropriately spaced and the minor height variation will have no additional impact on adjoining properties and the heritage listed Mascot Park to the north.

The proposed FSR of 2.11:1 is significantly lower than the LEP maximum of 3:1. The scale is still significantly lower and the verticality of the building forms, including the minor noncompliance, is a better planning outcome as it enables greater site landscaping that will integrate more holistically with the design.

Overall, the development will not adversely affect the streetscape, skyline or landscape.

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

The proposed variation to the height control is assessed with consideration to the principles established by the Land and Environment Court in *Whebe v Pittwater Council* [2007] NSW LEC 82. His Honour Preston CJ set out 5 ways of establishing that compliance with the standard is unreasonable or unnecessary. The 5 parameters were further tested in *Four2Five Pty Ltd v Ashfield Council* NSWLEC 90 where Justice Pain found that meeting the objectives of the standard was not sufficient to demonstrate that compliance was unreasonable or unnecessary.

Each of the 5 ways will be addressed in detail below:

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

Yes, the proposal meets the objectives of the standard as demonstrated above.

(b) The underlying objective or purpose is not relevant to the development;

The underlying objectives for height are still relevant.

(c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;

The underlying objective or purpose of the height control would be thwarted if compliance was required. This assessment is made on the basis of the minimal affects produced by the proposed development:

- The subject site is located within the Mascot Business Development Precinct with sites along the western side of O'Riordan Street and to the south of the site having an LEP Maximum of 44 metres. The minor non compliances with the 22m height control are reasonable given the highly articulated building forms, setbacks and landscaping throughout the development. The development will provide appropriate built form for the O'Riordan Street Gateway and the heights are reasonable given the scale of existing development in the precinct.

- Compliance with the 22-metre height control is unreasonable as the proposed FSR of 2.11:1 is significantly lower than the LEP maximum of 3:1. A compliant height scheme is likely to have greater impact on adjoining sites with reduced setbacks and less landscaping. The development will achieve appropriate building form for the gateway site.
- The accompanying architectural drawings and perspectives illustrate a cohesive design that will not adversely affect adjoining properties by way of overshadowing, privacy, scale and view loss. The stepping down of the northern ends of Buildings B, C and D will ensure the scale transitions towards Mascot Park in the north and residential properties to the east.
- The underlying objective or purpose of the Height control would be thwarted if compliance was required as Council's desired future character is to ensure that buildings are appropriately designed to contribute positively to the visual amenity of the gateway function of the area. 2.26 The underlying objectives of providing increased height in this locality and providing a sensitive response notwithstanding the permitted height control would be thwarted if compliance was required.

(d) The development standard has been virtually abandoned or destroyed by Council's own actions.

Council has not abandoned the height controls, however, the height limits along O'Riordan Street for this site are inconsistent with the 44m height control along the western side and for all properties to the south. Additional height along O'Riordan Street can be justified with an appropriate transition towards the less dense properties to the east.

The minor non-compliance will not be highly discernible given the scale of building form along O'Riordan Street.

(e) The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary.

The zoning of the land B5 Business Development use is appropriate.

Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient environmental planning grounds to justify the variation as follows: The flexible application of the control will achieve a better outcome on this site for the following reasons:

- The proposed building layout and relationship with the adjoining sites along O'Riordan Street will achieve the desired future character for this gateway and the layout of the new buildings combined with landscaping, setbacks and stepped down building form will ensure an appropriate transition with the heritage listed Mascot Park to the north and residential properties to the east;
- The minor non-compliance with height will not unreasonably affect adjoining properties which will continue to receive compliant solar access levels with setbacks and landscaping maintaining adequate privacy;
- The setbacks at northern end of Buildings B, C and D will reduce the scale and provide appropriate transition for adjoining sites;
- The architecturally designed buildings are highly modulated and articulated to provide visually pleasing buildings that will achieve Council's visual amenity objective for the Mascot Business Development Precinct; and

- *The development has a significantly lower FSR and the verticality of the built form provides for a more appropriate building layout across the site with improved amenity for adjoining properties to the east.*

Based on the above, there are sufficient planning grounds to justify the variation.”

Officers' Comments:

The Clause 4.6 variation to the height of building development standard has been assessed in accordance with the BBLEP 2013.

The applicant makes worthwhile points regarding to the non-compliance. The applicant has satisfied at least one of the tests outlined within *Wehbe v Pittwater Council* in that it is considered that the non-compliance has achieved the objectives of the standard therefore compliance is unnecessary. The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard.

It is supported that the proposal will successfully achieve the objectives of the clause and zone and provide a considered built form response that will deliver a positive urban design outcome. It is acknowledged that strict compliance with the building height control would likely lead to a less satisfactory outcome as it would result in a development which would result in an inferior built form that would be contextually inappropriate with the surrounding development approved at a higher 44 metre maximum height.

The proposal has the benefit that a planning proposal to increase the height of building control from 22 metres to 44 metres on the western half of the site fronting O’Riordan Street has proceeded through gateway. Once gazetted, Building A and B will be considerably under the maximum building height control as currently proposed.

The proposal height is considerably less than the heights established in the surrounding blocks particularly the office and commercial developments which are located on the eastern side of O’Riordan Street. The proposal does not intercept the OLS and this is further enforced by SACL providing conditions of consent in support of the proposal.

Regarding whether the standard has been virtually abandoned or destroyed, Council maintains that the standard has not been abandoned or destroyed within the area. The argument that the proposal will provide for an increase employment density on the site is valid particularly as the objective of the zone requires any future development to allow for a mix of business and warehouses uses in locations that are close to, and that support the viability of, centres.

It is considered that both the LEP and DCP controls set the standard building envelope for the site. The proposal requires a maximum FSR of 3:1 and setbacks of 9 metres for the front setback, 2 metres for the side setbacks and a nil to 3 metre setback at the rear. The proposal is compliant and considerably under the FSR requirement, provides greater side and rear setbacks and a slight departure to the front setback due to an active street frontage requirement.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site. It is considered that the Clause 4.6 variation provides sufficient justification in supporting the non-compliant height and has addressed the matters that are stated within Clause 4.6(3) and should be supported.

Note 2 – Design Excellence

The site is located within the Mascot Station Precinct as identified within the Key Areas Map within the BBLEP 2013. Therefore the site is subject to design excellence. The proposal was presented to the design review panel on 11 April 2019. The Panel were generally happy with the proposal subject to some minor changes to the plans. Below are the Panels comments with a response provided by the Applicant on how the proposal has now addressed their comments:

Context and Neighbourhood Character

Panels Comments:

The Panel considers that the development is appropriate for the context. The built form concept, in particular the most recent development in the proximity of and adjacent to the intersection of Bourke Road and O’Riordan Street justifies the scale and built form of the proposed development. This highly prominent and important intersection is to be reinforced by the proposed development and this is supported by the Panel.

The Panel considers the perimeter block style development, creating active frontages and internal courtyard spaces as well as the ability to create strong connections to and through the site, is an appropriate response to the urban existing morphology.

Further consideration is to be given to the O’Riordan Street frontage through a thorough design review and analysis with the objective of the creation of strong physical connections to the Mascot activity centre to the west. The Panel considers the design should support the increased use by pedestrians (including those who will stay in the proposed development) of the walk to the Mascot railway station and associated town centre activity (only 7 minutes by foot). While the design currently appears to adequately cater for vehicles, the pedestrian layer is not apparent and needs to be prioritised.

The opportunity exists to reinforce the role and function of the intersection as an important land use node using the built form to emphasise the location and ensuring that the ground level is designed to promote activity, amenity and safety.

Architects Comments:

Landscape:

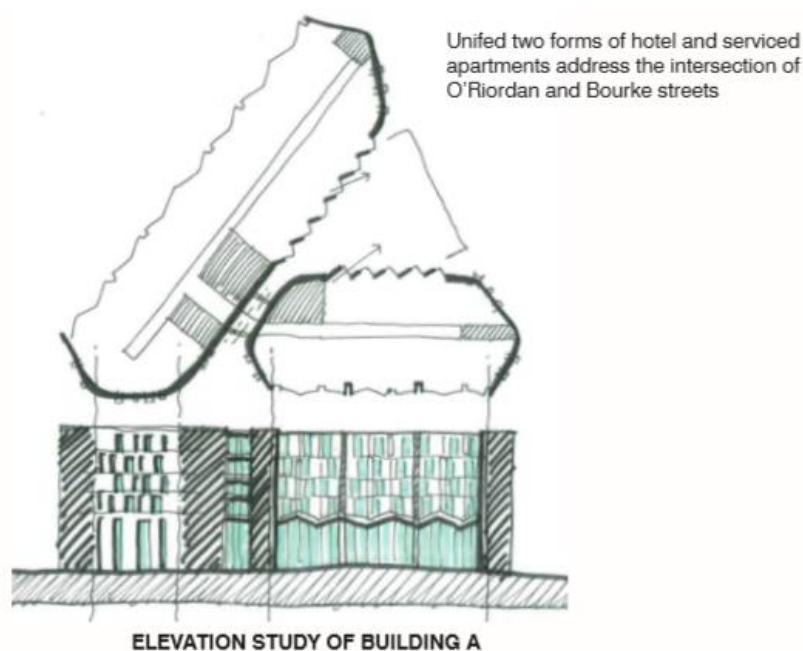
As part of landscape design review, both an accessible pedestrian connection and landscape elements (in the form of steps and planters) have been incorporated into the footpath along O’Riordan Street. These new links encourage activation of the retail frontage and will enhance the interaction between the public domain and the built forms as well as easing the flow of pedestrian traffic towards Mascot station/town centre.

Pedestrian movement within the site has been defined through more distinct pathways, joining all buildings and the main street intersection. An enclosed space for 53 bicycle parking with End of Trip facilities is designed on ground level of building B to further encourage pedestrians.



Architecture:

The built form of the southern Hotel (Building A) and northern Serviced Apartment (Building B) have been slightly re-designed, both to read more distinct from one another, and also to address the street intersection with a hotel form that is more dominant and singular in its streetscape expression. The Serviced apartment wing of A is now more closely aligned in plan form and in facade materials/finishes to the hotel room wing of A. The O'Riordan street elevation reveals what seemed to read previously as two similar buildings, but which now read as two very different buildings.

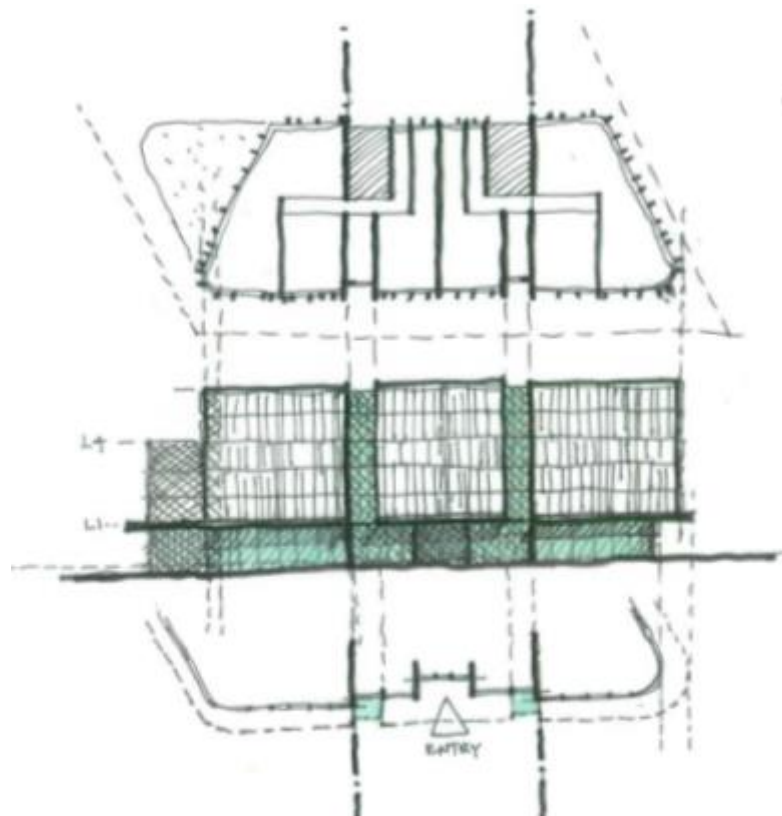




Original Scheme



Amended Scheme



PROPOSED ELEVATION OF BUILDING B

- Building B is broken up into three parts in elevation.
- Canopy has recessed inserts of glass to emphasise breaks above.
- Lobby entry is emphasised.

Built Form and Scale

Panels Comments:

The scale and built form of the proposed development is considered appropriate. The variation of the height in the built form is appropriate to ensure the maintenance of a height to width ratio that is expected to create a street cross section that will result in a good sense of enclosure in the locality.

Further detailed cross sections of the whole intersection should be produced to ensure the best possible urban analysis is undertaken and the most appropriate street width to height ratio is achieved to deliver the best possible urban outcome.

Architects Comments:

Detailed cross sections of the intersections are included in the updated DA set to demonstrate the building proportion relevant to O'Riordan street frontage. Please refer to DA drawings DA-30-0400, DA-30-0401, DA-30-0500 and DA-30-502.



Detailed Cross Sections

Density

Panels Comments:

The panel considers that the development will result in an appropriate density in the locality given the important strategic location of the site and the expected pattern of use of the development. The resultant use of well located and existing infrastructure in association with the assets of a high quality location will ensure that the existing assets such as open space, good access to the airport, good access to the Mascot Station and surrounding activity centre – a 7 minute walk – is well utilised.

Architects Comments:

Noted.

Sustainability

Panels Comments:

The Panel notes that there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc.

Architects Comments:

Rainwater harvesting and solar courtyard lighting is to be provided.

Landscape

Panels Comments:

The Panel notes that whilst the landscape response appears appropriate there is a finer level of detail which is required to fully consider the proposal in particular as it relates to the specific detail of building and streetscape interfaces.

As identified above the Panel notes that the design's treatment of the O'Riordan Street interface may not yet be presenting – from a hard and soft landscape perspective – an appropriate response to the street in particular as it relates to its role as a highly trafficked location providing access to the wider locality and in particular the Mascot Station and activity centre.

Further, the Panel notes that the creation of landscaped internal courtyard areas and movement paths and landscaped edges to the buildings is generally supported however further details are required to fully assess the application and proposal. The Panel is concerned that while the macro settings appear to be right, the scale of the proposal means that it appears to have been documented and designed at a scale more like a masterplan than a collection of individual buildings. As a result the Panel is not able to confirm that the design also works at the 'micro' level. The applicant should provide drawings that indicate this 'micro' scale, with details that establish the relationship with the ground plane and an appropriately human scale to the interface.

Architects Comments:

Landscape:

As part of landscape design review mentioned above, the updated DA drawings include a full plan of the ground level, incorporating further clarity and with multiple sectional studies having been analysed. The relationship between footpaths and the building lobbies has been simplified, and safe separation of pedestrians from vehicles has been further developed.



Updated Ground Floor

Amenity

Panels Comments:

The Panel notes that there is good spacing between built form elements, which should result in good access to light, and air for the residents and visitors.

Further, the Panel notes that some 'finer grain' design resolution should be explored through a greater level of design review as it relates to interfaces in living and outdoor areas and internal spaces in the internal corners of building. Notwithstanding the serviced apartment use of the buildings Panel would prefer as much as possible that internal corners did not include one bedroom or studio apartments that have reduced outlooks, or the living areas of larger apartments.

Further consideration and documentation is to be given to the details of materials and quality of interfaces for the private open space areas particularly on the ground floor level.

Traffic and transport movement and in particular the detailed functional working of pick up and drop off points and the functioning of delivery vehicles should be documented in greater detail. There is concern that there may be some conflict created given the large number of temporary residents and visitors to the site and the remote location of the loading dock in the south of the basement with the retail areas on O'Riordan Street toward the site's north.

The safety and amenity of people accessing the site via the O'Riordan Street and Bourke Road intersection should be further explored as part of the further exploration of the pedestrian layer to the design.

Architects Comments:

1) The interface of living and outdoor areas have been carefully checked to allow for improved privacy and amenity, especially in the internal corners of Building D. A Studio Apartment has been removed to allow a more generous entry gesture which removes the overlooking issues that were identified previously.



GROUND FLOOR PLAN BUILDING D - PROPOSED



TYPICAL FLOOR PLAN BUILDING D - PROPOSED

2) Private open space areas on the ground level have been further refined, each with a gate connection into the communal and public courtyards



Updated Ground Floor Plan Buildings C and D

3) The transport circulation has been developed in more detail,

a) the main entry amended to be perpendicular to O'Riordan street with queueing / deceleration space for all vehicles entering the site;

b) the functioning of delivery and service vehicles modified to comply with the minimum space requirements of parking bays and circulation of SRVs, MRVs, and HRVs;

c) the loading-unloading zone has been relocated to Basement Level 2 with compliant ramps and headrooms, minimising the conflict with the guest and visitor traffic. The loading dock area is centrally placed so as to be accessible to the service areas of both buildings A and B;

d) the newly-introduced, shared drop-off and pick-up zone for the serviced apartment building is placed in a secure and strategically convenient location central to buildings B, C and D. Hotel coach parking has been incorporated and drop-off at the hotel porte cochere is resolved.



3a) MAIN ENTRY TO SITE - PROPOSED



3b) & 3c) LOADING DOCK & SERVICE VEHICLE CIRCULATION - PROPOSED



3d) PROVISION OF DROP-OFF ZONE - PROPOSED

4) The pedestrian movement has been now layered into the design by means of secure, graded and accessible footpaths. The segregated paved walkways along O'Riordan Street are landscaped with planters to create well-defined access points to the retail in both Buildings A and B

Safety

Panels Comments:

The Panel considers the proposal maximises 'eyes on the street' and passive surveillance opportunities both to the public realm and internal spaces and will result in a significant safety improvement.

Further consideration should be given to traffic and transport movement and in particular the detailed functional working of pick up and drop off points and the functioning of delivery vehicles should be documented in greater detail. There is concern that there may be some conflict created given the large number of temporary residents and visitors to the site. There should be clear cues in the architecture of the buildings that lead people naturally to building entrances and other desire lines, particularly in light of the use by visitors.

Architects Comments:

Please see the response above to traffic/transport items 3 under the design principle – Amenity.

The entry lobbies of all three serviced apartment buildings being served by the internal drop-off are clearly visible from this vantage point, with wide openings and feature canopies to draw visitors towards the desired direction. On the street, Building A has a canopy wedged between its two curved walls to signal entry, although its main porte cochere and lobby is on the internal courtyard. Activity can be seen in the neighbourhood shops, meeting rooms and conference spaces all sitting beneath an undulating canopy to the south.

Building B is divided into three parts with two deep indents running to the ground, where the continuous solid canopy is visually split into three sections through the insertion of glass canopy sections. The central entrance glazing is indented compared to the retail glazing line. This provides for people to gather where activity is going to be greater.

Housing Diversity and Social Interaction

Panels Comments:

The Panel considers that whilst there is some diversity in housing type there is a significant number of serviced apartments which do not currently have clear pick up and drop off for vehicle design, and potentially for pedestrians.

The integration of the hotel with the serviced apartments and associated uses such as restaurant and retail and shops is in general terms appropriate and supported in this location.

Architects Comments:

A central shared prominent pick up/drop off zone, off the internal road has been added to serve the serviced apartment buildings B, C and D without impeding internal vehicular traffic. The additional aisle is connected to the pedestrian footpaths, including accessible kerb ramps which lead to the individual entry lobbies.

Aesthetics

Panels Comments:

The Panel considers that the diversity of material and built form typology is appropriate in the location and will ensure sufficient and supportable visual interest and diversity in the locality.

Further consideration should be given to an even greater level of diversity and visual interest in the built form in particular as it relates to the highly visible and prominent location and point of interest being the Bourke Road, O'Riordan Street intersection.

Architects Comments:

As mentioned above, the hotel and serviced apartment wings of Building A (directly facing the street intersection) have been redesigned to form a cohesive massing in height, colour and finishes. A white curved wall acts as a protective foil to the warm timber colours of the folded origami infill facade elements.

The latter comprises an angular alignment of wall frames with patterned windows, separated by vertical recessed slots. This play of wall planes replicates the horizontal play of the retail awning planes creating a focal point when approaching the junction from Bourke Street. The

hotel entrance has been purposefully opened up to enhance the link to the existing pedestrian crossing leading to Mascot station and town centre.

With regard to Design Excellence, Clause 6.16 of the BBLEP 2013 states that development consent must not be granted to development involving the construction of a new building or to external alterations to an existing building on land to which this clause applies unless the consent authority considers that the development exhibits design excellence. Following the Design Review Panel, the revised plans and the response from the applicants architect as provided above, it is considered that the amended proposal has a high standard of architectural design, particularly the buildings fronting onto the public domain areas which utilize a range of materials that enhance the streetscape and are appropriate for the local context and typology found in the immediate area.

The proposal will improve the quality and amenity of the public domain as viewed from O'Riordan Street particularly as it acts as the gateway entry into the area from Sydney Airport. View corridors are not proposed to be obstructed particularly as the site provides breakages between the buildings and has a building height that is significantly less than development that has been approved and constructed within the adjoining and opposite sites. Finally, the proposal has considered the principles of ecological sustainable development by providing rain water harvesting. It is considered that the proposal has met the criteria and objectives of Clause 6.16 and achieves Design Excellence.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development

S4.15(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan (BBDCP) 2013

The most relevant and applicable clauses of the BBDCP 2013 are considered in the assessment of this development proposal and are provided below.

Part 3A – Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<u>Hotel premises:</u> 1 space/1.5 rooms plus a space per 2 staff and 1 hotel manager= 100 spaces req Serviced Apartments: 1 space/1.5 units plus 1 space/2 staff= 313 spaces req <u>Café/Food and drink premises <100sqm:</u> 39 spaces req <u>Commercial (shop):</u> 1 space/40sqm= 5 spaces req <u>Neighbourhood Shop:</u>	The proposal provides the following breakdown: • 64 hotel occupant spaces • 36 hotel staff spaces • 29 café/restaurant visitors • 10 café/restaurant staff • 7 commercial spaces • 12 neighbourhood shop spaces • 7 neighbourhood shop staff spaces • 367 serviced apartment spaces • 4 serviced apartment staff spaces Total- 536 spaces	Yes

Part	Control	Proposed	Complies
	1 space/40sqm = 18 spaces req Total car parking spaces: 475 car spaces (excluding coach and taxi spaces)	Plus: • 2 coach spaces • 3 taxi spaces Total = 541 spaces The proposal provides 61 surplus car parking which has been included within the FSR calculation.	
3A.3.1 - Car Park Design	C1 – All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6. The design of off-street commercial vehicle facilities shall be in accordance with AS2890.2. C10 – Off street parking facilities are not permitted within the front setbacks C12 – Off street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.	All car parking spaces are in accordance with the Australian Standards. No car parking spaces are located within the front setback with all spaces encased within the basement car park.	Yes
3A.3.2 – Bicycle Park Design	C1 Bicycle parking areas shall be designed in accordance with Australian Standards AS2890.3 and AUSTROADS Guide to Traffic Engineering Practice, Part 14, Bicycles. C2 Bicycle parking and access shall be designed to ensure that potential conflicts with vehicles are minimised. C3 Bicycle parking is to be secure (lockers, compounds or racks) and located undercover with easy access from the street and building entries. C4 End of trip facilities accessible to staff (including at least 1 shower and change room) are to be provided for all commercial,	The development provides a total of 54 bicycle spaces. The proposal provides secure bicycle parking within the basement car parking levels that is easily accessible from the street and building entries which will be designed to comply with the relevant Australian Standards.	Yes

Part	Control	Proposed	Complies
	industrial and retail development.		
3A.3.4 – On-Site loading and unloading facilities	C2 The number of service bays shall be provided in accordance with Table 2. Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number.	The proposal provides for the following: • 5 loading bays (2 MRV, 2 SRV and 1 HRV) for Buildings A and B • 2 loading bays (2 MRV) for Buildings C and D Servicing of the development is addressed further within the Traffic and Parking Report prepared by TSA that accompanies the application.	Yes

Part 3C – Access and Mobility

An Access Report prepared by iAccess Consultants accompanied the development application. The amended plans demonstrates that the proposal provides levelled across all communal open space areas, provides ramping along the front of the site so that the shops, hotel and serviced apartments are all accessible as well as providing adaptable serviced apartment and hotel rooms and car parking spaces within the basement. All levels of each building including the basement is accessible by lift. The development satisfied the provisions and controls of the DCP.

Part 3E – Subdivision and Amalgamation

It is recommended by Council that the applicant consolidate the four existing sites into one. It is not considered that the proposed consolidation will detract from the existing or prevailing subdivision pattern on the street which is generally varied. The proposed consolidation will allow for economic development of the site and represents a high quality architectural outcome for the site and the meets the desired future character of the Mascot area.

Part 3G – Stormwater Management

There are two Sydney Water assets that traverse the site. These assets include a 1650mm wide brick sewer and 900mm-1050mm wide concrete stormwater infrastructure. The application was referred to Sydney Water as there are buildings located over one of the pipes and construction of the basements would impede on the existing pipe.

Initially, Sydney Water did not provide concurrence on two separate occasions which related to overland flow and the extent of building and construction that would impact their assets. Discussions between Council, the applicant and Sydney Water were carried out however no favourable outcome was reached with all three parties. On 31 January 2020, the applicant and Sydney Water had a discussion which resulted in Sydney Water providing the below concurrence:

“Prior to obtaining the Construction Certificate, proponent (Toplace Group) is required to comply with the followings:

- *Need to provide a complete set of architectural drawings to ascertain that there are no buildings or permanent structures proposed over the new deviated stormwater pipe/channel or within 1m from the outside face of the stormwater pipe/channel. Permanent structures include (but are not limited to) basement car park, hanging balcony, roof eaves, hanging stairs, stormwater pits, stormwater pipes, elevated driveway, basement access or similar structures. This clearance requirement would apply for unlimited depth and height.*
- *Size of the deviation pipe is to be determined.*
- *A clear effective overland flow path is to be provided along the route of the proposed deviated stormwater pipe up to 1 in 100 year ARI flow. This may require changes to the proposed filling adjacent to route of the proposed deviated stormwater pipe.*
- *The size of the deviated stormwater pipe and the overland flow path arrangement would be finalised upon liaising with Bayside Council to ensure it complies with Council's Flood Plain Management strategy.*
- *Proponent is responsible to obtain the necessary approval from the owner of the property at 263 – 273 King Street, Mascot, to enter and carry out the proposed stormwater deviation work and disuse the section of the stormwater pipe and stormwater channel within this property.*
- *The existing 1650mm oviform brick wastewater main will be part of the section 73 application this forms part of the construction certificate. As part of this process Sydney Water will require the approval of an out of scope building application. This cannot be actioned until the DA has been granted. Unfortunately, I can't comment at this stage what those clearance requirements might be as that detail will be determined once the Building Over and Adjacent application is lodged and full specialist engineering investigations have taken place."*

The above concurrence and the amended proposal was reviewed by Council's Development Engineer who provided the following comments:

"The stormwater diversion approved by Sydney Water was very late in the DA process with poor conditions provided. Multiple negotiations internally have resulted in imposing these conditions as Council does not have the authority to change them. Owners consent should form part of deferred commencement which was discussed with Sydney Water and applicant who accepted this arrangement.

Flooding is complicated on this site as reducing the flooding with sag in O'Riordan Street will potentially worsen downstream flooding through Sydney Water pipe. Council had considered doubling the capacity of proposed diversion (twin 1050 pipes) but Sydney water wouldn't agree at this stage as limited in the time they would have to consider and deal with it at this stage. Most flooding on site appears to be result of inadequate stormwater management.

Provision of an overland flow path is not supported due to significant impacts on design of development, internal roadway, ramps to basements and will, if cut is needed within Council owned/managed land to facilitate and overland flow path, will create an open gully within development and likely increase hazards within development and result in significant DA design changes. However Sydney Water would not agree to the removal of the condition."

Therefore to address the above, Council's Development Engineer has imposed appropriate conditions of consent requesting amended stormwater plans and other documentation to be provided prior to the issue of a construction and occupation certificate which are included within the attached Schedule below

Part 3H – Sustainable Design

The development application was accompanied by an Energy Efficiency and Section J Report prepared by SLR. The report has determined the development will provide appropriate ESD initiatives and achieve an acceptable level of energy efficiency. The report also recommends some improvements to be incorporated to improve upon the existing key sustainability elements of the development.

Part 3I – Crime Prevention, Safety and Security

The proposed development provides opportunities for natural surveillance to O'Riordan Street, Mascot Oval and residential developments to the east through the use of balconies and large windows. The requirement for active street frontage along the street also provides an extra surveillance measure along the street frontage. The applicant has stated that the entries to the development will be appropriately lit at night to enhance safety, visibility and legibility. Additionally, effective access control has been proposed through the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development have been designed well to allow for passive surveillance through its frequent usage.

The application was referred to NSW Police who provided advisory conditions relating to surveillance and fencing. The proposal is considered to satisfy the provisions of the DCP.

With regard to pedestrian safety within the site, concerns were raised by Council's Engineer regarding to the absence of a pedestrian crossing along the width of the vehicular access off O'Riordan Street. This also relates to the public footpath being proposed along the entire length of the site. Appropriate conditions have been imposed to address this concern,

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 25-30 ANEF contour. Commercial and office development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

An acoustic report prepared by Day Design Pty Ltd and dated 19 December 2018 has been prepared to accompany the development application.

The report demonstrates that the proposed development (when complete) will conform with the relevant requirements of AS2021-2000 provided the recommendations contained in the acoustic report are undertaken.

The standard requires that the external environment to the dwelling be considered for aircraft noise impacts. This process has taken the following into account:

1. There are existing industrial warehouses on site and the development proposes visitor accommodation and commercial development on the site;

2. The degree the land is affected by aircraft noise is related to the use and operation of the airport as it affects the subject visitor accommodation and commercial development;
3. Development in the immediate surrounding environment is residential, commercial and industrial development; and
4. The outdoor environment, given the curfew and current operating patterns, are such that in daylight hours there will be sufficient opportunity to utilise the common terrace without the presence of aircraft noise.

The development consent will be conditioned to comply with the recommendations outlined in the acoustic report and the requirements of AS2021-2000.

Part 3K – Contamination

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

Part 3L – Landscaping and Tree Management

The development application was accompanied by a landscape plan prepared by iScape Landscape Architects. The proposal provides for 4,822.66sqm (28.3%) of landscaped area which does not comply with the 30% requirement within the DCP. The proposal was referred to Council's Landscape Architect who provided conditions of consent relating to general landscaping and requesting some hard paved areas along the eastern side of the site where deep soil is provided to be landscaped.

As mentioned above under the Vegetation SEPP, the site proposes removal and retention of a number of trees. Council's Tree Preservation Officer has reviewed the documentation provided and has imposed appropriate conditions of consent.

Part 3N – Waste Minimisation and Management

A waste minimisation and management plan (WMMP) prepared by Elephants Foot was submitted with the application. The plans demonstrate that garbage collection will be carried out within the dedicated loading bays located within each of the basement car parking levels. The proposal provides MRV and HRV sized loading bays and appropriate head clearance for garbage and loading trucks. The waste holding rooms are located directly adjoining the loading bays. The application was referred to Council's Waste Officer who had no objections to the proposal.

Part 6 – Employment Zones

The site is located within the Mascot Business Development Precinct which is bound by Coward Street to the north, Joyce Drive to the south and development on either side of O'Riordan Street. Relevant controls relating to the precinct and general employment zone are assessed below.

Part 6 – Employment Zone		
Control	Proposed	Complies
6.2.4 Mascot Business Development Precinct		
C1 Development is to encourage a higher public transport (including walking and	The site is located within 800 metres of Mascot Train Station which is to the north-west of the site. They have proposed excess car parking within the basement which is discussed in the report above.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
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.	A workplace travel plan has not accompanied the development application. While this is not required to be provided at this stage of the development, a condition of consent will be provided to require one prior to the issue of the occupation certificate.	
C2 Developments, including alterations and additions must:		
(i) Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and	The site is located on O’Riordan Street which is a classified road which also functions as a gateway road into the area. The development has been designed to accommodate both hotel and serviced apartments with shops and ancillary restaurant. The development is modern in nature with high level architectural merit with variety of materials and articulation proposed. It is considered that the development will positively contribute to the character of the Mascot Business Development Precinct.	Yes
(ii) Comply with Sydney Airport’s regulations in regard to safety, lighting and height of buildings.	The application was referred to SACL and appropriate conditions of consent have been provided.	Yes
C3 Development which seeks the maximum building height under the Botany Bay Local Environmental Plan 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, Airservices Australia & the Airlines before an application could be submitted to the Department of Infrastructure & Transport for their determination.	The site is located on the eastern side of O’Riordan Street. The proposal seeks to vary the building height by 3.2 metres. The maximum building height of the development is 22 metres which is considerably lower than the maximum 44 metre height requirement for development to the west and south. Therefore it is considered that the development did not require a referral to CASA. The application was referred to SACL due to its proximity to Sydney Airport who had no objections subject to conditions of consent.	Yes
C4 Redevelopment of property must take into account any road widening affectation.	The site is impacted by road widening along O’Riordan Street. The road widening works have been carried out by RMS and the new boundary line is demonstrated on all the plans. All structures including the buildings within the development are contained within the new boundary lines.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
C5 Development must not adversely affect the operation of duplication of the Sydenham-Botany Good Railway Line.	The site is not located in close proximity to the Sydenham- Botany Good Railway Line and will not adversely impact it.	N/A
C6 Development within 25 metres of either side of the centre line of the Airport Line Tunnel is to be referred to RailCorp.	The site is in close proximity to the Airport Line Tunnel however does not fall within the zone of influence. An assessment is not required in this instance.	N/A
C7 Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).	The site is located within the 25-30 ANEF Contour. An acoustic report has been provided with the application and appropriate recommendations have been imposed in the consent.	Yes
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.	Noise abatement measures have been included in the acoustic report as referenced above.	Yes
C9 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008'.	The site is in close proximity to a busy road being O'Riordan Street. Appropriate measures have been included in the traffic and acoustic report relating to traffic noise and vibration.	Yes
C11 Any new development proposals (regardless of scale) which are located along O'Riordan Street or Robey Street (within the area defined within Figure 4 – Mascot Business Development Precinct) must be referred to Roads and Maritime for consultation at the Pre-DA stage.	The site is located on O'Riordan Street. The application was referred to RMS prior to and during the assessment of the DA. Throughout the DA process, Council, the applicant and RMS have been in discussions regarding to traffic modelling, deceleration lane location and the proximity of the development to the intersection of Bourke Road and O'Riordan Street.	Yes
6.3.1 Amalgamation and Subdivision		
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	The site consists of four parcels of land. The applicant has not indicated that consolidation of the land is to occur. It is recommended that consolidation of the four lots into one is proposed (either through condition or separate application)	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
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.		
6.3.2 Building and Site Layout		
C1 A site analysis plan is to be lodged with the Development Application in accordance with the Council's Development Application Guide .	A site analysis plan has been provided with the development application.	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.	(i) Two of the four buildings front onto O’Riordan Street which requires an active street frontage. The proposal has provided neighbourhood shops and commercial development at the ground floor that front onto the street. The hotel and serviced apartments above have been orientated so that the windows and some balconies face the street to provide surveillance onto the street. (ii) There are no blank walls proposed as part of the development. (iii) Modulation has been proposed on the facades on all buildings.	Yes Yes 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 FSR has been distributed across the site so that the bulk of the development is not located at the front of the site. Also the FSR proposed is considerably less than the maximum FSR permitted on the site. The rear two buildings have one additional level to the front two buildings. The development does not dominate the streetscape particularly as the surrounding developments to the north-west, and west of the site are significantly higher in height and FSR.	Yes
C4 Setbacks are to be deep soil zones (refer to Part 3L - Landscaping for Definition). No part of the building or structure (including basement car parks, driveways, or OSD/infiltration system are to encroach into the setbacks.	Deep soil has been provided along the northern, eastern and southern setbacks with a small amount provided along the western setback.	Yes
C5 Setbacks are to maximise the retention of existing trees and their root systems and may need to be variable to achieve this	A large amount of the trees existing on the site are located on the northern and eastern side of the site, with numerous trees located on the western side and within the centre of the site. The trees along	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
(includes trees on adjoining properties).	the northern and eastern side are being retained with the remaining trees proposed to be removed or not viable to be retained. These existing trees are located within deep soil areas.	
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 internal areas of the serviced apartments and hotel as well as any common areas have been designed for maximum optimal use.	Yes
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.	Waste storage rooms are proposed at basement levels. Refer to Part 3N of the BBDCP 2013 section above.	Yes
C10 For new development (excluding multi-unit industrial 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.	The proposal provides a loading bays within each of the basement with appropriate loading bays provided for both hotel and serviced apartments. All parking, with the exception of the coach and taxi drop-off spaces, are located within the basement car parking levels. There is no parking within the front setback.	Yes
C13 For sites in excess of 1,000m ² , an outdoor staff recreation area is to be provided.	No separate outdoor staff recreation area has been allocated however there is a large amount of break out landscaped areas across the site which could be used by staff for recreation.	Yes
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 building entrances to Building A and B are visible from O’Riordan Street as well as internally in the site. The entrances to Building C and D are visible from within the site and are easily accessible.	Yes
C16 Site planning is to allow for the retention of significant trees and vegetation, particularly near the street frontage.	Existing trees located on the northern and eastern side of the site are proposed to be retained.	Yes
6.3.4 Building Design and Appearance		

Part 6 – Employment Zone		
Control	Proposed	Complies
C7 All development applications involving external building works must be accompanied by a schedule of finishes and a detailed colour scheme for all external walls.	The design report provided by the applicant contains a material palette demonstrating that the building will be constructed of concrete, cladding, perforated screening and glass, The development has been designed to form a cohesive massing in height, colour and finishes. A white curved wall acts as a protective foil to the warm timber colours of the folded origami infill façade elements of Building A	Yes
C8 External finishes must be robust and graffiti resistant. An anti-graffiti coating may be required where buildings adjoins a public place or accessible from an open area that is not secured by fences.	Conditioned	Yes
C10 Walls of new development must make use of non reflective colours and materials to avoid glare. The maximum reflectivity of any glazing is not to exceed 20% to avoid nuisance in the form of glare to occupants of nearby buildings, pedestrians and motorists.	The proposed materials will not lead to hazardous, undesirable or uncomfortable glare to pedestrians, motorists or occupants of surrounding developments.	Yes
C11 All elevations of a building fronting a public place, or visible from a rail line, public place or proposed road, must be constructed of face brickwork or other decorative facade treatment to Council's satisfaction. Consideration must be given to installing windows or false windows in the facade to enable surveillance of the adjoining area or to engender a feeling that it is being overlooked.	A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the buildings from O'Riordan Street, Mascot Oval and the residential behind.	Yes
C12 Buildings should be of a contemporary and innovative design. All public frontages should be specially articulated with the use of brick, stone, concrete, glass (non-reflective), and like materials, but not concrete render.	The proposal will deliver modern visitor accommodation and commercial buildings of high architectural quality that is generally consistent with the design controls relevant to new development.	Yes
C13 Open style or transparent materials are encouraged on doors and/or walls of lifts and stairwells, where fire safety requirements allow.	The proposal utilises a large quantity of glass and screening for the building, particularly along O'Riordan Street.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
C14 Building height, mass, and scale should complement and be in keeping with the character of surrounding and adjacent development.	The building mass is appropriate and complements the streetscape. The proposal is less in height and scale than the development located on the western and southern sides of O’Riordan Street which have a building height maximum of 44 metres.	Yes
C15 New buildings must be designed to: (i) Address the street and highlight any non-industrial aspects (such as the office section) of the development; (ii) The administration office or showroom must be located at the front of the building; (iii) The front door to a building is to face the street; (iv) Building entrances should be clearly defined and well articulated through form, materials and colour and provide level or ramped access; (v) Waiting areas and entries to lifts and stairwells are to be close to areas of active use and be visible from building entrances; (vi) Windows on the upper floors of a building must, where possible, overlook the street; (vii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; (viii) New construction is to achieve both functional and visually attractive buildings; (ix) Provide regular modulation to the facade or division of massing; (x) Architecturally express the structure of the building by variation and minimal use of reflective glass; (xi) Visually reinforce entrances, office components and stair wells of units to create rhythm on long facades and reduce perceived scale;	The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane through the provision of active uses along the street frontage and by introducing a landscaped character to the site between the buildings. Appropriate building separation is proposed between the western and eastern buildings which is divided by communal landscaped area at the ground level. The building that houses the hotel (Building A) has been designed with a different material and colour palette to distinguish from the remaining serviced apartment buildings. The colour scheme utilised within the development complements the material and colour choice approved in surrounding developments. The development has an excellent outlook to O’Riordan Street and Mascot Oval with Building B and C having northerly views over the Oval and receive maximised solar access.. No blank walls are proposed within the development. The materiality proposed is appropriate for the context of the site and the surrounding development and provides an architecturally pleasing development.	Yes

Part 6 – Employment Zone																				
Control	Proposed	Complies																		
(xii) Introduce variation in unit design within building works; (xiii) Introduce solid surfaces, preferably masonry, and incorporate horizontal and vertical modulation including windows in appropriate proportions and configurations; (xiv) New development on corner sites must address both street frontages in terms of facade treatment and articulation of elevations; and (xv) Avoid bulky roof forms or extensive blank facades in a single material or colour. C28 For new development and substantial alterations to existing premises provision must be made for connection to future underground distribution mains. In such developments the following must be installed: (i) An underground service line to a suitable existing street pole; or (ii) Sheathed underground consumer mains to a customer pole erected near the front property boundary (within 1 metre). C34 Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view	Appropriate conditions of consent are imposed requiring any powerlines to be undergrounded. All waste collection is to be carried out within the premises in the basement car park.	Yes Yes																		
6.3.5 Setbacks																				
C1 Setbacks are to be in accordance with the following Table 1. Table 1 - Setbacks <table border="1"> <thead> <tr> <th>Boundary</th><th>Landscaping Setback (Refer to Note 4)</th><th>Building Setback (Refer to Note 5)</th></tr> </thead> <tbody> <tr> <td>Front - to a non classified road (Refer to Note 2)</td><td>3 metres</td><td>9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Front - to a classified road (Refer to Note 2)</td><td>4 metres</td><td>9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Side - adjoining a non-residential use/zone including lanes</td><td>2 metres</td><td>2 metres (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Side - adjoining a residential use/zone or in the Council's opinion the building impacts on the streetscape</td><td>3 metres</td><td>3 metres (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Rear (Refer to Note 5)</td><td>Nil to 3 metres</td><td>Nil to 3 metres</td></tr> </tbody> </table>	Boundary	Landscaping Setback (Refer to Note 4)	Building Setback (Refer to Note 5)	Front - to a non classified road (Refer to Note 2)	3 metres	9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)	Front - to a classified road (Refer to Note 2)	4 metres	9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)	Side - adjoining a non-residential use/zone including lanes	2 metres	2 metres (Refer to Note 6 for corner sites)	Side - adjoining a residential use/zone or in the Council's opinion the building impacts on the streetscape	3 metres	3 metres (Refer to Note 6 for corner sites)	Rear (Refer to Note 5)	Nil to 3 metres	Nil to 3 metres	The development proposes the following setbacks: <u>Northern (side) Setback:</u> 3 metres to 13.75 metres <u>Eastern (rear) Setback:</u> 6 metres to 11 metres <u>Western (street) Setback:</u> 4 metres (fronts a designated/classified road) <u>Southern (side) Setback:</u> 6 metres to 9 metres	Yes
Boundary	Landscaping Setback (Refer to Note 4)	Building Setback (Refer to Note 5)																		
Front - to a non classified road (Refer to Note 2)	3 metres	9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)																		
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Rear (Refer to Note 5)	Nil to 3 metres	Nil to 3 metres																		

Part 6 – Employment Zone		
Control	Proposed	Complies
C4 Setbacks are to be deep soil zones	The eastern, western and a small portion of the front setback is deep soil.	Yes
6.3.6 Parking and Vehicular Access		
C1 All vehicles (including deliveries) are to enter and leave the site in a forward direction with no vehicles permitted to reverse from or onto public road. A Swept Path Analysis may be required for the largest vehicle accessing the site.	Vehicles enter and exit in a forward direction. Swept path diagrams have been provided with the development.	Yes
C5 All internal circulation roads, turning areas, parking aisles, parking bays, service areas and service bays are required to be sealed with hard standing all weather materials. Any alternative materials require Council approval.	Conditional.	Yes
C6 Separation of service areas (loading/unloading) and parking areas is required.	The development proposes separate loading docks away from the car parking spaces associated with the visitor accommodation and commercial development.	Yes
C7 All loading and unloading operations shall only be carried out wholly within the dedicated service bays at all times and shall not be made direct from public places, public streets or any road related areas.	Dedicated loading bays are provided within the basement car park levels.	Yes
6.3.7 Signage		
C1 Signage shall comply with Part 3D - Signage.	There is no signage proposed.	N/A
6.3.8 Site Facilities		
C1 New site facilities such as mail boxes and electricity sub-stations shall be designed and/or sited so that they enhance the development.	No mailboxes are demonstrated on plans however this is not warranted in this type of development use.	N/A
C3 The existing above ground electricity and telecommunication cables within the road reserve and within the site shall be replaced, at the applicant's expense, by underground cable and appropriate street light	A condition of consent is imposed requiring undergrounding of powerlines and cables. Appropriate conditions have been imposed.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
standards, in accordance with the Energy Providers guidelines. The applicant shall bear the cost of the new installation and the first 12 months of additional street light charges.		
6.3.9 Landscape		
C9 Not less than 10% of the development site shall be landscaped. On sites over 2000m² the front landscaped setbacks are additional to the 10% requirement. The majority of landscaping shall front the street/s to which the development has frontage and include side and rear landscaped areas. C14 Landscaped setbacks shall be in accordance with Part 6.3.5 - Setbacks are to be landscaped to provide an effective, purposeful and site responsive planting design to enhance the visual amenity of the development, particularly at the interface with residential development and the public domain.	The development will provide at least 4,822.66sqm which represents 28.3% of landscaped area. The majority of the landscaped area is behind Building A and B with landscaping proposed central to the site as well as along the northern, eastern and southern boundaries. Landscaping is provided along the front setback however this is limited due to the building and Sydney Water asset below. The development provides an effective and site responsive planting design and provides appropriate amenity when viewed from the street.	Yes however refer to Note 3 below Yes
6.3.10 Fences		
C1 Fences are to be located behind the street frontage landscaped area or incorporated within the landscapes setback. All fencing along the street frontage is required to be permeable metal palisade or picket powdercoated in a suitable colour, dark colours are preferable. Maximum height is 1.8 metres on street frontages.	The development does not propose any fencing along the street frontage.	N/A
6.3.12 Noise and Hours of Operation		
C4 All applications for noise generating uses are to be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met.	An acoustic report was submitted with the development application.	Yes
C9 Hours of operation for the use of a site are to be restricted by Council if it is at all likely that the use will cause an impact on any adjoining or adjacent residential	The proposal does not specify hours of operation however a plan of management has been provided for the serviced apartments to regulate noise. No plan of management has been provided for the hotel component however both will be conditioned	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
development. Uses that operate outside of normal hours of operation (ie Monday to Friday 8am to 5pm and Saturdays 8am to 4pm) are required to submit a Plan of Management (POM).	within the consent to address noise. With regard to the ground floor commercial and neighbourhood uses, these will be subject to a separate application where noise will be assessed in greater detail there.	
6.3.13 Waste		
C1 Development must comply with Part 3N – Waste Management and Minimisation.	A waste management plan prepared by Elephants Foot accompanies the application which addresses waste management during demolition, construction and ongoing use.	Yes
6.3.21 Business Premises and Office Premises in the B5 Business Development and B7 Business Park Zones		
C1 Building expression through façade modulation, roof silhouette and the use of a variety of contemporary materials and finishes is required to achieve buildings that are of architectural merit, innovation, variety and attractiveness. There is to be a balance between the solid walls and openings and between horizontal and vertical planes. A Schedule of Finishes is required for new buildings.	The proposal represents new modern visitor accommodation and commercial buildings of high architectural quality. The design intention of the new development is to create buildings which references the use whilst providing differing architectural typologies for each building while balancing landscape and open space. The proposed materials and finishes detailed in the architectural plan by PTW Architects which demonstrate that a valid palettes and materiality are used to provide a clear identity for the development as well as to define the differing components of each building.	Yes
C2 Buildings are to have a clearly delineated entranceway to address its main frontage. Buildings on corner allotments shall include an accentuated form on the corner. Minor modulation in the height of buildings is required to reduce visual bulk and scale.	The front entry and common areas are appropriately positioned. The ground floor lobby is located central to each building. The commercial and neighbourhood shops as well as the restaurant is easily identifiable and accessible from the street. The development is not considered to be bulky and is appropriate for the site.	Yes
C3 Signage is to be kept to a minimum to reduce visual clutter and confusion. All proposed signage must be shown in the building elevations and plans (refer to Part 3D - Signage).	No signage is proposed as part of this application.	N/A
C4 Vehicle manoeuvring, circulation, access and parking shall be arranged on site to maximise the area available for landscaping. Excess hardstand areas should be minimised whilst designing manoeuvring, circulation, access and parking in accordance with Australian and Council standards.	Vehicle manoeuvring, parking access has been arranged to allow the front, side and rear setbacks to be deep soil zones. This is also a result of the location of the basements provided around the Sydney Water assets. Car parking spaces and access are compliant with the Australian Standards.	Yes
C5 Stormwater absorption basins are to be planted with	An on-site detention system is proposed. Appropriate conditions of consent are proposed.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
trees (where concrete storage tanks do not exist underneath), groundcovers and native grasses instead of lawn. Species are to be tolerant of periodic inundation and waterlogging and not reduce the storage capacity of the basin.		
C6 Hard paved areas shall be finished with unit pavers. Use contrasting finishes to break up large sections of paving and to delineate pedestrian areas, entries, car parks, special use areas or at transition zones between different uses. Porous paving should be utilised wherever possible.	Conditioned by public domain.	Yes
C7 There should be a balance between building footprint, parking/circulation and landscaping/open space. The majority of landscaping shall front the street/s to which the development has frontage and returning along the side boundaries of the setback.	As discussed in the report, the amount of landscaping provided within the front setback is commensurate to the amount provided elsewhere in the street. Conditions have been included to provide canopy planting within the front setback to alleviate the built form. Additionally, established trees along the eastern and northern boundaries are to be retained to provide a landscape buffer between the site and neighbouring sites. The parking circulation at ground level primarily relates to the hotel developments porte cochere as well as access to the basement car park levels.	Yes
C8 Underground parking shall be situated underneath the building footprint so that the majority of landscaping will be on natural ground to allow for deep root planting. As a minimum, landscaping along the frontage/s and abutting residential land uses shall be on natural ground. Deep root planting is planting that is not on a suspended concrete slab and not over an underground car park (refer to Part 3L - Landscaping and Part 6.3.9 - Landscape).	There is three levels of basement car parking. All parking including loading bays however excluding coach spaces, spaces within the porte cochere and taxi pick-up and drop-off spaces are located within the basement.	N/A
C9 Underground OSD (stormwater) detention tanks are not to be located underneath areas to be landscaped or planted. An alternative location ie. underneath driveways, car parks or pavements is required. No stormwater inlet pits or piping are to be located within the drip line of existing trees.	The OSD has been appropriately been located in the Basement under Building C.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
C11 Landscaping is to be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain or from within the site and to screen unsightly areas. Emphasis is to be placed on leafy internal road corridors and a landscaped setback designed for softening of buildings.	The proposal provides landscaped areas at the ground level internally within the site between Buildings A and B and Buildings C and D. This is to soften the built form when viewed from within the site. Additionally, the proposal provides private courtyards for the ground level serviced apartments as well as deep soil areas along the boundary edged. Conditions have been imposed in the consent requesting greater amount of deep soil to be provided on site.	Yes
C13 Landscaping in the public domain is to reinforce existing streetscape planting themes and patterns. Council may require street tree planting, grassing, shrub and accent planting or any combination of these. Streetscape beautification may also include re-paving the public footway with pavers.	The proposed landscaping will provide an improved landscaped setting in relation to the existing site circumstance and the overall development will provide a significant improvement to the O’Riordan Street Streetscape.	Yes
C14 There shall be a minimum landscaped setback of 3 metres on all street frontages, and 4 metres on classified roads. The landscaped setback may be varied by Council to enable landscaping to be in proportion to the height of the building, on large development sites or to be consistent with setbacks in the street. For example, buildings greater than 4 storeys in height will usually require a larger landscaped setback.	Landscaped setback has been discussed in greater detail above and in Note 3 below.	Appropriate
C15 Not less than 10% of the site area shall be landscaped. New commercial development shall allocate landscaping in accordance with the following ratios: Site Area Minimum Landscape Proportion 0- 2000m ² 10% 2000 m ² -5000m ² 20% >5000m ² 30%	The site proposes a total of 28.3% which is 4,822.66sqm. This is a departure of 283.34sqm (5.5%)	No – Refer to Note 3 below

Note 3 – Landscaping

Control C15 of Part 6.3.21 Business Premises and Office Premises in the B5 Business Development and B7 Business Park Zones of the BBDCP 2013 requires the following to comply:

Not less than 10% of the site area shall be landscaped. New commercial development shall allocate landscaping in accordance with the following ratios: Site Area Minimum Landscape Proportion

- 0-2000m² 10%
- 2000 m²-5000m² 20%
- >5000m² 30%

The development proposes a landscaped area of 4,822.66sqm (28.3%) which is a departure of 283.34sqm (5.5%). The proposal seeks to provide the majority of the landscaping along the boundary edges of the eastern and northern side of the site with limited landscaping on the southern side as this is where the driveway access is located for Building D and the western side of the site where there is a limited setback, as discussed above, and active street frontage is required along O'Riordan Street. Council's Landscape Architect has reviewed the application and recommended conditions of consent which request a greater amount of hard paving proposed along the eastern side of the site to be converted to deep soil. Considering the departure in landscaped area is small in contrast to the size of the site and that appropriate conditions of consent have been imposed to allow for existing trees to be retained and greater landscaping to be provided, the amount of landscaped area proposed is acceptable.

Part 7F – Hotel and Motel Accommodation

The following controls have been assessed for the modified hotel development on the site:

Control	Response	Complies
C1 – The maximum stay permitted is 3 months.	A plan of management has not been submitted with the application. However a condition of consent requiring an up-to-date POM outlining the hotels operation and maximum stay period is to be provided prior to the issue of the CC.	Conditioned
C2 – The main access point is to be located at the main street frontage of the property. Access Points should be avoided at the boundaries of the property where and impact on noise or privacy could result for adjoining residences.	Due to the location of the development on a busy road, the hotel component has been orientated so that the main lobby entry is internal to the site facing the east. There is a door that fronts onto O'Riordan Street however the main entry is away from the traffic. A porte cochere is proposed with two coach spaces and taxi drop-off spaces proposed. The separation between the hotel and the serviced apartments is adequate and as the location of the access is away from any neighbouring properties, this is acceptable.	Yes
C4 – The minimum size for a visitor's room is 5.5m ² for the bedroom floor area for each person staying within the room.	The size of the bedroom floor area is typically about 20sqm.	Yes
C7 – A small kitchenette is permitted if adequate cupboards and shelves are provided	The rooms do not contain kitchenettes however the applicant has suggested that tea and coffee making facilities are provided only.	Yes
C9- Bathrooms must be provided in accordance with the Building Code of Australia.	All rooms have separate bathrooms that have been designed in accordance with the BCA requirements.	Yes

C10 – The design and operation of hotel and motel accommodation must take into account possible noise impacts on adjacent properties and the surrounding area.	Building A has been designed so that both hotel and serviced apartments have been proposed. The hotel is separated physically by a door between the serviced apartments. It is not considered that the proposed hotel development will create any adverse noise impacts due to its location on the site. Also the plan of management should reflect rules and procedures revolving around the hotel operation.	Yes
C11 – A Plan of Management (POM) is required to be submitted. The POM is a written report which describes how the ongoing operation of hotel and motel accommodation will be managed to reduce its impact upon the amenity of surrounding properties.	A plan of management has not been submitted with the application and will be conditioned to be provided prior to the issue of the CC.	Conditioned
C12- The building is to comply with Parts C, D, and E of the BCA	A BCA compliance capability statement has been included as part of the application which demonstrates compliance with the BCA.	Yes
C13 – Each room is to comply with Parts C, D E and F5 of the BCA so as to ensure there is adequate fire safety in the building and adequate sound insulation between each room.	A BCA compliance capability statement has been included as part of the application which demonstrates compliance with the BCA.	Yes

Part 7L – Serviced Apartments

The following controls have been assessed for the serviced apartment component on the site:

Control	Response	Complies
C1- The maximum period for occupation of a serviced apartment is 3 months.	The plan of management (POM) provided does not include this detail. A condition of consent has been imposed requiring an amended POM to address this concern.	Conditioned
C2 - Occupants cannot use a serviced apartment as a permanent residential address	A condition of consent has been imposed requiring an amended POM to include this detail.	Conditioned
C3 - Each bedroom shall not accommodate more than two persons	The plans show that each bedroom has one bed that accommodates a maximum of 2 people.	Yes
C5 - Sleeping rooms are to provide a minimum 5.5m ² per occupant where habitation is for more than 28 consecutive days	Each bedroom is generally 9sqm and greater.	Yes
C6 - Sleeping rooms are to provide a minimum 3.25m ² per occupant where habitation is for less than 28 consecutive days.	As above.	Yes
C7 - Where a development proposes serviced apartments in conjunction with a residential flat building the entire development must address the requirements	The proposal does not involve a residential flat building as it is prohibited within the zone. An assessment against SEPP 65 is not required.	N/A

of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.		
C8 - Where a development proposes serviced apartments in conjunction with residential apartments, the units to be provided as serviced apartments must not be located on the same floor as permanent residential apartments. Communal open spaces are not to be accessible from serviced apartments. Separate ground floor lobbies and lifts for access to the different uses within the building must be provided.	As above.	N/A
C9 - Developments are to be designed to minimise visual and acoustic privacy impacts to residential land uses within the immediate vicinity. (The immediate vicinity includes residential buildings directly adjoining the boundary of the site and buildings on the opposite side of a road way or pedestrian/cycle link.)	The proposal is appropriately setback from the residential development to the east which is multi-dwelling housing within the R3 medium density residential zone. The open space located at the rear of the multi-dwellings provides extra separation between the residences and the subject development.	Yes
C10 - The main access point is to be located at the main street frontage of the property.	All access is off O’Riordan Street. Access to the basement car park is through internal roads and basement ramp is located on the southern side of the site.	Yes
C11 - A wash tub, washing machine and clothes drying facilities are to be provided within each serviced apartment.	A laundry is provided in each of the serviced apartments.	Yes
C12 - Communal washing facilities, bathrooms and kitchen areas shall not be provided within a serviced apartment building.	No communal washing facilities have been provided within the development.	Yes
C13 - A refrigerator to maintain food below 5 degrees Celsius must be provided in each apartment.	A fridge is provided within the kitchen/kitchenette.	Yes
C14 - If cooking facilities and food preparation areas are provided within individual apartments they must not be located in sleeping rooms.	All food preparation areas are separated from the rooms and located in the kitchen.	Yes
C15 - Tiered sleeping facilities (e.g. bunk beds) are not permitted within serviced apartments.	No bunk beds are proposed within the bedrooms.	Yes

C16 - A garbage room including recycling facilities is to be provided within the building or basement level/s.	Garbage room for the serviced apartment is provided at the basement car park level.	Yes
C17 - Storage facilities are to be provided within each serviced apartment to cater for clothing and travel luggage.	Storage is provided in each of the apartments.	Yes
C18 - Toilet and shower facilities within each serviced apartment shall comply with the provisions of the BCA.	All bathrooms in the apartments are compliant with the BCA.	Yes
C19 - A Plan of Management (POM) is required to be submitted with a development application. A POM is a written report which describes how the ongoing operation of serviced apartment development will be managed to reduce its impact upon the amenity of surrounding properties.	A POM has been provided with the development application which outlines the operation of the serviced apartments.	Yes
C20 - An Emergency Management and Evacuation Plan must be prepared.	This is to be conditioned as part of the POM.	Conditioned
C21 - Evacuation procedures for the building must be displayed within each apartment, lobby and public circulation space.	This is to be conditioned as part of the POM.	Conditioned
C23 - Each serviced apartment is to comply with Parts C, D, E and F5 of the BCA so as to ensure there is adequate fire safety in the building and adequate sound insulation between apartments	The development is compliant with the BCA.	Yes

S.4.15(1)(a)(iv) - Provisions of regulations

The proposed development is inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.4.15(1)(b) - Likely Impacts of Development

As outlined in the assessment above, the proposed development will have significant adverse environmental, social or economic impacts in the locality.

S.4.15(1)(c) - Suitability of the site

The site is affected by aircraft noise being situated within a 25-30 ANEF Contour. The proposal was accompanied by acoustic report which has been reviewed and is acceptable subject to conditions imposed in the consent for the development to comply.

Adequate information has been submitted to demonstrate that the site can be made suitable for the proposed development. Further discussion relating to this issue has been carried out within SEPP No. 55 section of the report above. Appropriate conditions have been recommended in the attached Schedule.

Regarding to traffic and access to the site from O'Riordan Street, conditions have been imposed both by RMS and Council to allow for the safe ingress and egress within the site and car parking levels as well as to pedestrians. The applicant has proposed a deceleration lane along O'Riordan Street. The site is also within 800 metres of Mascot Train Station therefore it is encouraged the use of public transport or cycling to the site by occupants and/or staff.

Two Sydney Water assets which traverse through the site. How the development will impact these assets is discussed in greater detail in the report above. The site is also flood affected and the applicant has provided a flood management plan with the proposal. Sydney Water and Council's Development Engineer have imposed conditions of consent to allow for the suitable development of the site.

The plans do not surpass the overall OLS height limit of 51m AHD. SACL have raised no objection to the height of the proposed development.

The proposed use as serviced apartment, hotel, commercial and neighbourhood shops and basement car park is permissible within the B5 - Business Development zone as identified within the BBLEP 2013 and achieves the objectives and controls of both the BBLEP and BBDCP 2013. It is considered that the development is suitable for the site.

S.4.15(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a thirty (30) day period from 17 January to 25 February 2019. One submission was received which raised the following issues:

- I wish to lodge a submission re the above development. I am in favour of the development however I would appreciate if the applicant Toplace Pty Ltd undertakes a dilapidation report of houses in the near vicinity of the development prior to proceeding. That is houses in Macintosh lets say up to 40 Macintosh and Forster Street up to the junction of Aloha. This will assist all owners and developer in the event of any future structural issues that arise from the development.

I am concerned that the pathway between Forster Street and O'Riordan Street (alongside of Mascot Oval) will be turned into an access way for the developer. This must not occur.

Furthermore, given that we have been notified by Bayside Council that our area is flood prone, all efforts must be made by the developer to ensure water does not affect our homes.

I hope that the Department of Primary Industries Water under Water Management Act 2000 take this into consideration

Officers Comment:

A condition of consent has been imposed requiring the applicant to carry out a dilapidation report on the neighbouring properties within its immediate vicinity. The scope that has been proposed by the objector is too onerous as the request for dilapidation reports for properties that are for more than 100 metres away. The condition has made reference to properties along Forster Street and Macintosh Street.

With regard to the access path along Mascot Oval, the developer should be carrying out all loading and unloading and construction work within the site. This has been conditioned within the consent.

Finally, relating to flooding, Water NSW has provided General Terms of Approval for the excavation works relating to dewatering of the groundwater which is imposed within the consent.

S.4.15(1)(e) - Public interest

It is considered that granting approval to the proposed development will have significant adverse impact on the public interest.

OTHER MATTERS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Response Date	Comments
External Referrals		
SACL	25/1/19	No objections. The conditions have been included in the Schedule of Consent Conditions.
Sydney Water	1/3/19- Additional information; 31 January 20 concurrence received	Initially did not provide concurrence to the development. Amended plans have been provided which Sydney Water has now provided concurrence and is discussed in the report above. The conditions have been included in the Schedule of Consent Conditions.
NSW Police	22/1/19	No objections. Advisory Conditions have been provided.
RMS	6/2/19- Additional information; 23 January 20 concurrence received	Initially did not provide concurrence to the development. Amended plans have been provided which RMS has now provided concurrence and is discussed in the report above. The conditions have been included in the Schedule of Consent Conditions.
Telstra	-	No response has been provided.
Ausgrid	-	No response has been provided however standard Ausgrid conditions have been imposed in the consent.
Water NSW	22/3/19	General Terms of Approval have been imposed in the conditions of consent.

Referral Agency	Response Date	Comments
Internal Referrals		
Landscape Architect	29/1/19- Additional information, 10/2/20- final comments	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	29/1/19- Additional information, 11/2/20- final comments	Conditions have been incorporated into the Schedule of Consent Conditions.
Heritage Advisor	18/3/19	Supported. No conditions imposed within the consent.
Environmental Scientist	7/3/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health	16/1/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Tree Management Officer	23/1/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Waste Officer	6/2/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Advisory Committee	6/2/19	Recommendations have been provided from the Panel which were considered in the report.
Address and Road Naming Officer	20/3/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Contribution Planner	11/2/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Design Review Panel	11/4/19	Comments provided to Council for consideration.

Section 7.11 Contributions

In accordance with the former City of Botany Bay 7.11 Development Contributions Plan 2016, the Section 7.11 Contributions for the proposed development are calculated as follows:

Serviced Apartments

140 x studio apartments @ \$20,000.00
 228 x one bedroom apartments @\$20,000.00
 76 x two bedroom apartments @\$20,000.00

Subtotal serviced apartment contribution = \$8,880,000

Hotel/Neighbourhood Shops/Commercial

The applicant has provided the following amount of staff as part of the overall development:

- 20 café/restaurant staff
- 1 hotel manager
- 70 hotel staff
- 8 serviced apartment staff

- Total= 99 workers

Therefore:

- 99 x workers proposed @\$5,060.77 each

Subtotal for Hotel/Neighbourhood Shops/Commercial = \$501,016.23

TOTAL Contributions: \$9,381,016.23

The following is broken down further within the condition:

Breakdown

Community Facilities	\$767,911.41
Recreation and Open Space	\$7,922,659.38
Transport	\$622,140.47
Administration	\$68,304.97

Total: \$9,381,016.23

Conclusion

In accordance with Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, the Application is referred to the Sydney Eastern City Planning Panel (SECPP) for determination.

The non-compliance in the building height has been considered as part of the Clause 4.6 variation submitted by the applicant. Council is of the opinion that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported.

The non-compliances in landscaping and front setback is acceptable considering its location along O'Riordan Street and conditions imposed by Council's Landscape Architect requiring more areas within the site to be converted from hard paving to deep soil to provide a landscape buffer between the site and the adjoining sites to the east. Additionally, the amount of landscaping provided along the south-western and northern sides of the site has been improved to what was originally proposed.

Sydney Water and RMS have provided concurrence for the proposal through conditions imposed in the consent. This is further enforced by additional conditions relating to stormwater, flooding and vehicular access that have been imposed by Council's Development Engineer.

The issues that were raised within the submission received during the notification period is resolved through condition requiring the applicant/owner to carry out a dilapidation report on neighbouring sites prior to the commencement of works.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B5 Business Development zone and is considered to result in a development which is suitable in the

context. As the applicant has not received owners' consent as requested by Sydney Water, the proposal is recommended for deferred commencement subject to the conditions of consent in the attached Schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 146, 154 and 154A O’Riordan Street Mascot Da No.: DA-2019/6

SCHEDULE OF CONSENT CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

The Consent given does not operate until the following condition is satisfied:

- DC1** The Proponent is to obtain the necessary approval from the owner of the property at 263 – 273 King Street, Mascot, to enter and carry out the proposed stormwater deviation work and disuse the section of the stormwater pipe and stormwater channel within this property. The period of the “Deferred Commencement” consent is to be limited to 6 months.

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

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. Reference documentation is also listed.

Plans	Author	Dated / Received by Council
DA-00-0000- Cover Sheet and Drawing List- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-00-0001- Development Data Sheet- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-01-0200- Site Plan- Rev D		Dated 30 January 2020; Received 3 February 2020
DA-05-0200- Site Analysis Plan- Rev D		Dated 30 January 2020; Received 3 February 2020
DA-07-0100- Proposed Setbacks and		Dated 11 September 2019; Received 27 September 2019

Constraints Diagram- Rev C	PTW Architects	
DA-10-0070- Basement Level 03 Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-0080- Basement Level 02 Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-0090- Basement Level 01 Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1000- Ground Floor Plan(Level 00)- Rev D (as marked)		Dated 30 January 2020; Received 31 January 2020
DA-10-1100- Level 01 Floor Plan- Rev D		Dated 30 January 2020; Received 31 January 2020
DA-10-1200- Level 02 Floor Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1300-Level 03 Floor Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1400- Level 04 Floor Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1500- Level 05 Floor Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1600- Level 06 Floor Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-10-1700- Roof Plan- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-20-0100- North and West (O'Riordan Street) Elevations- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-20-0200- East and South Elevations- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-30-0100- Site Sections AA and BB- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-30-0200- Site Sections CC and DD- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-30-0300- Site Section EE and FF- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-30-0400- Street Sections- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-30-0401- Street Sections- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-30-0500- Key Plans and Diagrams- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-30-0501- Landscape Sections- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-30-0502- Landscape Sections- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-30-0503- Landscape Sections- Rev A		Dated 11 September 2019; Received 27 September 2019
DA-50-0100- External Material and Finishes Board- Rev C		Dated 11 September 2019; Received 27 September 2019

DA-50-0200- External Materials and Finishes-Building A- Hotel- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-50-0300- External Materials and Finishes-Building A- Serviced Apartments- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-50-0400- External Materials and Finishes-Building B- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-50-0500- External Materials and Finishes-Building C and D- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-70-0100- Building A- Accessible Apartments- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-70-0200- Building B- Accessible Apartments- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-70-0300- Building C and D- Accessible Apartments- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-09-0100- Demolition Diagram- Rev C		Dated 11 September 2019; Received 27 September 2019
DA-90-0100- GFA Diagrams- Rev C		Dated 11 September 2019; Received 27 September 2019
Coversheet- Rev B	iScape Landscape Architecture	Dated 29 January 2020; Received 29 January 2020
Overall Landscape Plan- Rev B		Dated 29 January 2020; Received 29 January 2020
Detailed Landscape Plan 1- Rev B		Dated 29 January 2020; Received 29 January 2020
Detailed Landscape Plan 2- Rev B		Dated 29 January 2020; Received 29 January 2020
Detailed Landscape Plan 3- Rev B		Dated 29 January 2020; Received 29 January 2020
Planter Plan- Rev B		Dated 29 January 2020; Received 29 January 2020
Sections 1- Rev A		Dated 4 November 2019; Received 19 November 2019
Sections 2- Rev A		Dated 4 November 2019; Received 19 November 2019
Sections 3- Rev A		Dated 4 November 2019; Received 19 November 2019
Materials Palette 1		Dated November 2019; Received 19 November 2019
Materials Palette 2		Dated November 2019; Received 19 November 2019
Materials Palette 3		Dated September 2019; Received 27 September 2019

Reference Document(s)	Author	Dated / Received by Council
Flood Assessment Supplementary	Cardno	Dated 5 February 2020; Received 5 February 2020

DA-CI-1000- Cover sheet, draing schedule and locality plan- Stormwater diversion works	Cardno	Dated 15 November 2019; Received 19 November 2019
DA-CI-1011- General Notes and Legends		Dated 15 November 2019; Received 19 November 2019
DA-CI-1031-General Arrangement Plan		Dated 15 November 2019; Received 19 November 2019
DA-CI-1101- Erosion and Sediment Control Plan and Details		Dated 15 November 2019; Received 19 November 2019
DA-CI-1301- Stormwater Drainage Plan Sheet 1 of 2		Dated 15 November 2019; Received 19 November 2019
DA-CI-1302- Stormwater Drainage Plan Sheet 2 of 2		Dated 15 November 2019; Received 19 November 2019
DA-CI-2101- Stormwater Drainage Longitudinal Section		Dated 15 November 2019; Received 19 November 2019
DA-CI-2201- Stormwater Details		Dated 15 November 2019; Received 19 November 2019
Flood Assessment Report		Dated 18 November 2019; Received 19 November 2019
Response to Landscape Comments	LJB Urban Planning	Dated 16 November 2019; Received 19 November 2019
Report relating to stormwater diversion	Cardno	Dated 18 September 2019; Received 30 September 2019
Geotechnical Investigation	Asset Geo	Dated 20 December 2018; Received 10 January 2019
Detailed Site Investigation	Trace Environmental	Dated 1 November 2018; Received 10 January 2019
Waste Management Plan- Rev E	Elephants Foot	Dated 24 September 2019 Received 27 September 2019
Traffic Letter	TSA	Dated 6 September 2019; Received 27 September 2019
Traffic and Parking Impact Statement	TSA	Dated 25 September 2019; Received 27 September 2019
Response to Council RFI	LJB Urban Planning	Dated 24 September 2019; Received 27 September 2019
Response to DRP comments	PTW Architects	Received 27 September 2019
Amended Clause 4.6 variation- Height	LJB Urban Planning	Dated 25 September 2019; Received 27 September 2019
Arborist Report- Rev A	Birds Tree Consultancy	Dated 8 August 2019; Received 27 September 2019
Access Design Statement	iAccess Consultants	Dated 14 December 2018; Received 10 January 2019
Access Report	iAccess Consultants	Dated 19 December 2018; Received 10 January 2019
BCA Compliance Capability Report	Vic Lilli and Partners Consulting	Dated 19 December 2018; Received 10 January 2019

Plan of Management-Serviced Apartments	Toplace Pty Ltd	Received 7 February 2020
Energy Efficiency and ESD Report	SLR	Dated December 2018; Received 10 January 2019
Environmental Noise Assessment	Day Design Pty Ltd	Dated 19 December 2018; Received 10 January 2019
Road Traffic and Aircraft Noise Intrusion	Day Design Pty Ltd	Dated 19 December 2018; Received 10 January 2019
Preliminary Flood Advice	Cardno	Dated 19 December 2018; Received 10 January 2019
Section J Assessment	SLR	Dated December 2018; Received 10 January 2019
Statement of Environmental Effects	LJB Urban Planning	Dated 21 December 2018; Received 10 January 2019
Qualitative Wind Assessment Report	SLR	Dated December 2018; Received 10 January 2019

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

- 2 This Consent relates to land in Lots 14 and 15 in DP 1232496, Lot 13 in DP 1232496 and Lot A in DP 402876, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 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 This consent is for serviced apartments and hotel development and does not authorise the permanent residential occupation of the building and prohibits any permanent strata-titling of the building as a residential flat building.
- 6 The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.

- 7 The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
- 8 The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
- 9 Adopt and implement all recommendations contained in the acoustic report prepared by Day Design PTY LTD – Report No. 6668.1R, ‘Environmental Noise Assessment for Proposed Mixed Used Development 146 & 154 O’Riordan Street_Mascot NSW’ dated the 19 December 2019.
- 10 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 Councils guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

- 11 The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:
 - a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 33.5 metres Australian Height Datum (AHD).
 - c) In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 33.5 metres AHD.
 - d) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - e) Should you wish to exceed this height a new application must be submitted.
 - f) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - g) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

- h) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
- i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
- j) The height of the prescribed airspace at this location is 51 metres above AHD.
- k) Planning for Aircraft Noise and Public Safety Zones
- l) 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 as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).
- m) 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.

12 The following conditions are imposed by **Sydney Water**:

- a) Prior to the issue of the Construction Certificate, the following is required to be complied:
 - (i) Need to provide a complete set of architectural drawings to ascertain that there are no buildings or permanent structures proposed over the new deviated stormwater pipe/channel or within 1m from the outside face of the stormwater pipe/channel. Permanent structures include (but are not limited to) basement car park, hanging balcony, roof eaves, hanging stairs, stormwater pits, stormwater pipes, elevated driveway, basement access or similar structures. This clearance requirement would apply for unlimited depth and height.
 - (ii) Size of the deviation pipe is to be determined.
 - (iii) A clear effective overland flow path is to be provided along the route of the proposed deviated stormwater pipe up to 1 in 100 year ARI flow. This may require changes to the proposed filling adjacent to route of the proposed deviated stormwater pipe.
 - (iv) The size of the deviated stormwater pipe and the overland flow path arrangement would be finalised upon liaising with Bayside Council to ensure it complies with Council's Flood Plain Management strategy.
 - (v) The existing 1650mm oviform brick wastewater main will be part of the section 73 application this forms part of the construction certificate. As part of this process Sydney Water will require the approval of an out of scope building application.

13 The following conditions are imposed by **Roads and Maritime Services (RMS)**:

- a) All buildings and structures, together with any improvements integral to the future use of the site shall be wholly within the freehold property (unlimited in height or depth), along the O’Riordan Street boundary.
- b) The design and construction of the deceleration lane on O’Riordan Street shall be in accordance with Roads and Maritime requirements. In addition the narrow median within O’Riordan Street extending from the signals to the proposed access driveway shall be deleted. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au

Detailed design plans of the proposed works are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to development.sydney@rms.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- d) All vehicles shall enter and exit the site in a forward direction.
- e) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- f) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- g) A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.
- h) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on O’Riordan Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

- 14 The following conditions are imposed by **Water NSW**:
- a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
 - b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
 - c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the *Protection of the Environment Operations Act 1997 (NSW)* may also be required.
 - d) WaterNSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
 - e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.
- 15 The following advisory conditions are imposed by **NSW Police**:
- a) The building site should be secured with durable fencing at all times whilst construction is taking place, to prevent theft and malicious damages and to deter undesirable persons from entering the site.
 - b) CCTV and adequate lighting shall be installed and operational around the perimeter of the construction during construction phase and to be permanently fixed once building is completed especially at entry / exit points to the building.
 - c) CCTV and adequate lighting to also be installed at entry and exit point to basement garage, and throughout the basement garage.
 - d) If caged storage units are installed within the basement garage, quality security locks need to be installed on the door of storage unit.

- e) It is recommended mailbox ports are to be built internal of the buildings and CCTV installed covering these areas. Swipe access needed to access Mail rooms.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 16 The proposed development shall comply with the following:
 - (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 17 If a CC is required, a copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
- 18 Prior to the commencement of any works, a dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. This includes development along Foster and Macintosh Streets to the east of the site. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
- 19 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 20 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
 - (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -

- (i) A contract is entered into for the work to be done by a different licensee; or
- (ii) Arrangements for the doing of the work are otherwise changed.

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

- 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 to install temporary ground anchors in public land,
- d) Permit to discharge ground water to Council's stormwater drainage system,
- e) Permit for roads and footways occupancy (long term/ short term),
- f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- h) Permit to place skip/waste bin on footpath and/or nature strip, and
- i) Permit to use any part of Council's road reserve or other Council lands.
- j) 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 RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

22 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall 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 ad08.
- 23 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 24 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction 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:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 25 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 26 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 27 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 28 A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request. Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.
- 29 Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
- 30 A Stage 3 Remedial Action Plan (RAP) 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) guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall:

 - a) address all data gaps and recommendations identified in the 'Detailed Site Investigation – 146 – 154 O'Riordan Street, Mascot, NSW', (Ref 1.16) by Trace Environmental dated 1 November 2018.

- b) further investigate, delineate vertically and horizontally, and discuss the source and impacts of the TRH C10-C16 (F2) in soil and groundwater at, and downgradient to the south west, of SB-18 and SB-26 to ensure there are no issues migrating from the site that requires management either on or offsite.
- c) reflect the proposed development and risks;
- d) clearly state proposed clean-up objectives; and
- e) demonstrate how the site can be made suitable for the proposed use.

The Remedial Action Plan (RAP) shall avoid the use containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site under the Conveyancing Act.

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

- 31 For any water from site dewatering to be permitted to go to the 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 to council's stormwater shall be provided in this report.

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

- 32 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 33 If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road 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) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring,

piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

- 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.

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

- 34 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
 - (a) Development Control \$3,174.00
 - (b) Footpath Crossing Deposit \$497,428.75 (See below)
 - (c) Section 7.11 Contributions \$9,381,016.23 (See below)
- 35 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.
- 36 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$497,428.75** (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.
- 37 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$9,381,016.23** is payable as calculated below:

City of Botany Bay Section 7.11 Contributions Plan 2016

The 7.11 contributions for the development is as follows:

a)	Community Facilities	\$767,911.41
b)	Recreation and Open Space	\$7,922,659.38
c)	Transport	\$622,140.47
d)	Administration	\$68,304.97

The total Section 7.11 Contribution of **\$9,381,016.23** is to be paid to Council prior to the issue of any Construction Certificate.

Note: The Section 7.11 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

- 38 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 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.
- 39 Any building/structure/internal road etc. proposed to be erected over or near the existing Sydney Water owned assets on the site are to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council and the Principal Accredited Certifier prior to issuing the relevant Construction Certificate.
- 40 No cut is permitted beyond the property boundary in Council owned/managed land to facilitate an overland flow path over the proposed diverted location of Sydney Water owned stormwater infrastructure. Any changes required to the approved plans to facilitate Sydney Waters' stormwater diversion requirements requires approval from Bayside Council.
- 41 Prior to the required decommissioning/excavation and removal of the existing Sydney Water owned stormwater drainage infrastructure (that traverses the property & adjacent properties), the new approved diverted stormwater drainage infrastructure must be constructed to the satisfaction of Sydney Water and Bayside Council.
- 42 Full details are to be provided and approved by council for the changes to Council owned stormwater assets within council owned/managed land north of the site to facilitate the Sydney Water Stormwater Asset Diversion for approval prior to the issue of any Construction Certificate. The developer is required to repair any damage done within Council owned land to facilitate the diversion to the satisfaction of Bayside Council.
- 43 Prior to the issue of the construction certificate, amended plans are to be submitted to council detailing a provision of land to be dedicated to council (at no cost to Council), generally adjacent to the deceleration slip lane and driveway, to a depth of 3.5m from the RMS approved back of kerb (as shown marked up in red on the approved plans). This is to provide adequate footpath & planting due to substantial loss of public footpath and road reserve to facilitate the proposed deceleration slip lane.
- 44 Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines (SMTG) sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. All drawings shall correspond with the approved architectural plans. The detailed design plans must incorporate, but not be limited to, the following:

- a) Incorporate the provisions generally made in the stormwater concept plans prepared by Australian Consulting Engineers, Project No. 181530, issue B, dated 20/09/2019 with the following revisions detailed below:
- b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition, and
- c) Emergency overflow to cater for storm events greater than the 1% AEP shall be provided within the OSD design, and
- d) The method of discharge connection to the new diverted Sydney Water stormwater pipe is to be approved by Sydney Water, and
- e) The design of the OSD systems and the discharge design to the Sydney Water pipeline is to ensure that backflow from the Sydney Water pipe is impossible and cannot enter the OSD tank, and
- f) A minimum capacity 20000L of Rainwater Tank(s) shall be provided for the site. In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Only roof water shall be directed to the rainwater tank. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) must be connected to all outdoor irrigation/external taps for landscaping within the development, and
- g) All subsurface structures must be designed with a waterproof retention system (i.e. tanking and waterproofing). Subsoil drainage around the subsurface structures must allow free movement of groundwater around the structure and must not be connected to the internal drainage system. No groundwater is permitted to enter any subsurface structure, and
- h) A pump-out system shall be provided for both basements and designed according to Part 7 of the SMTG. The pump-out systems are not permitted to be used to collect and pump any groundwater, and
- i) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basements must be designed as a “fully tanked” structure. The pump-out can only be utilized to dispose stormwater runoff that may enter the basement carpark from driveway access to the basement. The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system, and
- j) All surface runoff in the basements and the ground floor internal driveways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer’s maintenance and cleaning requirements shall be submitted, and
- k) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG, and
- l) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
- m) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s

requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and

- n) Stormwater drainage infrastructure is to be provided within the slip lane to ensure that no low point is created that cannot be drained via gravity discharge. This is to include a kerb inlet pit and pipe system connecting to existing council owned stormwater infrastructure. The design is to comply with Botany Bay DCP part 10 section 13 and be approved by RMS/Bayside Council, and
 - o) Adequate surface drainage systems are to be provided for the internal driveway, and
 - p) The location of the drainage grates are to be revised and pits along O’Riordan Street frontage are to be revised to ensure they are not located within land to be dedicated to Council, and
 - q) Detailed calculations including computer modelling supporting the proposal.
- 45 All subsurface structures must be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. All subsurface structures are required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. Subsoil drainage around the subsurface structures must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structures, tanking and waterproofing, and subsoil drainage must be undertaken by a suitably experienced Chartered Professional Engineer(s) registered with the National Engineering Register (NER). Design details and construction specifications must be included in the documentation accompanying the Construction Certificate. No groundwater is permitted to enter or be pumped out of any subsurface basement structure for the lifetime of the development (at least 100 years).
- 46 Prior to the issue of any Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the NER must:
- a) Review the recommendations and findings in the geotechnical investigation prepared by Asset Geotechnical Engineering Pty Ltd, ref 5323-R1, dated 20 December 2018 and any further geotechnical testing as required by the geotechnical engineer,
 - b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective, and
 - c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.
 - d) Inspect the works as they progress at frequencies determined by the geotechnical engineer.
 - e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and

support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

47 Prior to the issue of a Construction Certificate, the applicant must demonstrate that there will be no adverse impact on surrounding or adjacent properties and infrastructure as a result of construction of the development:

- a) As a result of changes in the local hydrogeology (behaviour of groundwater) created by the required method of construction and excavation.
- b) From changes to the permanent hydrogeology (behaviour of groundwater) of the surrounding area, created by the nature of the required “fully tanked” constructed subsurface structure form.
- c) The cumulative impact will require hydrogeological modelling to demonstrate no adverse impact on the surrounding property or infrastructure. The extent of modelling must consider the potential for future development to extend the damming effect and must, as a minimum, extend between street blocks.
- d) Details of temporary dewatering method with licences and permits as appropriate.
- e) Where below-ground structures are in close proximity to each other (typically less than 3m) ensure no allowance for natural ground flow through these narrow corridors has been included in the design of perimeter or through drainage.
- f) Permanent changes to the groundwater level as a result of construction must be kept within the historical range of natural groundwater fluctuations.
 - (i) Where data is limited or unavailable the permanent change in the level of the natural water table due to the development is not to exceed 0.20m.
 - (ii) In areas where the construction affects existing development within a shadow zone of an earlier construction, the permanent change in the water table due to the construction is not to exceed 0.1m. The permanent shadow zone of an earlier construction with full penetrating cut-off walls but without appropriate subsurface drainage should be taken as a distance equal to one building width along the groundwater flow path both in front and behind the earlier construction.
- g) Prepare an Implementation Plan including a Geotechnical and Hydrogeological Monitoring Program, Contingency Plan and Construction Methodology for the course of construction of the development.

Above is to be assessed and approved by the Principal Accredited Certifier.

48 Prior to the issue of any Construction Certificate, a certificate from a practicing Structural Engineer, registered with NER, must be submitted to the Principal Accredited Certifier stating that the subsurface structural components located on the boundary of the public road and neighbouring properties, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads. An engineering design certificate is required to be submitted for the design of the shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

If it is necessary to excavate below the level of the base of the footings of the adjoining buildings/roadways, the person acting on the consent shall ensure that the owner/s of the building/roadway is/are given at least seven (7) days notice of the intention to

excavate below the base of the footings. The notice is to include complete details of the work.

49 Prior to the issue of any Construction Certificate, the following changes are to be made and shown on the construction certificate plans to the satisfaction of Bayside Council:

- a) The design of the driveway is to ensure that:
 - (i) The design meets the criteria of figure 3.2 of AS 2890.2:2018 for safe HRV access. Amended design and swept path analysis to be provided regarding HRV swept paths through the driveway, and
 - (ii) No HRV vehicle (as denoted by AS2890.2:2018) is required to mount any kerb or exit its lane in order to access the site, and
 - (iii) No HRV vehicle is required to traverse through two lanes in O’Riordan Street in order to exit the site. It is to be designed so the HRV vehicle can enter the eastern southbound lane without needing to enter into another lane.
- b) Provide design of driveway to O’Riordan Street with Pedestrian Crossing/Refuge Island, providing safe connection along front of site from footpath to footpath. Pram ramps are to be included in the design. The design of such is not to restrict the swept paths of any vehicles proposed to be entering/exiting the site and maintain the left in/left out provision.
- c) Pedestrian crossing through driveway is to utilise different pavement treatment (i.e. interlocking pavers).
- d) Details provided indicating the pickup/drop off zone (circular porte-cochere) is designed to accommodate at least two (2) 12.5m long HRV coach vehicles (as denoted in AS2890.2:2018) and three (3) B99 vehicle taxi spaces at any single point in time without obstructing access to the basements from O’Riordan Street.
- e) Swept path analysis of a 12.5m HRV sized Coach Vehicle (as denoted by AS2890.2:2018) entering the site, through the porte-cochere area and exiting onto O’Riordan Street in a single forward manoeuvre.
- f) The design of O’Riordan Street road reserve on the plans is to be revised to accurately reflect the approved/constructed RMS design as part of the Airport North Precinct upgrading works.

Written approval is to be obtained from Bayside Council and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

50 Prior to the release of the Construction Certificate, the following points are to be submitted to and approved by the Principal Certifying Authority:

- a) Parking facilities (including parking spaces, ramps, aisles etc.) designed to facilitate access only to vehicles smaller than a SRV vehicle (as denoted by AS2890.2:2018) must comply in full with AS/NZS 2890.1:2004 for the applicable user class, and
- b) A minimum of 54 bicycle parking spaces are to be provided for the development on the ground floor and designed in accordance with AS2890.3:2015. Adequate end of trip facilities must be provided on the ground floor adjacent to the bicycle spaces (toilets, showers, change room, lockers), and
- c) The design of the car parking facility is to be certified by a suitably qualified engineer experienced in traffic & parking design as being strictly in accordance with Australian Standard 2890 parking series.

- 51 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to, assessed and approved by the Principal Accredited Certifier:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and
 - b) All service & coach vehicles shall enter the property front in front out, and
 - c) A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and
 - d) Demonstrate safe headroom clearance of 4.5m is achieved along the along the entire travel path, parking and manoeuvring areas of the Medium Rigid Vehicle (MRV) and Heavy Rigid Vehicle (HRV) within the development (includes access to the loading docks and movements within the hotel porte-cochere), and
 - e) Swept path analysis shall be provided for manoeuvring of SRV, MRV & HRV commercial vehicles, depicting a forward entry and forward exit manoeuvre from the loading docks proposed within the development, and
 - f) Sight distances throughout the development must be in accordance with AS2890.2:2018, and
 - g) Certification of the above requirements and strict compliance with AS2890.2:2018 is to be provided by a suitably qualified engineer experienced in traffic & parking design.
- 52 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) Accessible car parking spaces shall be provided and designed as specified in Australian Standard 2890.6 and Council requirements, and
 - b) All off street accessible 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, and
 - c) All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.
- 53 Prior to issue of any Construction Certificate, certification prepared by a suitably qualified engineer experienced in traffic & parking design shall be submitted to Principal Certifying Authority certifying the taxi zone, bus zone, pick-up/drop-off zone (including queuing area, turning area and drop off area around the central foyer of the Hotel and Serviced Apartments) shown on the construction plans have been designed in accordance with AS/NZS 2890.1:2004 and AS2890.2:2018 and that the pickup/drop off zone is designed accommodate at least two (2) 12.5m long HRV vehicles (as denoted in AS2890.2:2018) and three (3) B99 vehicle spaces at any one point in time without obstructing access to the basements.
- 54 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.
- c) The Ausgrid lighting poles will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
- d) All above ground utilities must be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, designs for such undergrounding are to be provided to council, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

All low voltage street mains in the street/s adjacent to the development must be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to the issue of the Construction Certificate.

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

- 55 A Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Council's Public Domain Team for all frontage works that are required to be constructed within the public domain and which are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with consent conditions, Council technical manuals, master plans, town centre plans, Australian standards and standard design drawings and specifications.

Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices. The plans prepared are to detail compliance with all external works required under this development consent and must be submitted to Council with the frontage works application for assessment.

A 'public domain frontage works application' must be submitted to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve, upon payment of the relevant fee, prior to the issue of any Construction Certificate.

Note: Preliminary consultation with Council's Public Domain & Referrals team is recommended.

- 56 Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided for the development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:

- a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
- b) Flood warning signs/depth indicators for areas that may be inundated.
- c) A flood evacuation strategy.
- d) A flood awareness strategy.

- e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- 57 A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of the construction certificate.
- 58 Flow through open form fencing (louvres or pool fencing) is required for all new fencing and gates (including boundary fencing) up to the 1% AEP flood level. Documentation shall be provided to Certifying Authority prior to Construction.
- 59 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to, assessed and approved by the Principal Accredited Certifier prior to the issue of any Construction Certificate. The program must detail, but not be limited to, the following:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - l) Obtain Permits required under this consent.

- m) Use of adjoining land owned/managed by Council for construction activities/land access is not permitted without direct approval from Bayside Council and a permit issued.
- 60 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Accredited Certifier for assessment and approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) address, but not be limited to, the following matters:
 - (i) ingress and egress of vehicles to the site;
 - (ii) loading and unloading, including construction zones;
 - (iii) predicted traffic volumes, types and routes; and
 - (iv) pedestrian and traffic management methods.
 - c) 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, and
 - d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's & RMS 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.
- 61 Prior to the issue of the Construction Certificate, a plan of management for the hotel use and an amended plan of management for the serviced apartment use is to be provided to Council for approval. The plan of management is to provide the following:
- a) Title;
 - b) Objectives;
 - c) Operational details;
 - d) Hours of operation;
 - e) Staffing details;
 - f) Details on maximum occupancy rate;
 - g) Details on maximum period of stay of guests;
 - h) Measure to minimise unreasonable impacts on adjoining properties;
 - i) Proposed rules;
 - j) Maintenance of fire safety;
 - k) Deliveries and loading/unloading;
 - l) Managing customers or patrons;
 - m) Security details;
 - n) Complaint recording and handling process; and

- o) The review process to continuously improve the POM.
- 62 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 63 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 then the “e-developer” icon or telephone 13 20 92.
- i) Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
- 64 Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by Vic Lilli and Partners Consulting on 19 December 2018 to be submitted with the application for the issue of the Construction Certificate.
- 65 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- a) identify each item of plant and equipment;
 - b) the following additional criteria adopted by Bayside Council:
 - (i) 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).
 - (ii) 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.
 - (iii) 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.

- (iv) 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.

Note “sensitive” positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- 66 Prior to the release of the Construction Certificate, details shall be submitted to the Principal Certifying Authority on the proposed method of any exhaust ventilation from the car park. The exhaust ventilation needs to be ventilated away from the property boundaries of the adjoining buildings, and in accordance with the provisions of AS1668.1 and AS1668.2.
- 67 Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- 68 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. 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.
- 69 The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
- 70 The applicant shall confer with Ausgrid to determine if installation of electricity conduits in the footway is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
- 71 The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole in the road reserve at (specify location if required) to (specify location if required), is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the

relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.\

72 The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:

- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- b) Include all existing trees to be removed and to be retained. All trees to be retained shall include reference names, indicate diameter of TPZ recommended as per submitted arborist Report of all trees to be retained, proposed levels and natural ground levels as per Survey.
- c) Planting in deep soil areas and Setbacks:
 - (i) Minimum container size of canopy trees to be supplied and planted in all setbacks shall be 200 litres unless approved otherwise by Council.
 - (ii) Frontage setback: Area between footpaths in public domain and proposed building form shall maximised the deep soil provided, with the use of canopy trees. CPTED principles shall be considered in the design.
 - (iii) Provide only native canopy trees, deciduous trees will be allow where sun access is required. Tree planting shall provide dense canopy cover and shall consist of small, medium and large canopy trees. Large canopy trees shall be prioritise in larger areas of deep soil.
 - (iv) Soil levels shall be retained existing natural ground levels along all boundaries.
 - (v) No retaining walls or other structures shall be included in landscape setbacks within deep soils areas. Deep soils areas are those areas not included in the basements 1 layout approved.
 - (vi) Any private open space that have deep soil shall maximised the canopy cover and the deep root treatment. Pavement shall be reduced to the minimum, and avoided in deep soil areas.
 - (vii) South Western corner of the site with deep soil shall include minimum two large native canopy trees to be able to reach a minimum mature height of 15 meters in local conditions, to be planted at minimum 200 litres container size.
- d) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the buildings. Several footpaths proposed in deep soil areas within the site shall be removed or relocated to allow for deep root inclusion.

- (i) All footpaths proposed in deep soil along southern boundary shall be relocated along the perimeter of the proposed building, to maximised deep soil areas.
 - (ii) Footpaths included in the deep soil located north of D, and south of building c, in the convex corner of the site, shall exclude any pavement area, and deep root planting shall be provided instead. No access to adjacent parking lot/open space, shall be included in the proposal. Large canopy trees to be able to reach a minimum mature size of 15 meters in local conditions shall be included in this area.
 - (iii) Footpath proposed between building C and northern boundary shall be deleted. Deep soil area along this boundary shall maximise the canopy trees.
 - (iv) Footpath along norther façade of building B shall be maximum 1000mm wide, and allow a minimum strip of 2 meters wide of deep soil along boundary. No retaining walls or structures shall be included between footpath and boundary. Soil levels shall be retained natural ground levels along all boundaries.
- e) Planting proposal on structures:
- (i) All planting proposed in Ground level shall include trees, shrubs and groundcovers. In particular along southern boundary, where basement structures reach the boundary, the planting on slab shall allow for a soil depth enough to allow the development of trees and screening shrubs.
 - (ii) Indicate soil depths, top of planter's walls, and other retaining walls, base of slabs, to be able to assess soil depths on structures.
 - (iii) Indicate the location of all basement structures relative to the landscape areas. Indicate all awning structures.
 - (iv) Include WSUD elements into the landscape design.
- f) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, and tree pit treat. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.
- g) Indicate all fences and gates location, around property boundary and internal. Details of all fencing and gates, privacy screening, arbors and the like-elevations and materials, impacting or visible to public domain areas. Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations.
- h) A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching,

weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).

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

73

- a) Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application, including a public domain plan which is to be approved by Council's Landscape Architect and Public Domain Coordinator.

The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new feature footpath paving, street furniture, street tree planting/landscaping, street tree pit treatments and tree guards, irrigation and lighting.

The Plan shall be in accordance with Landscape Brief, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.

- b) All footpaths in public domain with trees within the footpath or adjacent the footpath shall include Stratavault soil cells, minimum four meters radius around each proposed street tree. Specification of Stratavault installation shall be submitted to Council prior Construction Certificate.
- c) All public domain works shall be constructed and completed prior to the issue of an Occupation Certificate.
- d) Pavers shall be ordered allowing for adequate lead time for manufacture.
- e) Construction hold points and Council inspections are required at the following minimum points:
 - i) After Stratavault are installed, and prior covering Stratavault structures with soil mix.
 - ii) prior pouring the concrete blinding slab,
 - iii) at the commencement of paving works,
 - iv) at final completion and as directed by the Public Domain Officer, and

- v) after public domain street trees maintenance period, 12 months after final completion.

74

- a) Prior to issue of any Construction Certificate, the applicant is to submit payment of a Tree Maintenance Bond of \$2,000.00. The duration of the Bond shall be limited to a period of twelve months (12) after planting of the new street trees and a satisfactory inspection from Council.
- b) The new street trees shall be maintained by the Applicant for the duration of the Street Tree Maintenance Bond period of twelve months (12) after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth and weed removal but does not include trimming or pruning of the trees under any circumstances.
- c) A Tree Preservation Bond of \$45,000 is to be paid prior to the issuing of the Construction Certificate. This bond is to be refunded twelve (12) months after the issuing of the Occupational Certificate.
- d) At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover, the applicant will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.

75 Prior to the issue of a Construction Certificate, an application for Property Address Allocation and associated fee are required to be submitted to Council. All determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy. The form is available for download at:

<https://www.bayside.nsw.gov.au/services/developmentconstruction/buildingoralteringproperty/commonlyusedforms>

The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:

http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/2018_NSW_Addressing_User_Manual.pdf

The numbering (subaddresses) of the individual units in multilevel sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.

Developers of multilevel buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the subdivision plan. Finalised architectural and survey plans of the site, identifying the location and nature of the development have to be submitted to Council.

76 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any 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 affected excavated material;
- c) Measures required to neutralise the acidity of any acid sulfate affected material including groundwater; and
- d) Run-off control measures for the acid sulfate affected soil.

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

77 The following is required to be complied with:

- a) A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.
- b) The mechanical exhaust ventilation system shall be installed in the kitchen and food preparation areas where cooking and heat producing processes are conducted. All equipment producing heat or steam shall be placed wholly under the ventilation canopy. The ventilation system shall be designed and installed by an appropriate qualified person in accordance with Australian Standards AS1668.11998 & 1668.2 2002.
- c) All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
- d) The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
- e) The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is nonslip, durable, resistant to corrosion, nontoxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste.
- f) Plinths shall be of solid construction, at least 75 mm high, have an impervious finish, be rounded at all exposed edges, coved at the intersection of the floor and wall to a minimum radius of 25 mm.

- g) The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 46742004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dustproof.
- h) In areas where open food is handled or stored, light fittings whether they are intended to provide light or heat or as part of equipment, shall be designed and constructed to prevent the contamination of food should the globe or tube shatter and free from any features which would harbour any dirt, dust or insects or make the fitting difficult to clean.
- i) There shall be no surfaces constructed which permit the accumulation of dirt, dust or grease or the harbourage of pests.
- j) All service pipes conduits and electrical wiring shall be either:
 - k) Concealed in floors, walls, ceilings or concrete plinths, or
 - l) Fixed with brackets so as to provide at least 25 mm clearance between the pipe and the adjacent vertical surface and 100 mm between the pipe or conduit and the adjacent horizontal surface.
- m) All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through shall be designed and constructed so as to prevent the access of vermin.
- n) All shelving being provided for the storage of food, equipment and containers shall have the lowest shelf at least 150 mm above the floor level.
- o) Where toilets are provided on food premises, toilet cubicles shall be separated from areas where open food is handled, displayed or stored by an intervening ventilated spaced fitted with self-closing doors or provided with self-closing doors and a mechanical exhaust system that operate when the sanitary compartment is in use and for at least 30 seconds after the cubicle is vacated.
- p) All surfaces of counters, bars, food display units, window display, self –service displays and bain-maries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.2003.
- q) Cupboards and cabinets shall be constructed on materials with a smooth, washable, impervious surface. No backing board shall be provided to cupboards which abut the wall, although the wall shall be finished with a smooth washable surface.
- r) A temperature gauge shall be provided to each cool room, chiller, freezer, refrigeration unit, hot and cold food storage/display units. The temperature gauge shall be accurate to one (1) degree Celsius and be visible from the outside of such units.

- s) Equipment shall be moveable for cleaning, built into walls with the enclosure completely vermin proofed, butted against walls or other equipment and the joints sealed. Where equipment cannot be moved easily, clearance space shall be provided so that the area around the equipment and below can be cleaned. Where equipment is constructed on legs, brackets or framework, there shall be a space between the floor and the underside of the fitting which is a minimum of 150mm.
- t) A commercial kitchen shall be provided with a kitchen exhaust hood in compliance with Australian Standard AS1668 Parts 1 & 2 where any cooking apparatus having a total maximum electrical output exceeding 8 kW, or a total gas power input exceeding 29 MJ/h.
- u) Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage for vermin are not permitted to be formed in the construction of the food preparation or storage areas, or in the installation of fixtures, fittings and equipment.
- v) Facilities for the storage of clothing and belongings shall be a change room, lockers or cupboards in a change room or enclosed cupboards dedicated for the storage of personal belongings and located outside of the food preparation, food processing, food storage and utensil washing areas.
- w) Cleaning chemicals, cleaning equipment, pest control chemicals and equipment shall be located in a room designated for that use and enclosed in cupboards dedicated for that use which is located away from food preparation storage and display areas and not able to contaminate personal effects and clothing.
- x) Where premises are enclosed, windows shall be protected against the entry of pests by being tightfitting and permanently fixed closed, or fitted with mesh screens which can be removed for cleaning or protected by a permanent mesh screen which can be cleaned in place. Entry/exits, serving hatches and similar openings to food premises shall be protected against the entry of pests by tightfitting solid self-closing doors, roller shutters or other means of closing off the entrance or tight fitting self-closing mesh screen doors.
- y) A floor waste fitted with a basket arrestor shall be located outside the cool room adjacent to the door.
- z) Condensation from the refrigeration units and cool room motors shall be directed to a tundish installed in accordance with the requirements of Sydney Water Corporation.
- aa) The surrounds of the cool room shall be either open for cleaning and inspection or enclosed so that a vermin proof enclosure is formed.
- bb) All equipment shall be supported on wheels, castors or legs.
- cc) Hot and cold food display and/or holding appliances shall be designed and capable of holding cold perishable foods at or below 5oC; and hot perishable foods at or above 60oC when the appliances are operating at full capacity.

- dd) Hot and cold mounted taps fitted with hose connectors positioned at least 600 mm above floor level shall be installed in a convenient and accessible location in the kitchen/food preparation area.
- ee) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45 o C in one bowl for washing purposes; and 80 o C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.
- ff) Premises which require food to be prepared by immersion in water shall install a designated food preparation sink which shall not be used for the washing of equipment or hands.
- gg) Premises shall be provided with a cleaner's or sluice sink, floor waste or other similar facility which is connected to drainage that is not intended for use to prepare food, wash any equipment or for hands/face washing for disposing of mop water and similar liquid waste and shall be located outside of areas where open food is handled.
- hh) Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
- ii) Dishwashers and glass washers used to sanitise food contact surfaces, eating and drinking utensils shall be designed to operate so that the temperature of water used in the sanitising rinse cycles, combined with the time that the utensils are rinsed in water at that temperature (or in combination) shall be sufficient to ensure that the utensils are sanitised.
- jj) All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic microorganisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.
- kk) Grease arrestors shall not be located in areas where food, equipment or packaging material are handled or stored. Access to grease arrestors for emptying shall not be through areas where open food is handled or stored or where food contact equipment and packaging materials are handled or stored.
- ll) Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;

- (i) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors
 - (ii) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements
 - (iii) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non-potable water.
 - (iv) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
- mm) The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air conditioners which meet the NSW EPA Industrial Noise Policy and Protection Of Environment Operations Act 1997 and the project specific criteria as specified in Day Design PTY LTD – Report No. 6668.1R, ‘Environmental Noise Assessment for Proposed Mixed Used Development 146 &154 O’Riordan Street Mascot NSW’ dated the 19 December 2019 has been carried out. The acoustic assessment / report shall include at least the following information:
- (i) the name and qualifications or experience of the person(s) preparing the report
 - (ii) the project description, including proposed hours of operation, mechanical ventilation systems and air conditioners systems
 - (iii) relevant guideline or policy that has been applied
 - (iv) results of background and any other noise measurements taken from most noise affected location at the boundary line
 - (v) meteorological conditions and other relevant details at the time of the measurements
 - (vi) details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
 - (vii) a site map showing noise sources, measurement locations and potential noise receivers
 - (viii) noise criteria applied to the project
 - (ix) noise predictions for the proposed activity
 - (x) a comparison of noise predictions against noise criteria

- (xi) a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
- (xii) how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifying Authority. All recommendations and/or noise mitigation measures (If applicable) shall be complied with.

- 78 Prior to the issue of the relevant Construction Certificate, a wayfinding signage strategy is to be submitted to the Council demonstrating the connection of the serviced apartments and its surrounding streets and the park.
- 79 Prior to the issue of any Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by Day Design Pty Ltd dated 19 December 2018. The measures as detailed in the acoustic assessment report prepared by Acoustic Logic, 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.

The work detailed in the report includes:

- a) The roof/ceiling must be constructed as per Table 3 of the report,
- b) All external walls need to be constructed as per Table 4 of the report,
- c) Glazing to all windows and glazed door systems are to be as per Table 5 of the report.
- d) Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do, it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

DURING WORKS

- 80 The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
- 81 During demolition and 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.
- 82 The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

- 83 The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 84 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.
- 85 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 86 In order to ensure the design quality excellence of the development is retained:
- a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - c) Evidence of the design architect's commission is to be provided to Bayside Council prior to the issue of the Construction Certificate.
 - d) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
- 87 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 made 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.
- 88 Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.
- If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.
- Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

- 89 Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

- 90 Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

Note: The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.

- 91 As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
 - iii) Must at least 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 his 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.
- 92 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 93 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 94 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
- 95 There shall be no encroachment of paths, fencing or other improvements onto the drainage easements without Council approval.
- 96
- 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) 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 Council prior to the Issue of an Occupation Certificate.
- 97 Planter boxes and planter beds 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 screened 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. Install drip irrigation including to lawns.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting, as detail:
 - (i) Trees over 8 meters: Minimum soil depth 1.3 metre
 - (ii) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth 1 metre
 - (iii) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm
 - (iv) Shrubs: Minimum soil depths 500-600mm
 - (v) Groundcover: Minimum soil depths 300-450mm
- g) Any subsurface drainage requirements are in addition to the minimum soil depths quoted above

98 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:
 - (i) a hoarding or fence must be erected between the work site and the public place.
 - (ii) 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.
 - (iii) 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.
 - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
- c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

99

- 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 (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 100 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, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site shall cease until the Council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).
- 101 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 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
- 102 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 any 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.
- 103 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to Council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

- 104 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
- 105 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.

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.

- 106 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.
- 107 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any 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 land.
- 108 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.
- 109 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 L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

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

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

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday:

08:00 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.

110 All contractors shall comply with the following during all stages of demolition and construction:

- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- e) A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

111 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.

112 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 (SEPP55) – Remediation of Land; and

- d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
- 113 All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
- 114 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- All imported fill must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 115 Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- 116 All construction works on the site must be inspected and monitored in accordance with the Implementation Plan, the Geotechnical and Hydrogeological Monitoring Program and any other recommendations made by the geotechnical and/or hydrogeological engineer.
- 117 All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- 118 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.
- 119 Consent is granted for the removal of the following trees as per the tree numbering prepared by Birds Tree Consultancy. Dated 8/8/19:
- a) Tree 3, 36, 38, 39, 40, 41, 42, 43, 44, 45 (has been removed) 46, 47, 48, 49, 50, 58, 60, 61, 62, 63, 64, 65, 66 & 67
- 120 The following trees are to be protected. Trees 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45, 51, 52, 53, 54, 55, 56, 57 & 59
- 121
- a) In accordance with **AS4970-2009** protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement.
 - b) The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the

commencement of any work on site and shall remain until the completion of all building and hard landscape construction.

- c) A Dial-Before-You-Dig enquiry is required prior to stump grinding and shall occur without damage to Council infrastructure or underground services / utilities. Council takes no responsibility for any damage incurred to persons, property, or services during the tree removal works.
- d) To compensate Council for the removal of the significant street tree, the applicant is to replace the tree 36, which is located in the Public Domain with a replacement plantings which will be planted by the applicant in the adjacent reserve along O'Riordan Street. Two (2) 100 litre, *Araucaria columnaris* (Cook Pine) specimens are to be planted on either side of the car park access driveway at the same time the landscaping of the site is undertaken.
- e) All work to be undertaken by a qualified landscape contractor.
- f) All trees shall be sourced from a reputable supplier and grown to NATSPEC requirements.
- g) A Dial-Before-You-Dig enquiry undertaken prior to planting. Council takes no responsibility for any damage incurred to persons, property, or services during the tree planting works.
- h) Trees shall be planted in an area measuring 1 metre square, backfilled with imported soil / compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked with a minimum of three (3) stakes in accordance with Council's Landscape DCP and NATSPEC recommendations.

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

- 122 An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 123 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.
- 124 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.
- 125 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:
 - a) On O'Riordan Street, adjacent to development, remove redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and
 - b) On O'Riordan Street, adjacent to development, construct required deceleration lane and adjacent footpath to the satisfaction of RMS & Bayside Council, and

- c) On O’Riordan Street, adjacent to development, demolish existing footpath and construct new footpath (full width or minimum 3.5m width) as per Council’s Infrastructure, Landscape Architect specifications and Mascot Station Precinct Public Domain Plan this is to extend from the new driveway down south towards the side property boundary. North of the driveway shall utilise minimum 1.5m wide footpath towards Mascot Oval, and
- d) On O’Riordan Street, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with RMS Infrastructure Specifications, and
- e) On O’Riordan Street, adjacent to development, demolish existing road pavement and reconstruct road pavement half width as per Council’s Infrastructure and Pavement Engineer’s specifications, and
- f) On O’Riordan Street, construct new kerb inlet pit(s) and stormwater pipe(s) within the slip lane, connecting to existing stormwater infrastructure to Council infrastructure specifications. The design shall be in accordance with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines Section 13.

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be constructed to the satisfaction of Bayside Council.

- 126 The public footpaths on O’Riordan Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 127 Prior to completion of the building works, a full width vehicular entry and deceleration lane is to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed with kerb and gutter.
- 128 Prior to the issue of any Occupation Certificate(s), inspection reports 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.
- 129 Prior to the issue of any Occupation Certificate, at no expense to the Council and generally in accordance with approved plans (refer to Condition 1), dedicate the portion of land to Bayside Council for the purpose of providing a public footpath along the frontage of the property. The areas of the land to be dedicated shall be the full length of the property adjacent to the approved deceleration lane and driveway connecting to the footpath on the opposite side of the driveway for a depth of at least 3.5m from back of kerb. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office. A copy of the registered document shall be submitted to Council for record purposes.
- 130 On completion of the development construction and prior to the issue of the Occupation Certificate, CCTV survey and report shall be submitted to Council in accordance with Section 17 of Botany Bay DCP Part 10 Stormwater Management

Technical Guidelines to ascertain if any damage has occurred to the newly laid stormwater infrastructure. Any damage shall be repaired by the applicant to Council's requirements and satisfaction. Once any damage has been repaired to Council requirements, a further CCTV survey and report shall be submitted to Council for further consideration. The CCTV survey and report shall also be used to view any rubbish and sediment in the conduits for cleaning by the applicant. Work-As-Executed (WAE) plans and design certification shall be submitted to Council for consideration. These plans shall be prepared by a registered surveyor and shall indicate the as-constructed pit and conduit sizes and conduit invert RL's at each pit. Furthermore, the following details resulting from the construction of new Council infrastructure assets within the road reserve shall be submitted to Bayside Council, in GIS/Shape file format:

For each pit:

- a) Pit code as per the work-as-executed plan.
- b) Pit type and lintel size.
- c) Total value to the nearest \$1,000. -
- d) Construction date — month and year.
- e) Built by (contractor's name).
- f) Street name where applicable.
- g) Grate RL/Top of Pit RL (AHD).
- h) Invert RL (AHD).

For each conduit/pipe:

- a) Line code as per the work-as-executed plan.
- b) Description — type, eg RCP, FRC, RRJ, box culvert, open channel, etc.
- c) Size (mm).
- d) Length (m).
- e) Total value to the nearest \$1,000.
- f) Construction date — month and year.
- g) Built by (contractor's name).
- h) Street name where applicable.

- 131 Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999. Certification must be provided by a suitably qualified traffic engineer, certifying the design of the completed works.
- 132 Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.

- 133 Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) has been fitted with a first flush device and connected for non-potable uses including landscape irrigations must be provided.
- 134 Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer registered with the NER shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
- 135 Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer competent in geotechnics shall certify that the construction works have been constructed in accordance with the approved geotechnical report/recommendations and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority.
- 136 Prior to the issue of any Occupation Certificate, the following must be provided to the satisfaction of the principal certifier:
- a) A record of inspections and monitoring as required by the Implementation Plan and Geotechnical and Hydrogeological Monitoring Program.
 - b) Certification from suitably qualified and experienced geotechnical and/or hydrogeological engineers confirming that all works have been undertaken in accordance with applicable consent conditions, applicable standards and the recommendations of the geotechnical and hydrogeological reports.
- 137 All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site, approved by the principal certifier, stating the following: "All vehicles shall enter and exit the site in a forward direction at all times".
- 138 The applicant is responsible for the 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.
- 139 Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 Stormwater Management Technical Guidelines. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 140 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 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Positive Covenant for on-site waste collection by private commercial waste collection service.
 - b) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and

- c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- d) Positive Covenant and Restriction on Use of Land for Stormwater Pump out System. Refer to Appendix C of the SMTG for suggested wording.

The terms of the 88 E 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.

- 141 Prior to the issue of an Occupation Certificate, a Workplace Travel Plan shall be developed and submitted to Council for assessment and approval in order to encourage staff to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand by staff. The Workplace Travel Plan shall be generally in accordance with NSW Premier's Council for Active Living's "Workplace Travel Plan Guidelines - Final Report (April 2010)". The plan shall include, but not be limited to, the following:

- a) Encourage staff to cycle and/or walk to the workplace;
- b) Encourage staff to use public transport to travel to workplace by providing financial incentive or shuttle bus services;
- c) Adopt car sharing and /or car pool scheme;
- d) Provide priority parking for staff with car pool;
- e) Provide bike storage area and end-of-trip facilities in the convenient locations;
- f) Develop Transport Access Guides (TAGs) to Roads and Maritime Services (RMS) requirements for staff and visitors about information on how to reach the site via public transport, walking or cycling.

The workplace travel plan and TAGs must be prominently displayed within the staff communal areas within the development.

- 142 Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed loading and servicing management plan for the development which includes operation hours, use of off-peak/night-time deliveries, methods to avoid congestion of service vehicles and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be submitted to the Principal Accredited Certifier.

- 143 Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed porte-cochere management plan to address how to manage coach and taxi/visitor movements through the porte-cochere will be managed by the Hotel & Serviced Apartment uses to ensure that no queuing or vehicles results on to the state road network (O'Riordan Street) or access is blocked from O'Riordan Street to the internal basement parking spaces within the development.

- 144 Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle for the serviced apartments and a HRV vehicle for the Hotel and shops (as denoted by AS2890.2:2018). The company engaged must ensure that all recycling is collected separately from waste.

Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

- 145 The approved flood risk management plan and all recommendations from the flood awareness strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A copy of the flood risk management plan is to be kept in the lobby for each building. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.

- 146 Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

- 147 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. 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 Australian Acoustical Consultants).

- 148 Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.

- 149 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';
- 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 any occupation certificate.

- 150 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 any 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 Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, an application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

151 Prior to the Issue of the Occupation Certificate, all 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. Install drip irrigation including to lawns.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting,

152 Prior to issue of any Occupation Certificate, the following must be complied with:

- a) All landscape works are to be carried out in accordance with the approved Detailed C.C landscape plans approved by Bayside Council prior Construction Certificate. The landscaping is to be maintained to the approved standard at all times.
- b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved Detailed Constructions plans and documentation approved by Council Landscape Architect Prior to the Construction Certificate.

153 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:

- a) 4 serviced apartment staff spaces
- b) 367 serviced apartment spaces for patrons

- c) 7 staff spaces for neighbourhood shops
 - d) 12 spaces for neighbourhood shops
 - e) 35 hotel staff spaces
 - f) 64 hotel spaces
 - g) 1 hotel manager space
 - h) 7 spaces for commercial
 - i) 29 spaces for restaurant
 - j) 10 spaces for restaurant staff
 - k) 2 coach spaces
 - l) 3 taxi drop-off/pick-up bays
 - m) 7 service bays
- 154 Prior to the issue of the Occupation Certificate, at least 54 bicycle spaces are to be provided in the car park.
- 155 A separate application must be made for a subdivision certificate to consolidate Lots 14 and 15 in DP 1232496, Lot 13 in DP 1232496 and Lot A in DP 402876. The application is to be accompanied by:
- a) Linen plans with six (6) copies and appropriate fees. The linen plans must include details of any easement or encroachments and include a Section 88B Instrument under the Conveyancing Act, 1919.
 - b) Documentary evidence demonstrating full compliance with all conditions of this Development Consent No.2019/6 and all pertinent Development Consent(s) and Section 4.55 Application(s) related to the subject allotment.
- 156 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. Details of street numbering shall be submitted to Council for approval.
- 157 Written Council approval of completed public domain works is required prior issue of any Occupation Certificate for the development.
- 158 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.
- Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

- 159 The Remedial Action Plan (RAP) shall avoid the use containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.
- 160 Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all health related conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
- 161 Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic compliance report to verify that the measures stated in the 'Day Design PTY LTD – Report No. 6668.1R, 'Environmental Noise Assessment for Proposed Mixed Used Development 146 &154 O'Riordan Street Mascot NSW' dated the 19 December 2019' and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including airconditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 162 On completion of the installation of the mechanical ventilation systems and prior to the issue of the Occupation Certificate, a certificate of completion and performance from the design engineer shall be submitted to Council certifying that the system has been installed, inspected, commissioned, teste and performs in accordance with Australian Standards AS1668.
- 163 The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
- 164 The occupier of the food premises shall provide a Food Safety Supervisor (FSS) for the business. The original FSS Certificate must be kept on the premises. For further information regarding FSS, visit the NSW Food Authority website at www.foodauthority.nsw.gov.au.
- 165 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.

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

- 166 The use of the commercial premises and neighbourhood shops are subject to a separate approval (DA or complying development certificate).
- 167 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. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
- 168 A shuttle bus to service the Hotel & Serviced Apartments shall be provided to transport occupants to and from the development site to the Sydney Airport at regular hourly intervals from 5am – 11pm, 7 days a week.
- 169 The operation of the development and movements of vehicles shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
 - b) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas service bay;
 - c) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas service bay by a private commercial waste collection service;
 - d) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
 - e) The maximum size of vehicle accessing the site shall be limited to a 12.5m long Heavy Rigid Vehicle (HRV) (as denoted in AS2890.2:2018).
 - f) Vehicles within the internal circular porte-cochere are not to restrict access to the internal basements within the development and are not to result in the queueing of vehicles onto O’Riordan Street.
- 170 In order to ensure the certainty to implement workplace travel plan for all future tenants of the site, preparation and implementation of workplace travel plan shall be part of the lease agreement for all tenants. The Workplace Travel Plan shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff travel to work by public transport, cycling and walking.
- 171 Ongoing maintenance of the road verges and footpaths on O’Riordan Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 172 The operations of the hotel, serviced apartments and associated uses must at all times fully comply with the requirements of the approved Plan of Management for the hotel and serviced apartments.
- 173 The approved Plan of Management for the site shall be complied with at all times during the use and operation of the premises. The occupants and staff of the premises shall be provided with at least one copy of the Plan of Management. An additional copy of the plan shall be displayed in a secure, publicly visible and accessible position within the premises. The operation of the Licensed Premises shall comply with the following:
- a) Hours of operation of areas, and
 - b) Amenity of Neighbourhood, and

- c) Complaints Management:
- (i) Complaints Log - The Hotel manager is to keep a log of the premises hours of operation, and details of complaints and incidents associated with the hotel operations, and
 - (ii) Managing Complaints - The Licensee or Duty manager is the responsible person for the communication with any resident's complaints. All residents shall be notified of the telephone number to call in the event of any complaint.
- 174 All parking bays and the porte cochere, as 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.
- 175 All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
- 176 The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.
- 177 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 178 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 179 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 180 All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
- 181 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (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.