

# Development Assessment CONDITION SET

Development Application No:	DA-2021/450
Property:	133-137 Baxter Road & 118 Robey Street MASCOT NSW 2020 (also known as 210 O’Riordan Street Mascot).  PT 1 DP 1190559, PT 1 DP 1190559
Proposal:	Integrated Development - Demolition of existing structures and construction of a twelve (12) storey hotel comprising of parking, signage and specialized retail on the ground floor and associated restaurant and bar
Assessment Planner:	Angela Lazaridis, Senior Development Assessment Planner
Content Manager No:	22/116600
Read in conjunction with Planning Assessment Report Content Manager No:	22/110033

## GENERAL CONDITIONS

### 1. DPIE - Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
TP00.00	B	Cover Sheet	Rothe Lowman Architects Pty Ltd	15.03.22
TP00.01	B	Site Plan		15.03.22
TP00.03	A	Demolition Plan		10.09.21
TP01.01	C	Ground Level		17.03.22
TP01.02	B	Level 1 Upper		15.03.22
TP01.03	B	Level 1		15.03.22
TP01.04	B	Level 2		15.03.22
TP01.06	B	Level 3		15.03.22
TP01.08	B	Level 4		15.03.22
TP01.10	B	Levels 5-9		15.03.22

TP01.11	B	Levels 10-11		15.03.22
TP01.12	B	Level 12		15.03.22
TP01.13	B	Roof		15.03.22
TP02.01	B	North and West Elevation		15.03.22
TP02.02	B	South and East Elevation		15.03.22
TP03.01	B	Sections		15.03.22
TP05.02	B	Materials Palette		15.03.21
000	E	Coversheet	Site Image Landscape Architect	15.03.21
C101	E	Landscape Colour Plan- Ground Floor		15.03.21
101	E	Landscape General Arrangement- Ground Floor		15.03.21
102	E	Landscape General Arrangement- Level 1		15.03.21
103	E	Landscape General Arrangement- Level 4		15.03.21
201	E	Planting Plan- Ground Floor		15.03.21
202	E	Planting Plan- Level 1		15.03.21
203	E	Planting Plan- Level 4		15.03.21
500	E	Landscape Specification notes and plant schedule		15.03.21
501	E	Landscape Detail		15.03.21
502	E	Landscape Detail		15.03.21

Document Title.	Version No.	Prepared By.	Dated.
Clause 4.6 variation request to floor space ratio development standard	-	Mecone NSW Pty Ltd	March 2022
Urban Design Report	-	Rothe Lowman Architects Pty Ltd	23.03.22
Operational and Security Management Plan	B	Boston Atlas Hickory	30.03.22

HVAC System Proposal	-	Integrated Group Services	-
Sustainable Services	4	Norman Disney and Young	15.03.22
Concept Stormwater Management Plan	3	Rincovitch Consultants Pty Ltd	25.03.22
Stormwater Engineering Design Statement	-	Rincovitch Consultants Pty Ltd	25.03.22
Response to RFI Letter	-	Mecone NSW Pty Ltd	01.04.22
Traffic Report	21003	The Transport Planning Partnership	07.04.22
Preliminary (Stage 1) and Detailed (Stage 2) Site Investigation	E34131PHrpt-rev1	JK Environments	17.09.2021
Statement of Environmental Effects	-	Mecone NSW Pty Ltd	September 2021
Aeronautical Impact Assessment	1.0.1	Strategic Airspace	13.09.21
Construction Management Plan	1	Hickory	28.08.21
Pedestrian Wind Environment Statement	1	Windtech	13.09.21
Access Design Assessment Report	P221_029-3 (ACCESS) FMR	Design Confidence	13.09.21
Assessment for the potential for wind shear	WF969-01F04(REV1)	Windtech	13.09.21
BCA Design Assessment Report	P221_029-3 (BCA) JR	Design Confidence	13.09.21
DA Acoustic Assessment	R3	Pulse White Noise Acoustics	10.09.21
Waste Management Plan	F02	Sustainable Transport Surveys Pty Ltd	10.09.21
Construction Traffic	V01	The Transport Planning	13.09.21

Management Plan		Partnership	
Geotechnical Assessment	34131BFrpt	JK Geotechnics	30.07.21
Solar Light Reflectivity Study	WF969-01F05(REV1)-SR REPORT	Windtech	13.09.21
Solar Light Reflectivity Study for impacts onto airport operations	WF969-01F03(REV1)-SR REPORT (SGHAT TECHNIQUE)	Windtech	13.09.21

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**REASON**

*To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.*

**2. Limited Consent Period**

Pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*, the period during which development may be carried out in accordance with this consent is limited to a period of 5 years from the date of the Notice of Determination.

**3. Construction Certificate Required**

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.

Building work is defined under the EPA Act Part 6.

**4. Certification of External Wall Cladding**

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 and Occupation Certificate the Principal Certifier 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 process include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

## 5. Amendments Require Modification Application

Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, the fitting of any form of doors and/or walls, shall not be undertaken without first obtaining approval from Council under Section 4.55 of the EP&A Act.

## 6. Separate Application Required for Specific Use

A separate approval shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed-use development may preclude certain uses.

## 7. Earthworks Not Shown on Plans

No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development

## 8. Approved Materials and Finishes

The finishes, materials and colour scheme and façade details approved under Condition No. 1 and any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

## 9. Parking Allocation

Parking spaces and associated facilities shall be allocated in accordance with the following table.

<b>Use</b>	<b>Number of Spaces Allocated</b>
<b><i>Hotel</i></b>	
Hotel Guests	68 car parking spaces
Hotel Employee	13 car parking spaces
Hotel Manager	1 car parking space
<b><i>Food and Drink Premises</i></b>	
Restaurant	37 car parking spaces
<b><i>Specialised Retail Premises</i></b>	
Bulky Goods	3 car parking spaces
<b><i>Bicycle Parking</i></b>	
<i>Bicycle</i>	22 spaces
<b><i>Loading Bay</i></b>	

Loading dock shared by all uses on the site	1 HRV loading bay
<b><i>Pick-up/Drop-off (Ground Level Porte Cochere)</i></b>	
Taxi	4 pick-up/drop off spaces
Coach	1 pick-up/drop off space

All tandem/stacked parking spaces shall be allocated to employees only.

#### **10. Carrying out of works wholly within the Site**

All approved works shall be carried out inside the confines of the site boundary and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.

#### **11. Separate Approval for Signage**

A separate consent must be obtained for any proposed signage, in addition to signage specifically approved under this consent, (other than exempt and complying development).

Advisory Note: 'signage' is defined as follows:

'signage' means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure, and
- (b) building identification sign, and
- (c) business identification sign.

#### **12. Design Architect Involvement**

- (a) In order to ensure the design excellence of the development is retained:
  - (i) Rothe Lowman (design architect) is to have direct involvement in the design documentation, contract documentation and construction stages of the project, and
  - (ii) 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, and
  - (iii) Evidence of the Design Architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- (b) The Design Architect of the project is not to be changed without prior notice and approval of the Council.

### 13. Landscaping

- a) The landscaping shall be maintained for the life of the development. All soft landscape areas are to be maintained in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan.
- b) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of twenty four (24) months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances. All new street trees (as specified in Public Domain Frontage Works Brief) shall be supplied and planted at minimum 200 litres pot size. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.
- c) All proposed built up planter beds above slabs are not to be replaced with individual removable pots.
- d) Irrigation. 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 always maintained in effective working order.
- e) All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontages as part of the development. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site.
- f) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
  - i. Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - ii. A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - iii. Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining 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.
  - iv. 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.

- v. Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- vi. Soil volumes of planter on slabs shall be in accordance with the requirements of Table 5 of Part 4P of the Apartment Design Guide
- vii. Integrated to the built form and free of structures integrated to the landscape

## EXTERNAL AGENCIES

### 14. Transport for NSW

- a) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

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 TfNSW. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.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.

- b) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon O’Riordan Street are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)  
A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- c) The proposed development, noting its use, should be designed, as per the requirements of Clause 101 (2)(c) of *State Environmental Planning Policy (Infrastructure) 2007* such that it includes measures to ameliorate potential traffic noise or vehicle emissions noise within the site of the development arising from O’Riordan Street. These measures shall be certified by an appropriately qualified noise and air quality expert and noted on the plans prior to issue of a Construction Certificate.
- d) All demolition and construction vehicles are to access the site via Robe Street or Baxter Road. A construction zone will not be permitted on O’Riordan Street.
- e) The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- f) 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 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.

In addition TfNSW provides the following advisory comments:

- g) The subject property is within the vicinity of the Sydney Gateway project area. Sydney Gateway has awarded a design and construction contract, ready to start construction in 2021. Further information on Sydney Gateway can be found on the interactive portal: [nswroads.work/SydneyGateway](http://nswroads.work/SydneyGateway) or by contacting the team – E mail: [SydneyGateway@jhs.com.au](mailto:SydneyGateway@jhs.com.au)
- h) The subject property was previously within the vicinity of the Airport North project area. Further information in regard to the Airport North Project can be obtained by contacting the Project Team – Ph: 1300 862 844 or Email [AirportNorth@transport.nsw.gov.au](mailto:AirportNorth@transport.nsw.gov.au) or by visiting the project website <https://roadswaterways.transport.nsw.gov.au/projects/sydney-airport/airportnorth/index.html>

## 15. ARTC

### a) Noise and Vibration

ARTC requests that the Council consider the requirements of Development Near Rail Corridors And Busy Roads – Interim Guideline and whether any noise sensitive uses within the development are likely to be adversely affected by rail noise or vibration. To assist Council in assessing and determining the development immediately adjacent to the railway corridor, it is recommended that all residential and other noise-sensitive proposals located within 60-80m of an operational railway line be subject to an acoustic assessment and that Council may use their discretion to extend the acoustic assessment beyond the preferred 60-80m buffer to address any developments that are:

- i. Located outside of the preferred 60-80m buffer;
- ii. In the vicinity of steel bridges or cuttings;
- iii. Near sections of high speed track or regularly used track; or
- iv. In locations where no acoustic shielding by topography or buildings exist.

Furthermore Clause 87 of the Infrastructure SEPP requires consideration of the impact of noise and vibration on non-rail development. The SEPP requires that the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,
- b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

## 16. Sydney Water

### a) Water Servicing

- i. The site has frontage to a 150mm which is primarily supplied from a 500mm trunk main located 700m east of the site in Botany Road.
- ii. Current Pressure, head-loss and velocities are within reasonable limits but will need to be reviewed in detail at the Section 73 Application phase.
- iii. Amplifications and extensions may be required.

b) Wastewater Servicing

- i. Connection to the 225mm sewer main traversing the site which discharges SPS 206 located 275m downstream of the site in Coleman Street.
- ii. Deviation of this 225mm sewer will be required.
- iii. Detailed designs with sections showing the existing wastewater mains, excavation, and permanent and temporary pipework will be required by Sydney Water at the Building Plan Approval stage.
- iv. Detailed requirements regarding the adjustment/deviation of this main will be provided at the Section 73 Application phase.

**17. Ausgrid**

a) Underground Cables

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

**18. CASA**

Conditions have yet to be received and will be imposed under this heading.

**19. Sydney Trains**

Conditions have yet to be received and will be imposed under this heading.

**20. NSW Police- Advisory Conditions**

- a) Mailbox area to be internal of building in a secured room, with swipe access only for restaurant and retail staff. CCTV should be positioned covering this area. Parcels for hotel guests to be left with Reception.
- b) Information placed in Mail room, covering delivery of packages policy for patrons/restaurant and retail staff.
- c) CCTV should be installed and operational at all entry/exit points of the Building. Further CCTV should be positioned in foyer, common areas lifts, stairs and corridor leading to hotel rooms. CCTV to be installed in restaurant/bar and retail shops. CCTV footage should be of high quality to help police identify potential suspects
- d) Height of security rails/barriers for balconies should be enough to deter would be offenders trying to gain access to hotel rooms via climbing (Particularly lower ground level rooms).

- e) However, consider enclosed balconies to prevent possible falls or self-harm incidents.
- f) Sufficient railing/barriers for any roof top spaces to prevent falls/injury. Authorised persons only to have access to this location.
- g) CCTV should be available to police promptly when requested and should be retained for a period of 1 month or more.
- h) Sufficient cameras and lighting to be installed throughout the designated parking areas as well as at the entry/exit area to the carpark.
- i) Entry and exit to parking spaces should be controlled by swipe/pin access for guests and staff.
- j) Secure roller door to be installed.
- k) Adequate CCTV and lighting for various loading dock/commercial areas.
- l) Adequate lighting should be positioned covering premises and surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.

**PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions must be completed prior to the issue of the Construction Certificate:

**21. DPIE - Design amendments**

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- (a) The awning overhangs over the northern boundary at the ground floor on the northern elevation. The north-western side of the awning is to be set back so that it is contained within the boundary of the site.
- (b) Conceal drainage pipes within the floor slabs and walls so that they do not appear in the exterior of the building, including driveway entrances.
- (c) Details shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

**REASON**

*To require minor amendments to the approved plans and supporting documentation following assessment of the development.*

**22. DPIE – Payment of fees and security deposits (if applicable)**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Soil and Water Management Sign Fee	\$21.50
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Section 7.11 Contributions	\$1,603,815.64
Builders Damage Deposit (Security Deposit)	\$47,725.00

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by council in connection with the completion of public work or the making good any damage to council property.

**Note:** The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

## REASON

*To ensure any damage to public infrastructure is rectified and public works can be completed.*

### 23. DPIE – Payment of section 7.11 contributions

- Before the issue of the first occupation certificate in respect of any building to which this consent relates, a section 7.11 contribution calculated in accordance with subclause (3) must be paid, except as provided by subclause (2).
- If no construction certificate in respect of the erection of any building to which the consent relates has been issued on or before 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.
- The applicant must pay the following contributions to Council for:
  - Former City of Botany Bay Section 7.11 Contributions Plan 2016 – Amendment 1

Community Facilities	\$131,285.17
Open Space & Recreation	\$1,354,489.19
Transport	\$106,363.60
Administration	\$11,677.69

The total contribution payable to Council under this condition is **\$1,603,815.64** as calculated at the date of this consent, in accordance with the City of Botany Bay Section 7.11 Contributions Plan 2016 – Amendment 1.

## REASON

*To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.*

#### **24. DPIE – Car parking details**

Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of *AS 2890 Parking Facilities – Off-Street Carparking* and Council's development control plan.

##### **REASON**

*To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.*

#### **25. DPIE – Utilities and services**

Before the issue of the relevant construction certificate, the applicant must submit the following written evidence of service provider requirements to the certifier:

- (a) a letter of consent from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- (b) a response from Sydney Water as to whether the plans proposed to accompany the application for a construction certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met.
- (c) other relevant utilities or services – that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

##### **REASON**

*To ensure relevant utility and service providers requirements are provided to the certifier.*

#### **26. DPIE - Erosion and sediment control plan**

Before the issue of a construction certificate or the commencement of any works on site, whichever occurs first, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the Principal Certifier:

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

##### **REASON**

*To ensure no substance other than rainwater enters the stormwater system and waterways.*

## **27. DPIE – Dilapidation report**

Before the issue of a construction certificate, or the commencement of any works, whichever occurs first, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the Principal Certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the Principal Certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties. This must include, but not be limited to, the following properties:

- a) 131 Baxter Road MASCOT NSW 2020
- b) 108 Robey Street MASCOT NSW 2020

The report shall be prepared at the expense of the applicant and a copy of the Dilapidation Survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifier prior to commencement of any works. The insurance cover shall be a minimum of \$10 million.

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the Principal Certifier.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

### **REASON**

*To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.*

## **28. DPIE – Waste management plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- (a) details the following:
  - The contact details of the person(s) removing the waste.
  - An estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill.
  - The address of the disposal location(s) where the waste is to be taken.

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

### **REASON**

*To ensure resource recovery is promoted and local amenity protected during construction.*

## **29. Deletion of the Advertising Sign**

The advertising sign on the north-western corner of the podium at Level 1 is not supported and is to be deleted from all plans. The treatment of the façade where the sign previously was positioned is to be designed to conform with the treatment approved on the podium levels directly above it.

### **30. Approval from Sydney Trains**

Prior to the issue of any Construction Certificate, approval must be obtained from Sydney Trains pursuant to Section 2.98 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 to satisfy their requirements relating to excavation in, above, below or adjacent to rail corridors.

### **31. Surrender of Development Consent**

Development Consent No. 2008/10132 and subsequent modifications must be surrendered prior to the issue of a Construction Certificate pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* and Clause 97 of the *Environmental Planning and Assessment Regulation 2000*. Details demonstrating compliance with the requirements of this condition must be submitted to the satisfaction of the Council prior to the issue of any Construction Certificate.

### **32. Securities, Deposits and Bonds – Minor**

Prior to the issue of any Construction Certificate, the person acting on the consent must provide security to Bayside Council against any damage that may be caused to any Council property assets and/or the environment during the course of the building works as a consequence of the implementation of the development consent. This security shall be in the form of the following Deposits and Bonds that must be paid to Bayside Council:

- a) A Builder's Damage Deposit of \$47,725.00 (GST Exempt) shall be lodged by the applicant by way of cash deposit or unconditional bank guarantee (any proposed bank guarantee must not have an expiry date) in favour of Bayside Council as security for repairing any damage to the public domain, landscaping and Councils assets in the vicinity of the site during the course of the building works. The Guarantee must be lodged with Bayside Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

This security is to cover repair of any damages, or other works to be done, by Bayside Council. This includes construction, removal, or repair as required to all aspects of the public domain and Council owned land such as: kerb and guttering, existing or new driveways, paved areas and footpaths, road pavement, stormwater infrastructure, signage, landscaping etc. This security will be refunded in full, upon completion of all works relating to the development consent and following the issue of the Final Occupation Certificate, where no damage occurs and where Bayside Council is satisfied with the completion of works (subject to inspection by Bayside Council). Alternatively, the deposit will be forfeited or partly refunded based on the damage incurred.

A request for refund of securities/deposits/bonds can be made once the above requirements are satisfied through Bayside Councils "Request for Refund" Application Form. A non-refundable inspection/administration fee is included in the bond value.

### **33. Design Verification Statement**

Prior to the issue of a Construction Certificate, a statement from a qualified designer (Registered Architect) is to be submitted verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles, in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

#### **34. Sydney Water Tap-in**

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in<sup>TM</sup> 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<sup>TM</sup> online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

#### **35. Safer by Design Requirements**

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifier prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- (a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas, and
- (b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels, and
- (c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners, and
- (d) Graffiti resistant materials shall be used to ground level external surfaces, and
- (e) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.

#### **36. Encroachment of Structures not Permitted**

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway. The awning overhang at the northern elevation is to be setback within the boundary of the site.

#### **37. Energy Efficiency**

The development shall be constructed in accordance with the Energy Performance Report prepared by Sustainable Transport Surveys Pty dated 13 September 2021. Details are to be provided on the Construction Certificate plans.

### **38. Lighting**

All existing and proposed lights shall comply with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting. In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

### **39. Services in Garbage Room**

Hot and cold water supply shall be provided to the garbage room.

Services or utility systems shall not be located within the garbage room.

Details demonstrating compliance shall be provided to the satisfaction of the Principal Certifier, prior to the issue of a Construction Certificate.

### **40. Aircraft Noise – Compliance with Submitted Report**

Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Pulse White Noise Acoustics dated 10 September 2021 shall be included in the construction drawings and in accordance with the provisions of *AS 2021 – 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction*.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors, and
- (b) Detailed roof and ceiling construction, and
- (c) Wall and ceiling corner details, and
- (d) External door specification.
- (e) Acoustically treated mechanical ventilation

### **41. Detailed Design Stormwater Management Plan**

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Certifier for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines 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.

The detailed drainage design plans shall incorporate the provisions made in the stormwater concept plans prepared by Rincovitch Consultants Pty Ltd, project number 20030, in the following drawings:

Drawing No	Date	Issue
C1.01	09.09.21	02

C2.01	25.03.22	03
C3.01	25.03.22	03
C6.01	25.03.22	03
C6.02	25.03.22	03
C6.03	09.09.21	02
C6.04	09.09.21	02

along with the requirements detailed below:

- a) The minimum capacity 10000L rainwater tank is to be connected to all ground floor toilet flushing and landscape irrigation for non-potable stormwater re-use.

#### **42. Sustainability**

Prior to the issue of the relevant Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:

- a) Provision of photovoltaic cell systems on the rooftops. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the coverage of available non-trafficable space on the rooftop.
- b) Rainwater tank for non-potable stormwater re-use.
- c) Sensor controlled and zoned internal lighting and air conditioning within the building's car park and common areas.
- d) Provision of Electric Vehicle (EV) charging car parking spaces. At least 10% of all car parking spaces must be designed with EV charging facilities, the EV charging systems shall be provided as 'Level 2' charging infrastructure with a power range of 7kW-22kW or greater, as defined by NSW Electric and Hybrid Vehicle Plan Future Transport 2056.

The above measures shall be implemented on site prior to the issue of the Final Occupation Certificate.

#### **43. Driveway Design**

The driveway crossings shall comply with the following:

- a) The width of the driveway crossing to Baxter Road shall be 8.3 metres at the boundary and 12.2 metres at the kerb.
- b) The width of the driveway crossing to Robey Street shall be 5.5 metres at the boundary and 8.1 metres at the kerb.

Details shall be shown on the Construction Certificate plans.

Furthermore, approval is to be obtained from Bayside Councils tree management officer for the removal of the existing street tree(s) in Baxter Road that conflict with the driveway location. Approval is to be obtained prior to the issue of any Construction Certificate.

#### **44. Longitudinal Driveway Profile**

Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifier for assessment and approval for each driveway proposed. The profiles shall start in the centre of the road and be along the critical edge (worst case) of

the driveways. Gradients, transitions and headroom clearances shall be in accordance with AS 2890.2:2018 for a HRV vehicle. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths. The existing boundary levels shall be clearly shown on the profile, any change to the existing boundary levels requires approval from Bayside Council. The driveways must be designed to prevent inflow of water from the road reserve.

#### **45. Detailed Parking Facility Design Requirements and Certification**

Prior to the issue of any Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:

- a) Compliance with AS2890 Car, Bicycle and Motorcycle Parking:
  - i. The parking facility (including parking spaces, ramps, aisles, vehicular crossings etc.) must comply in full with AS/NZS 2890.1. The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series, and
  - ii. All vehicles are to enter and exit the site in a forward direction, and
  - iii. The parking facility is to be designed with entry only from Baxter Road and exit only to Robey Street, and
  - iv. The minimum number of accessible car parking spaces shall be in accordance with the relevant disability legislation. The design and construction of accessible car parking spaces shall be in accordance with AS2890.6, and
  - v. Pedestrian sightlines for vehicles exiting the site are to comply with AS2890.1, and
  - vi. Convex mirrors shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and
  - vii. A minimum of 22 bicycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015.
- b) Compliance with AS2890.2 Commercial (Service) Vehicle Parking:
  - i. Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the HRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the HRV are not permitted to enter the site, and
  - ii. The design of the parking facility (including driveways/access ramps/vehicular crossings etc.) shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and
  - iii. All service vehicles shall enter and exit the property in a forward direction, with entry via Baxter Road and exit via O’Riordan Street, and
  - iv. Swept path analysis shall be provided for manoeuvring of HRV commercial vehicle(s), depicting a forward entry and forward exit manoeuvre to/from the site via the loading dock(s) proposed within the development, and
  - v. A longitudinal section plotting headroom clearance along the travel path of the service vehicle(s) is to be provided. It must be demonstrated that a safe headroom clearance of 4.5m is achieved along the along the entire travel path,

- parking, and manoeuvring areas of the HRV within the development, and
- vi. The entire ground level driveway (porte-cochere pick-up/drop off area), from Baxter Road to Robey Street, must have an unobstructed headroom clearance of at least 4.5m to accommodate HRV coach (bus) vehicles, and
  - vii. All waste collection must be undertaken on-site, no bins/waste are permitted to be presented to the street for collection.
  - viii. Pedestrian sightlines for vehicles exiting the site are to comply with AS2890.2.

The design of the entire car parking facility is to be certified by a Civil Engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

#### **46. Geotechnical Certification**

Prior to the issue of any Construction Certificate, a Geotechnical Engineer registered with the National Engineering Register (NER) must:

- a) Review and ensure the appropriate construction methodology, parameters, and recommendations in the geotechnical report prepared by JKGeotechnics, report ref. 34131BFrpt, dated 30 July 2021, have been implemented and relied upon during the preparation of the Construction Certificate plans and documentation.
- b) Provide detailed recommendations to allow the satisfactory implementation of the works, 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.
- d) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective.
- e) Inspect the works as they progress at frequencies determined by the geotechnical engineer (where necessary).

The professional recommendations shall be implemented in full during the relevant stages of excavation and construction.

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. Frontage Works Application**

Prior to the issue of any Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.

Prior to the commencement of the public domain works, a Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the Roads Act 1993. Public domain frontage works can

include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications, master plans, town centre plans, Australian Standards, and standard design drawings.

A public domain performance bond is to be provided to Bayside Council prior to the issue of the Final Occupation Certificate. The performance bond is calculated by Bayside Council as part of the frontage works process as per Bayside Council's adopted fees and charges. The performance bond will be kept for a period of 12 months after the completion of all external works and the issuing of a Final Occupation Certificate (defects liability/street tree maintenance period). The bond may be applied by Bayside Council to rectify defective/non-conforming public domain works and the establishment and maintenance of landscaping & street trees. Bayside Council is entitled to recover any monies expended more than the bond amount in undertaking such works.

#### **48. Contamination –Detailed Investigation & Remediation (following building demolition)**

Following demolition of the existing buildings a Detailed Site Investigation (DSI) must be completed by a suitably qualified and experienced environmental consultant in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy (Resilience and Hazard) 2021.

Following completion of the DSI, if required a Remedial Action Plan (RAP) must be prepared. Active management measures to manage risks from residual contamination, including the reliance on mechanical car-park ventilation systems, will not be supported by Bayside Council. Passive measures that are not reliant on powered mechanically systems must be used to manage any residual risks and must be appropriate for the life of the development.

The DSI and RAP must be provided to the Principal Certifying Authority, and to Bayside Council for written concurrence, prior to the issue of any Construction Certificate involving excavation or construction.

#### **49. Site Audit Statement–Site Suitability–Section A**

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

Any conditions imposed on the SAS must form part of this consent. The accredited site auditor must provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any construction certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent (e.g. changes in the design of the building or landscaping), an application to amend the consent pursuant to the Environmental Planning & Assessment Act 1979 must be submitted to ensure that they form part of the consent conditions.

#### **50. Site Audit Statement –Section B -DSI and RAP**

To ensure that the Detailed Site Investigation (DSI) has been completed appropriately and any Remedial Action Plan (RAP) proposed for the site will result in the land being made suitable for the proposed use, a Section B Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council. The SAS must clearly demonstrate that the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) required to be prepared has been completed in accordance with the NSW guidelines, and that the land can be made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This SAS must be provided to the accredited certifier, and Bayside Council for written concurrence, prior to the issue of any construction certificate.

#### **51. Appointment of Site Auditor**

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 must be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor must review and endorse any additional investigation and remediation proposed prior to the commencement of any works.

Written evidence of this appointment must be provided to council prior to the issue of any construction certificate.

#### **52. Landscape Works**

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 Director City Futures of Bayside Council 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) The landscape proposal shall provide large canopy trees along the entire landscape setbacks along the three frontages of the site, including corner of O’Riordan Street and Robey Street. The canopy trees shall only provide a break where driveways and other approved structures are located.
- c) Trees shall be planted in advanced form, minimum 100 litres pot size at time of planting. At least four (4) of the proposed spotted Gum or other similar, shall be planted at least at 200 litres pot size, to ensure the proposal delivers an adequate level of amenity at time of occupation.
- d) Screening shrubs along interface with neighbour properties shall be supplied and planted at minimum 45 litres/400mm pot size.
- e) Peripheric built in planters on level 4, and other levels, shall include planting that can deliver greenery to the streetscape. Planting in peripheric planters shall be supplied and planted in advanced form to deliver a high level of amenity at time of operation of the development.

- f) 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).
- g) Irrigation. 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
- h) All landscape setbacks shall retain natural ground levels, interface with public domain shall be same soil level, to maximise the lateral root development. No retaining walls shall be included in the landscape setbacks, or in deep soil areas.
- i) Peripheric built in planters on level 4, and other levels, shall be designed to provide greenery to the streetscape, to ensure softening of the built form.
- j) Where any electricity substation is required for the approved development, this must be housed within the building structure, or well screened from the street with landscape treatment. These items reduce the visual amenity of the development, public spaces and the public domain. Above-ground utilities including fire boosters must be appropriately screened in an enclosure in the built form or integrated in the landscape treatment and without enclosure if proposed in the landscape setbacks. Details of the proposed screen shall be submitted to and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate.

### **53. Landscape Frontage Works**

Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan. New street trees shall be planted at minimum 200 litres pot size. *All public domain landscape improvements will be detailed in Frontage Works Public Domain Brief after Frontage Works Application is submitted to Bayside Council prior issue of any Construction Certificate.*

### **54. Trade Waste Agreement**

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 the Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.

## **55. Food Fittings**

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.

## **56. Food Washing Facilities**

- a) 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.
- b) 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 micro-organisms 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.

## **57. Food Waste Facilities**

Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;

- a) 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
- b) 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
- c) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non potable water.
- d) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.

## **58. Food premises requirements incorporated in plans**

The Accredited Certifier shall not issue a Construction Certificate until all structural or equipment requirements for food premises specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the

Australian Standard AS 4674 – 2004 “Design, Construction and Fitout of Food Premises” have been incorporated in the plans and specifications for the Construction Certificate.

#### **59. Food premises registration**

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.

#### **60. Fit out inspection**

Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer (EHO) 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.

#### **61. Compliance with the Food Act**

The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2017, Australia and New Zealand Food Standards Code and the Australian Standard AS46742004: Construction and fit out of food premises.

#### **PRIOR TO THE COMMENCEMENT OF ANY WORK (including demolition and excavation)**

The following conditions must be completed prior to the commencement of works:

#### **62. DPIE – Erosion and sediment controls in place**

Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

#### **REASON**

*To ensure runoff and site debris do not impact local stormwater systems and waterways.*

#### **63. DPIE – Tree protection measures**

Before the commencement of any site or building work, the principal certifier must ensure the measure for tree protection detailed in the construction site management plan are in place.

#### **REASON**

*To protect and retain trees.*

#### **64. DPIE – Signs on site**

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

- (a) showing the name, address and telephone number of the principal certifier for the work, and

- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside work hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

**Note:** This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

**REASON**

*Prescribed condition EP&A Regulation, clauses 98A(2) and (3)*

**65. DPIE – Notice regarding dilapidation report**

Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 7 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.

**REASON**

*To advise neighbours and Council of any dilapidation report.*

**66. DPIE - Construction Site Management Plan**

Before the issue of a construction certificate, or the commencement of any works on site, whichever occurs first, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the Principal Certifier. The plan must include the following matters:

- Location and materials for protective fencing and hoardings to the perimeter on the site.
- Provisions for public safety.
- Pedestrian and vehicular site access points and construction activity zones.
- Details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site.
- Protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable).
- Details of any bulk earthworks to be carried out.
- Location of site storage areas and sheds.
- Equipment used to carry out all works.
- A garbage container with a tight-fitting lid.
- Dust, noise and vibration control measures.
- Location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

## **REASON**

*To require details of measures that will protect the public, and the surrounding environment, during site works and construction.*

### **67. Vibration Monitoring**

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.

### **68. Dilapidation Report – Public Domain – Pre-Construction - Major**

Prior to the commencement of any work, a professional engineer specialising in civil, structural, or geotechnical engineering shall prepare a dilapidation report detailing the current condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement etc.) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

The liability for any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant. The applicant shall bear the cost of all restoration works to Council's property damaged by the applicant during this development.

#### **69. Video CCTV for Council Stormwater Pipe before Construction**

Prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection and then report on the existing condition of Bayside Council's stormwater drainage infrastructure traversing through, and adjacent to, the site. The camera and its operation shall comply with the following:

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

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to the satisfaction of Bayside Council prior to the commencement of any works. A written acknowledgment shall be obtained from Bayside Council attesting to this condition being appropriately satisfied and submitted to the Principal Certifier. If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicant's expense.

#### **70. Utility Services Adjustments**

The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.

#### **71. Tree Removal and Protection**

The proposed development does not impact upon any significant trees on the adjacent lots. Consent is granted for the removal of the two (2) *Callistemon viminalis* (Bottlebrush) located within the proposed development footprint. Located in the Public Domain along Baxter Road is one (1) *Tristaniopsis laurina* (Watergum). This tree is to be retained and protected during demolition and construction to ensure the health and structural stability is retained with a **Tree Protection Zone**.

**A Tree Protection Zone is to be erected** in accordance with **AS49702009 (Protection of Trees on Development Sites)** shall be established as follows:

The trees are to be enclosed by a 1.8m high fully supported chainmesh protective fencing. The fencing shall be secure and fastened to prevent movement. The fencing shall have a lockable opening for access.

Roots greater than 40mm in diameter shall not be pruned, damaged, or destroyed during the installation or maintenance of the fencing. The fencing shall not be moved, altered, or removed without the approval of the Project Arborist.

The TPZ is to have a minimum of two signs that include the words “**Tree Protection Zone – Keep Out**”. Each sign shall be a minimum size of 60cm x 50cm and the name and contact details of the Project Arborist.

Signs shall be attached facing outwards in prominent positions at 10 metre intervals or closer where the fence changes direction. The signs shall be visible within the site;

Be kept free of weeds and, except where the existing surface is grass. Weeds shall be removed by hand;

Unless the existing surface is grass, have mulch installed and maintained to a depth of 75mm.

Where the Project Arborist determines that tree protection fencing cannot be installed, the tree protection fencing needs to be removed temporarily, access within or through the Tree Protection Zone is necessary or where work will be carried out within the Tree Protection Zone (as approved and supervised by the Project Arborist):

The stem and branches of trees to be retained shall be protected, as follows:

Two layers of carpet underlay (or other padding approved by the Project Arborist) shall be installed around the stem and branches. Stem protection shall cover the stem from ground level; and

Hardwood or treated pine timbers (100mm x 50mm) the same length as the stem or branch shall be positioned over the padding and next to each other around the stem or branch, secured together with galvanised wire or strapping. Boards shall not be nailed or screwed into the stem or branch. No part of the protection shall be secured to the tree.

The ground surface within the Tree Protection Zone shall be protected by placing geotextile fabric on the ground surface, covering this with a layer of mulch to a depth of 75mm and then placing boarding (scaffolding board, plywood sheeting or similar material) on top. The geotextile fabric and mulch shall be kept clear of tree stems by at least 50mm.

The following activities shall not be carried out within any Tree Protection Zone:

- d) disposal of chemicals and liquids (including concrete and mortar slurry, solvents, paint, fuel or oil);
- e) stockpiling, storage or mixing of materials;
- f) refuelling, parking, storing, washing and repairing tools, equipment, machinery and vehicles;
- g) disposal of building materials and waste;

The following activities shall not be carried out within any Tree Protection Zone unless under the supervision of the Project Arborist (AQF Level 5):

- a) increasing or decreasing soil levels (including cut and fill);
- b) soil cultivation, excavation or trenching;
- c) placing offices or sheds;
- d) erection of scaffolding or hoardings; and/or
- e) any other act that may adversely affect the vitality or structural condition of the tree.

All work undertaken within or above a Tree Protection Zone shall be supervised by the Project Arborist.

All detailed Construction Certificate plans shall show all trees to be protect with a TPZ.

Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.

Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$2,000.00 to ensure protection of the retained tree. The duration of the Bond shall be limited to a period of 12 months after the occupation certificate is issued. At completion of the bond period of twelve months (12 months) the Bond shall be refunded pending an inspection of the tree/s 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.

## **72. Asbestos–Clearance Certificate**

An assessment of the status of asbestos in soil at the site must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:

NSW EPA (2020) 'Consultants reporting on contaminated land';

NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and

State Environmental Planning Policy (Resilience and Hazards) 2021.

The report must provide a notice of completion of any required remediation works identified during the assessment of asbestos in soils at the site and include a clear conclusion that the asbestos has been removed from the site to a level suitable for the proposed use in accordance with relevant guidelines. The report must 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 prior to the commencement of excavation or construction at the site.

## **73. Hazardous Building Material Assessment**

A Hazardous Building Material Assessment (HBMA) must be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This must be undertaken by an appropriately qualified consultant and must be submitted to the Principal Certifying Authority and Bayside Council prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings must be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report must contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

## **74. Asbestos Removal Control Plan**

To ensure that all asbestos materials identified are managed appropriately an Asbestos Removal Control Plan (ARCP) must be prepared and implemented during works onsite. The ARCP must be prepared in accordance with:

- a) SafeWork NSW Codes of Practices; and

- b) SafeWork Australia Model Code of Practice - How to Safely Remove Asbestos 2011; and
- c) Work Health and Safety Act and Regulations 2011; and
- d) Australia Standard (AS) 2601-2001 The Demolition of Structures.

The report must contain details regarding the proposed methods of containment and disposal of asbestos containing material and must be submitted to the Principal Certifying Authority prior to the demolition of any building or structure.

### **DURING ANY WORKS (including Demolition, Excavation and Construction)**

The following conditions must be complied with during demolition, excavation and/or construction:

#### **75. DPIE – Hours of work**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between 7:00am to 5:00pm Monday to Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

#### **REASON**

*To protect the amenity of the surrounding area.*

#### **76. DPIE – Compliance with the Building Code of Australia**

Building work must be carried out in accordance with the requirements of the BCA.

#### **REASON**

*Prescribed condition – EP&A Regulation clause 98(1)(a).*

#### **77. DPIE – Procedure for critical state inspections**

While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

#### **REASON**

*To require approval to proceed with building work following each critical stage inspection.*

#### **78. DPIE – Implementation of the site management plans**

While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The applicant must ensure a copy of these approved plans are kept on site at all times and made available to Council officers upon request.

**REASON**

*To ensure the required site management measures are implemented during construction.*

**79. DPIE – Surveys by a registered surveyor**

While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier –

- (a) All footings/ foundations.
- (b) At other stages of construction – any marks that are required by the principal certifier.

**REASON**

*To ensure buildings are sited and positioned in the approved location.*

**80. DPIE – Construction noise**

While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

**OR**

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

**REASON**

*To protect the amenity of the neighbourhood.*

**81. DPIE – Tree protection (if relevant)**

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970-2009 Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

**REASON**

*To protect trees during construction.*

**82. DPIE – Responsibility for changes to public infrastructure**

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service providers pits, street trees or any other infrastructure in the street footpath area).

**REASON**

*To ensure payment of approved changes to public infrastructure.*

**83. DPIE – Shoring and adequacy of adjoining property**

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense –

- (a) Protect and support the building, structure or work from possible damage from the excavation, and
- (b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**REASON**

*Prescribed condition – EP&A Regulation clause 98E*

**84. DPIE – Waste management**

While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste.
- The waste carrier vehicle registration.
- The date and time of waste collection.
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill.
- The address of the disposal location(s) where the waste was taken.
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

**Note:** If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

## **REASON**

*To require records to be provided, during construction, documenting that waste is appropriately handled.*

### **85. DPIE – Cut and fill**

While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavation material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

## **REASON**

*To ensure soil removal from the site is appropriately disposed of and soil imported to the site is safe for future occupants.*

### **86. DPIE – Uncovering relics or Aboriginal objects**

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
  - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - (b) is of State or local heritage significance; and
- "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

## **REASON**

*To ensure the protection of objects of potential significance during works.*

## **87. Implementation of Soil and Water Management Plan**

All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

## **88. Approved Plans Kept on Site**

A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.

## **89. Toilet Facilities**

- a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site, and
- b) Each toilet must:
  - i. Be a standard flushing toilet connected to a public sewer, or
  - ii. Have an on-site effluent disposal system approved under the Local Government Act 1993, or
  - iii. Be a temporary chemical closet approved under the *Local Government Act 1993*.

## **90. Construction Activities – Minimise Pollution**

The following conditions are necessary to ensure minimal impacts during construction:

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. 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, and
- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and
- d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system, and

- e) 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, and
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - i. spraying water in dry windy weather, and
  - ii. cover stockpiles, and
  - iii. fabric fences.
- g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and
- i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and
- j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and
- k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

## **91. Site Fencing**

The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.

## **92. Demolition Requirements During Works**

Demolition is to be carried out in the accordance with the following:

- a) The approved Safe Work Method Statement required by this consent, and
- b) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW) and the requirements of the NSW WorkCover Authority, and

- c) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays, and
- d) Vibration monitors must be placed at the footings of the nearest residential and/or commercial property(s) boundaries prior to any demolition commencing; and
- e) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and
- f) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and
- g) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and
- h) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and
- i) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and
- j) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and
- k) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the Applicant's expense. Dial Before You Dig website: [www.1100.com.au](http://www.1100.com.au) should be contacted prior to works commencing, and
- l) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and
- m) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation and 'Waste Classification Guidelines 2014'* prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

### **93. Demolition Requirements**

All demolition work shall be carried out in accordance with AS2601 – 2001. The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

### **94. Vibration During Demolition Works**

Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*.

The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

Prior to commencement a specific vibration monitor must be set up to monitor and record the vibration levels affecting surrounding buildings.

#### **95. Approval and Permits under *Roads Act* and *Local Government Act* for Works Activities on Public Land**

During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the *Roads Act 1993* and *Local Government Act 1993*. All applications associated with works and activities on Bayside 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 Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:

- Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.
- Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work Zone being that you must not stop or park in a work zone unless you are driving a vehicle that is engaged in construction work in or near the zone.
- Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface

level. The support systems include ground anchors and shoring.

- Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.
- Temporary Dewatering – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.
- Road Opening Application - Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the *Roads Act*.

A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.

#### **96. Protection of Council's Property**

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 Bayside Council.

#### **97. Additional information –Contamination –Cease work addition (with SAS auditor)**

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 must 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).

#### **98. Remediation Works -General**

All remediation work must be carried out in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- 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.

#### **99. Contamination –UPSS Decommissioning and Removal**

Decommissioning and removal of underground petroleum storage systems (UPSS), if required, must be carried out in accordance with

- a) Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019;
- b) NSW EPA (2020) 'Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019.

#### **100. Waste Classification –Excavated Materials**

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.

#### **101. Importation of Fill (General)**

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) NSW Environment Protection Authority (EPA) 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.

#### **102. Monitoring**

Results of the monitoring of any field parameters for soil, groundwater, surface water, air or noise must be made available to Council Officers on request throughout the remediation and construction works.

### **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions must be complied with prior to issue of the Occupation Certificate:

#### **103. DPIE – Preservation of survey marks**

Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:

- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- (b) the applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

**REASON**

*To protect the State's survey infrastructure.*

**104. DPIE – Location of mechanical ventilation**

During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plan and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBA at the boundary adjacent to any habitable room of an adjoining residential premises.

**REASON**

*To protect the residential amenity of neighbouring properties.*

**105. DPIE – Annual fire safety certificate (if applicable)**

During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with clause 177 of the EP&A Regulation.

**REASON**

*To ensure annual checks on fire safety measures.*

**106. DPIE – Repair of Infrastructure**

Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of the building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

**Note:** If the Council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

**REASON**

*To ensure any damage to public infrastructure is rectified.*

**107. DPIE – Release of Securities / Bonds**

When Council receives a Final Occupation Certificate from the Principal Certifier, the applicant may lodge an application to release the security deposit(s) held in accordance with councils fees and charges for development. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Bayside Council's requirements.

A request for refund can be made through Bayside Councils "Request for Refund" Application Form.

#### **REASON**

*To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.*

### **108. DPIE – Completion of Public Utility Services**

Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

#### **REASON**

*To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.*

### **109. DPIE – Works-as-executed plans and any other documentary evidence**

Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- a) All stormwater drainage systems and storage systems.

The Principal Certifier must provide a copy of the plans to Council with the occupation certificate.

#### **REASON**

*To confirm the location of works once constructed that will become Council assets.*

### **110. DPIE – Post-construction dilapidation report**

Before the issue of any occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- (a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- (b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

**REASON**

*To identify damage to adjoining properties resulting from building work on the development site.*

**111. DPIE – Removal of waste upon completion**

Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

**REASON**

*To ensure waste material is appropriately disposed or satisfactorily stored.*

**112. DPIE – Completion of Landscape and Tree Works**

Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weeds species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

**REASON**

*To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).*

**113. Section 73 Certificate - Sydney Water**

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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

**114. Certification of New Stormwater System**

Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) must 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 constructed stormwater drainage

system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.

#### **115. Positive Covenant Application**

Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) pursuant to the Conveyancing Act 1919 are to be created on the title of the lots on which the following systems are present:

- (a) On-Site Detention System
- (b) Stormwater Quality Improvement Device

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. The wording is to be as per Appendix B and E of Botany Bay DCP part 10 – Stormwater Management Technical Guidelines. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate. Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Council requires proof of lodgement of the signed documents with the NSW Land Registry Services prior to the issue of the Occupation Certificate.

#### **116. Rainwater Tank - Plumbing Certification**

Prior to the issue of any Occupation Certificate, a registered plumber shall certify that the rainwater tank has been connected to all ground floor toilet flushing and landscape irrigations for non-potable stormwater re-use.

#### **117. Parking Facility Certification**

Prior to the issue of the Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) shall certify that the vehicular access and off-street parking facilities have been constructed & line marked in accordance with the approved construction plans and the applicable Australian Standards (i.e., AS/NZS 2890.1, AS2890.2, AS2890.3, AS/NZS 2890.6, AS 1742). The car parking area is to be clearly and appropriately line marked/signposted indicating all vehicular movements on the site. All parking spaces must be clearly designated as to their use in accordance with this development consent.

Furthermore, the below shall be certified as being implemented within the completed development:

- Wheel stops shall be installed in all car parking spaces adjoining high obstructions in accordance with AS/NZS 2890.1.
- Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6.
- Large convex mirrors are to be installed at all corners/bends throughout the parking facility to provide increased sight distance for vehicles.

The certification must be submitted to the Principal Certifier.

#### **118. Erection of Signage**

Prior to the issue of the Occupation Certificate, the following signage shall be erected:

- a) Vehicles Enter & Exit in Forward Direction:  
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".
- b) Vehicular Entry and Exit Clearly Marked & Signposted:  
The vehicular entry in Baxter Road is to be clearly marked and signposted "entry" from the street and "no exit" internally. The vehicular exit in Robey Street is to be clearly marked and signposted "no entry" from the street and "exit" internally.

The owners shall preserve the plaque(s) in a good condition and keep it visible.

### **119. Video CCTV for Council Stormwater Pipe after Construction**

Prior to the issue of the Final Occupation Certificate, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection, and then report on the post construction condition of Bayside Council stormwater drainage infrastructure traversing through, and adjacent to, the site. The camera and its operation shall comply with the following:

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

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

### **120. Private Waste Collection**

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. 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.

### **121. Workplace "Green" Travel Plan**

Prior to the issue of the Occupation Certificate, a Workplace "Green" Travel Plan shall be developed by a suitably qualified traffic consultant in order to encourage people (including any and all residents, staff and visitors) to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand. The Green Travel Plan shall be prepared in accordance the relevant standards and 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) Include clear and time bound targets, actions, measurements and monitoring framework;
- g) 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 “Green” Travel Plan and TAGs must be prominently displayed within the communal areas within the development.

### **122. Loading Dock Management Plan**

Prior to the issue of the Occupation Certificate, the applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak deliveries, methods to avoid congestion of service vehicles, booking system, how the vicinity will be shared and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be prepared by a suitably qualified professional and submitted to the Principal Certifier. The management plan is to be implemented for the lifetime of the development.

### **123. Roads Act / Public Domain Works - Major Development Frontage Works**

Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works as specified by Bayside Council in accordance with Bayside Council’s Engineer, Landscape Architect, Public Domain Masterplans, and Infrastructure Specifications:

- (a) Construction of a new footpath and planting of required street trees/landscaping along the Baxter Road and Robey Street frontages of the development site. The footpath to Baxter Road shall be full width (i.e., extend from the back of kerb to the property boundary). The footpath on Robey Street shall have the same width and paving as the frontage of neighbouring property (Quest Hotel).
- (b) The existing regulatory signage located on Robey Street that conflicts with the proposed driveway shall be relocated to the satisfaction of Bayside Council.
- (c) Construction of vehicular entrance/s designed to accommodate the largest vehicle entering the site.
- (d) Reconstruction of existing damaged kerb and gutter along the frontage of the development site.
- (e) Removal of the existing concrete vehicular entrance/s, kerb laybacks and other damaged/redundant public domain improvements which will no longer be required. This includes removing the redundant driveway layback to O’Riordan Street and replacing it with kerb and gutter to TfNSW standards.
- (f) Reconstruction of selected areas of the existing footpath, vehicular entrances, road, kerb, and gutter as required.
- (g) On Baxter Road, adjacent to development, construct new asphalt sheeting of half road width including reconstruction of any damaged road pavement in accordance with Council’s Infrastructure specifications.

The public footpaths shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, pavement type and construction methods shall be in accordance with these specifications. If pavers are necessary, they shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed to the satisfaction of Bayside Council at the applicant's expense. A report shall be submitted in accordance with Bayside Council's Contributed Asset Procedure for all constructed assets in the ownership of Bayside Council. Works-As-Executed plans prepared by a registered surveyor and engineering certification shall be submitted.

Final inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifier attesting that this condition has been satisfied prior to the issue of any Occupation Certificate.

#### **124. Porte-Cochere Management Plan**

Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed porte-cochere (pick-up/drop-off) management plan to address how to manage HRV coach and taxi/visitor movements through the porte-cochere will be managed by the Hotel use to ensure that no queuing of vehicles results on to the surrounding road network and road safety is not compromised. A copy of the approved management plan is to be kept on site at all times and shall be implemented for the lifetime of the development.

#### **125. EV Certification**

Prior to the issue of the Occupation Certificate, the electric vehicle (EV) charging systems, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. A certificate shall be provided certifying the installation and operation of the EV charging systems. This certification is to include testing and inspections of the system in operation.

#### **126. Photovoltaic Cells**

Prior to the issue of the Occupation Certificate, the photovoltaic cells systems as required by this consent are to be installed onto the rooftops of the development and be operational.

#### **127. Dilapidation Report – Public Domain – Post-Construction - Major**

After the completion of all construction and public domain works, a professional engineer specialising in civil, structural, or geotechnical engineering shall prepare a dilapidation report detailing the post-construction condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement etc.) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

Any damage identified in the dilapidation report must be fully rectified by the applicant or owner at no cost to Bayside Council. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of Bayside Council's Director of City Futures (or delegate), prior to the issue of the Final Occupation Certificate.

## **128. Anti-Graffiti Coating**

Prior to issue of the Occupation Certificate, ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement.

## **129. Plan of Management – Licensed Premises**

- (a) The POM must provide all details relevant to the operation of the premises. As a minimum, the following must be included:
- (i) Title, and
  - (ii) Objectives, and
  - (iii) Operational details, and
  - (iv) Hours of operation, and
  - (v) Staffing and organisation overview, and
  - (vi) Any Liquor Licences and/or entertainment approvals, and
  - (vii) Identification of the likely common pedestrian routes, and
  - (viii) Deliveries and loading/unloading, and
  - (ix) Managing customers or patrons, and
  - (x) Security details, and
  - (xi) Noise and Vibration Impact Assessment, and
  - (xii) Shadow Analysis, and
  - (xiii) A schedule of proposed entertainment times (ie. live bands) for each day of the week, and
  - (xiv) Complaint recording and handling process, and
  - (xv) The review process to continuously improve the POM.
- (b) The POM is required to be reviewed at the conclusion of every trial period. Where necessary, the POM must be revised to maintain or improve the level of amenity and safety to nearby land uses and communities and to address unforeseeable issues, impacts or events raised during the operation of the premises.

The review of the POM will consider (but not be limited to):

- (i) Complaints received by Council and the Casino, Liquor and Gaming Control Authority, and

- (ii) Inspections conducted by Council officers during the trial period, and
- (iii) Consideration of Police complaints.

### **130. Occupation Certificate**

The Occupation Certificate must be obtained prior to any use or occupation of the building/development or part thereof. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

### **131. Bayside Council's Reserve Damaged During Construction**

Where Bayside Council's land / road reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Bayside Council or the applicant, at the applicant's expense. Any damage not shown in the photographic survey submitted to Bayside 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 Bayside Council's satisfaction, prior to occupancy of the development and release of the damage deposit.

Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the final Occupation Certificate. Further, Bayside Council will use this report to determine whether or not to refund the Damage Deposit.

### **132. Parking Facility Certification**

Prior to the issue of any Occupation Certificate, documentation from an Engineer registered with the National Engineering Register (NER) must be submitted to the Principal Accredited Certifier certifying 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, all signage relating to car parking erected and that the car parking area is 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 *AS1742 - Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations*. Wheel stops shall be installed in all car parking spaces adjoining high obstructions and garden beds in accordance with AS/NZS 2890.1:2004. Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6.

### **133. Conveyancing Act Registration (with SAS)**

Should the remediation require residual contamination at the site to be managed, a restriction as to use under Section 88B of the Conveyancing Act 1919 is to be registered on the title of *[insert Lot and DP/SP]* with the following terms of restriction on use:

*The registered proprietor must not use or otherwise undertake development on the land hereby burdened except in accordance with the provisions of the Long-Term Environmental Management Plan [Enter Name of Plan] ref: [Enter Details], prepared by [Enter Details], dated [Enter Details], incorporated within the Site Audit Statement [Insert SAS Number]*

*dated [insert date signed], prepared by accredited Site Auditor [Insert auditors name], a copy of which Statement is held by Bayside Council.*

The name of the person or authority empowered to release, vary or modify the restriction will be the Bayside Council.

#### **134. Asbestos–Clearance Certificate**

An assessment of the status of asbestos in soil at the site must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- 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 validation report must provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report must be submitted to the Principal Certifying Authority (PCA) and the Council if the Council is not the PCA after completion of remediation works and prior to the issue of any occupation certificate.

#### **135. Contaminated Land –Site Validation Report**

A Site Validation Report (SVR) must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy (Resilience and Hazard) 2021.

The site validation report must 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 must be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority after completion of remediation works and prior to the issue of any occupation certificate.

#### **136. Site Audit Statement –Site Suitability (no park dedication to Council)**

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* must be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This must be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS must form part of this consent. The accredited site auditor must 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 (e.g. changes in the

design of the building or landscaping), an application to amend the consent pursuant to the *Environmental Planning & Assessment Act 1979* must be submitted to ensure that they form part of the consent conditions.

### **137. Landscape Compliance**

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 final landscape plans by Bayside Council for the approved development.
- 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 plans and documentation. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements:
  - i. Trees, as indicated in approved final landscape plan, shall be supplied and planted at minimum 100 litres. Trees at time of inspection shall have a minimum height of 2.4 meters, calliper at 300mm greater than 50mm, installed with stakes and ties within a mulch bed or equivalent.
  - ii. A fully automated irrigation system has been installed to all podium landscaping.
  - iii. Podium landscaping and paved areas are drained into the stormwater drainage system.

### **138. Works to be completed in the public domain**

Works to be completed in public space owned by Council and RMS, will be of no cost to Council or the RMS, including the following: Landscaping and embellishment of O’Riordan Street, Baxter Street and Robey Street frontages to the development site, including footpaths, paving, street trees, tree pits/grates and other planting, and street furniture, etc. as specified in Public Domain Frontage Works Brief. Prior Occupation Certificate the Landscape works within the Public Domain / Street Verge shall comply with the following:

- a) All street trees shall be supplied in a pot size not less than 200 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries, and shall conform to NATSPEC guide. At time of final inspection street trees shall have a minimum height of 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
- b) Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent
- c) Two hold point inspections are required: The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing. Inspections can be arranged with Council’s Landscape Architect with two weeks in advanced.
- d) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain 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. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability,

replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

### **139. Final fit out inspection**

Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer (EHO) 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.

### **140. Acoustic Report**

Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic report to verify that the measures stated in the Acoustic Report "DA Acoustic Assessment- R3" prepared by Pulse White Noise Acoustic, dated 10 September 2021, 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).

### **141. Registration**

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.

## **OPERATIONAL CONDITIONS**

### **142. DPIE – Maintenance of Wastewater and Stormwater Treatment Device (if applicable)**

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

The stormwater drainage system shall be regularly cleaned, maintained, and repaired to always ensure the efficient operation of the system. 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 any rainwater tank shall not be used for drinking. Rainwater tanks 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.

## **REASON**

*To protect sewerage and stormwater systems.*

### **143. Graffiti Removal**

Where the external walls of the building, landscaped structures and / or other facilities within the property / site are vandalised by graffiti, the graffiti shall be removed with the affected areas returned to its former state within seven (7) days of the occurrence.

#### **144. Signage Display**

The signs must not have / use:

- (a) flashing lights, and
- (b) electronically changeable messages, and
- (c) animated display, moving parts or simulated movement, and
- (d) a method and level of illumination that distract or dazzle, and
- (e) instructions that imitate traffic control signs by way of shape, layout or colour.

#### **145. Signage Requesting Orderly Behaviour**

Signs shall be appropriately located within the hotel advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises. The proprietors of the hotel shall ensure that staff give appropriate directions to, and take reasonable steps to, control noisy or offensive behaviour of patrons entering or leaving the hotel.

#### **146. Plan of Management – Compliance with Approved PoM**

The approved Plan of Management (as referred to in Condition 1) shall be complied with at all times. Any amendments to the Plan of Management shall require a separate approval from Council.

A copy of the Plan of Management must be displayed on site at all times and made available to all staff and/or occupants.

#### **147. Out of Hours Construction Work**

For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.

An Out of Hours Works Application must be submitted for each separate event to Council a minimum of one month prior to the planned activity being undertaken.

#### **148. Noise from Mechanical Plant / Ventilation and Air Conditioning**

- (a) 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, and
- (b) 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 EPA Noise Policy for Industry (2017).

#### **149. Acoustic Impacts**

The proposed use of the premises and the operation of all plant and equipment shall not give rise to 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations:

- (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 / affected premises greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration), and
- (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, and
- (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.

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.

#### **150. Intensification of Activities**

No intensification of activities shall be commenced on the premises without prior consent from Council.

#### **151. Outdoor Music**

No musical instruments, amplified music or speakers are permitted in the outdoor play area at any time.

#### **152. Waste Management – Comply with Approved WMP**

- (a) The approved Waste Management Plan, as referred to in Condition 1, shall be complied with at all times during use and operation of the premises, and
- (b) A sign shall be erected within or adjacent to the garbage room encouraging residents to recycle and not place recyclables into waste bins. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifier prior to the issue of the Occupation Certificate

#### **153. Operation of Vehicular Premises**

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

- a) All vehicles must enter and exit the site in a forward direction.

- b) All commercial vehicles (including deliveries and garbage collection) shall enter the site in a forward direction and exit the site in a forward direction.
- c) All loading/unloading and garbage/waste collection activities shall take place on-site wholly within the dedicated loading areas and not from public places, public streets, or any road related area (e.g., footpath, nature strip, road shoulder, road reserve).
- d) The maximum size of vehicle accessing the site shall be limited to an 12.5m long HRV Vehicle (as denoted in AS2890.2).
- e) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times.
- f) Parking spaces must not be enclosed without further approval of Bayside Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS/NZS2890.1.
- g) All vehicles shall be parked in the marked parking bays. All parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.
- h) The pick-up/drop-off area (porte-cochere) shall be used for the temporary parking of vehicles/coaches only.

#### **154. Green Travel Plan and Transport Access Guide**

The Workplace “Green” Travel Plan and Transport Access Guide shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff to travel by public transport, cycling and walking. Copy of the annual review shall be submitted to bayside Council. In order to ensure the certainty to implement Green Travel Plan for all future tenants of the site, a copy of the green travel plan and transport access guide shall be part of the lease agreement for all tenants.

#### **155. Shuttle Bus**

A shuttle bus is required to service the Hotel and must be provided to transport occupants to and from the development site to Sydney Airport and the City at regular hourly intervals from 5am – 11pm, 7 days a week. If the shuttle bus no longer be provided, for whatever reason, a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the development.

### **DEVELOPMENT CONSENT ADVICE**

#### **156. Lapsing of Consent**

This consent will lapse five (5) years from the date of consent, unless the building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse.

#### **157. Consult with Utility Provider**

You are advised to consult with your utility providers (i.e. Ausgrid, Telstra, etc.) in order to fully understand their requirements before commencement of any work.

## **158. Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact *Dial Before You Dig* at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

## **159. Asbestos**

All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- (a) Work Health and Safety Act 2011, and
- (b) Work Health and Safety Regulation 2011, and
- (c) Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)], and
- (d) Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)], and
- (e) Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in the Health and Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

## **160. Hazardous Waste**

Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- (a) Work Health and Safety Act 2011, and
- (b) Work Health and Safety Regulation 2011
- (c) Protection of the Environment Operations (Waste) Regulation 2005

### **161. Annual Fire Safety Statement**

In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000, the owner of the building premises must cause the Council to be given an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building.

The Annual Fire Safety Statement must be given:

- (a) Within 12 months after the date on which the Fire Safety Certificate was received, and
- (b) Subsequent Annual Fire Safety Statements are to be given within 12 months after the last such statement was given, and
- (c) An Annual Fire Safety Statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation, 2000, and
- (d) A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

### **162. Signage May Require Separate Approval**

Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.

### **163. Noise Minimisation during Demolition and Construction**

Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

Noise reduction measures shall include, but are not limited to, the following strategies:

- (a) choosing quiet equipment, and
- (b) choosing alternatives to noisy activities, and
- (c) relocating noise sources away from affected neighbours, and
- (d) educating staff and contractors about quiet work practices, and
- (e) informing neighbours of potentially noise activities in advance, and
- (f) equipment such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8.00 pm and 7.00 am, or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences.

Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary, at any

time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

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