

Development consent

Section 89E of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Environment under delegation dated 14 September 2011, we the Planning Assessment Commission, approve the Development Application referred to in schedule 1, subject to the conditions in schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

Member of the Commission

Member of the Commission

Sydney

2015

SCHEDULE 1

Development Consent:

SSD 7014 granted by the Planning Assessment Commission on 26 February 2015

For the following:

Development at the Four Points by Sheraton Hotel for:

- construction of a two storey addition for an executive lounge and public bar on the rooftop of the northern tower, with associated amenities and plant; and
- 24 hours 7 days operation.

Applicant:

GL Investment Management

Consent Authority:

Minister for Planning

The Land:

161 Sussex Street, Sydney

MODIFICATION KEY

SSD 7014	Approved 26/02/15	SSD 7014 MOD1	Approved 05/10/16	SSD 7014 MOD2	Approved 23/11/16
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CONSOLIDATED INSTRUMENT

Summary of Modifications

SSD 7014	Approved by the PAC on 26 February 2015
SSD 7014 MOD 1	Approved by the Director, Modification Assessments on 5 October 2016, for: external changes to the building design
SSD 7014 MOD 2	Approved by the Director, Modification Assessments on 13 November 2016, for the installation of additional roof top plant including: - hot water flues; - mechanical kitchen exhaust; and - mechanical relief air ducts.
SSD 7014 MOD 3	Approved by Executive Director, Key Sites and Industry Assessments on 22 December 2017 for: Continuation of the extended hours of operation (24 hours a day, seven days a week).
SSD 7014 MOD 4	Approved by the Director, Regional Assessments on 8 February for: Continuation of the extended hours of operation (24 hours a day, seven days a week) for a further 60 months.
SSD 7014 MOD 5	Approved by the Executive Director, Key Sites and Industry Assessments on XX XX for: Increase in the maximum allowable number of people for the level 12 rooftop bar from 200 to 260.

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DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Applicant	Consent holder or person with the benefit of the development consent
Application	The development application and the accompanying drawings plans and documentation described in Condition A3.
Certifying Authority	Means a person who is authorised by or under section 109D of the Act to issue a Construction Certificate under Part 4A of the Act; or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
Construction	The demolition of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure covered by this consent.
Council	City of Sydney Council
Day time	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning and Environment
Secretary	Secretary of the Department of Planning and Environment
Department's approval, agreement, endorsement or satisfaction	A written approval from the Secretary (or nominee/delegate)
Evening	The period from 6pm to 10pm
EIS	Environmental Impact Statement prepared by JBA Urban Planning Consultants Pty Ltd, dated July 2015
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	Minister for Planning, or nominee
NCC	National Construction Code
Night time	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
OLGR	Office of Liquor, Gaming and Racing
RtS	Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd, dated 14 October 2015, with accompanying appendices.
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements.
RMS	Roads and Maritime Services Division, Transport for NSW
SHFA	Sydney Harbour Foreshore Authority
Site / Subject Site	Land referred to in Schedule 1
TfNSW	Transport for NSW

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

- A1 In addition to meeting the specific performance criteria established under this consent, the applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction or operation of the development.

Development Description

- A2 Except as amended by the conditions of this consent, development consent is granted only to carrying out the development as described in Schedule 1.

Development in Accordance with Plans and Documentation

- A3 The applicant shall carry out the project in accordance with the following documents and plans:
- a) EIS prepared by JBA Urban Planning Consultants Pty Ltd, dated July 2015;
 - b) RtS prepared by JBA Urban Planning Consultants Pty Ltd, dated 15 October 2015, and accompanying appendices;
 - c) The Modification Application (SSD 7014 MOD 1) prepared by JBA Urban Planning Consultants Pty Ltd dated 24 August 2016;
 - d) the modification application (SSD 7014 MOD 2) prepared by JBA Urban Planning Consultants Pty Ltd dated 10 November 2016;
 - e) the modification application (SSD 7014 MOD 3) prepared by M&L Hospitality, dated 30 August 2017, and Response to Submissions dated 6 November 2017;
 - f) the modification application (SSD 7014 MOD 4) prepared by Ethos Urban, dated 4 September 2018;
 - g) the modification application (SSD 7014 MOD 5) prepared by Ethos Urban, dated 7 March 2019;
 - e) d) e) f) g) h) the conditions of this consent; and
 - d) e) f) g) h) i) the following drawings, except for:
 - i) any modifications which are Exempt or Complying Development;
 - ii) otherwise provided by the conditions of this consent.

Architectural (or Design) Drawings prepared by Cox Richardson			
Drawing No.	Revision	Name of Plan	Date
A-DA2-0101	04	SITE PLAN	27/05/2015
A-DA2-0201	02	EXISTING HOTEL LEVEL 10	27/05/2015
A-DA2-0202	04	EXECUTIVE LOUNGE – LEVEL 11	03/06/2015
A-DA2-0203	04	EXECUTIVE BAR – LEVEL 12	03/06/2015
A-DA2-0204	04	ROOF LEVEL	03/06/2015

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	A 06		12/08/2016 9/11/2016
A-DA2-0301	04 5 06	EAST & WEST ELEVATIONS	03/06/2015 12/08/2016 9/11/2016
A-DA2-0302	03 4	NORTH & SOUTH ELEVATIONS	03/06/2015 12/08/2016
A-DA2-0303	02 3	WEST ELEVATION	03/06/2015 12/08/2016
A-DA2-0304	02 3	EAST ELEVATION	03/06/2015 12/08/2016
A-DA2-0305	02 3	NORTH ELEVATION	03/06/2015 12/08/2016
A-DA2-0320	01	PYRMONT BRIDGE VIEW	27/05/2015
A-DA2-0321	01	SUSSEX ST VIEW	27/05/2015
A-DA2-0322	01	SUSSEX ST VIEW 2	27/05/2015
A-DA2-0323	02	AERIAL VIEW	27/05/2015
A-DA2-0401	03	GENERAL ARRANGEMENT – SECTION 01 PART 1	27/05/2015
A-DA2-0402	03	GENERAL ARRANGEMENT – SECTION 01 PART 2	27/05/2015
A-DA2-0403	03	GENERAL ARRANGEMENT – SECTION 02	27/05/2015
A-DA2-0404	03	GENERAL ARRANGEMENT – SECTION 03	03/06/2015

Inconsistency Between Documents

- A4 If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

Limits on Consent

- A5 This consent will lapse five years from the date of consent unless the works associated with the project have physically commenced.

Hours of Operation – Level 12 Rooftop Bar

- A6 The rooftop bar located on level 12 is permitted to operate 24 hours, 7 days per week for a period of 12 ~~24~~ 60 months from the date of the ~~occupation~~ ~~the approval of modification application SSD 7014 MOD 3~~ conclusion of the second trial period, being 22 December 2019. After this ~~initial~~ 12 ~~24~~ 60 month period, the approved hours of operation are 7am to midnight, Monday to Sunday, ~~unless otherwise approved by a modification application.~~

Applications for a renewal of trial hours of operation should be lodged within 30 days of the expiry period and the Applicant will be allowed a period of 'grace' from the termination

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period until the new application has been determined. During this period, the premises may continue to trade during existing approved trail hours.

Prescribed Conditions

A7 The applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.

Long Service Levy

A8 A Long Service Levy is required to be paid. For further information please contact the Long Service Payments Corporation on its helpline on 13 1441.

Legal Notices

A9 Any advice or notice to the consent authority shall be served on the Department.

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PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Development Contributions

- B1. *In accordance with Section 94B of the EP&A Act the Applicant shall pay a contribution of 1% of the cost of carrying out the development (estimated at \$119,580) to SHFA prior to the issue of a Construction Certificate.*

The contribution shall be paid in the form of cash or bank cheque, made out to SHFA or other form acceptable to SHFA. *The amount to be paid is to be adjusted at the time of payment to ensure that it is 1% of the actual cost of carrying out the development.*

Compliance with the National Construction Code (NCC)

- B2. Details shall be provided to the satisfaction of the Certifying Authority, with the application for the relevant Construction Certificate, which demonstrate that the proposal complies with the prescribed conditions of consent under Clause 98 of the *Environmental Planning and Assessment Regulation 2000* in relation to the requirements of the National Construction Code (NCC).
- B3. The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 – 2004 *Design, Construction and Fitout of Food Premises*.
- B4. Prior to the issue of a relevant Construction Certificate, the applicant shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:
- a) the relevant clauses of the NCC
 - b) the relevant project approvals; and
 - c) the relevant Australian Standards.

Note: If Construction Certificates are issued on a level by level basis, structural drawings addressing the matters outlined above must be provided for each level the subject of the Construction Certificate.

- B4. Sanitary facilities shall comply with the deemed-to-satisfy provisions of the NCC or an alternative building solution, in accordance with Part A0 of the NCC, must be prepared by a suitably qualified and accredited person and be submitted to Certifying Authority demonstrating how the relevant performance requirements of the NCC are to be satisfied.

Outdoor Lighting

- B5. All outdoor lighting within the site shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

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Access for People with Disabilities

- B6. The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the NCC. Prior to the issue of a Construction Certificate, a certificate from an appropriately qualified person confirming compliance with this condition shall be provided to the Certifying Authority. A copy of the report is to be forwarded to the Secretary and Council.
- B7. Accessible sanitary facilities for people with disabilities shall be provided to comply with the requirements of F2.4 of the NCC. If compliance with the deemed-to-satisfy provisions of the NCC cannot be achieved, an alternative building solution, in accordance with Part A0 of the NCC, must be prepared by a suitably qualified and accredited person and submitted to the Certifying Authority demonstrating how the relevant performance requirements of the NCC are to be satisfied.

Mechanical Ventilation

- B8. The premises shall be ventilated in accordance with Part F4.5 of the NCC and shall comply with Australian Standards AS1668.1, AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details of mechanical ventilation and/or air conditioning systems complying with these shall be prepared by a suitably certified person and submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

Construction Management Plan

- B9. Prior to the issue of a Construction Certificate, a site specific Construction Management Plan (CMP) shall be submitted to the relevant Certifying Authority for approval. The CMP shall address, but not be limited to, the following matters where relevant:
- hours of work;
 - 24 hour contact details of site manager;
 - traffic management arrangements, in consultation with SHFA, Council, TfNSW and RMS, including proposals to ensure nearby pedestrian safety;
 - construction noise and vibration management, prepared by a suitably qualified person;
 - management of construction waste;
 - construction noise and vibration impacts on nearby sensitive receivers;
 - management of dust to protect the amenity of the neighbourhood;
 - erosion and sediment control;
 - measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site;
 - external lighting in compliance with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*;
 - flora and fauna management;
 - air quality management including issues associated with odour, minimising dust on site and prevention of dust from leaving the site during construction works; and
 - incorporation of all acoustic management and treatments.

The CMP must not include works that have not been explicitly approved for the Hotel. In the event of any inconsistency between the consent and the CMP, the consent shall

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prevail. The CMP shall be certified by the Contractor's Traffic Manager and subject to road safety audits by the Contractor.

Installation of Dual Flush Toilets

- B10. All toilets installed within the development must be of water efficient dual-flush capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the consent of the Certifying Authority, prior to the issue of the relevant Construction Certificate.

Installation of Water Efficient Taps

- B11. All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS), where available. The details must be submitted for the approval of the Certifying Authority, prior to issue of the relevant Construction Certificate for services and finishes works.

Installation of Water Efficient Urinals

- B12. New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS).
- B13. Systems must include 'smart controls' to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Certifying Authority, prior to the issue of the relevant Construction Certificate being issued for above ground works.

Environmental Performance

- B14. Prior the issue of a Construction Certificate, documentation shall be submitted to the Certifying Authority demonstrating that the ESD strategy outlined in the Ecological Sustainable Report prepared by AECOM dated 1 June 2015 will be implemented in the development.

Internal Lighting System

- B15. The internal lighting system must be designed to provide for the efficient use of energy, including the use of energy efficient light fittings, zoned lighting and controls. Details of the internal lighting system must be submitted to and approved by the Certifying Authority prior to the relevant Construction Certificate being issued.

Compliance Report

- B16. Prior to the issue of a Construction Certificate, the applicant shall submit a report addressing compliance with all relevant conditions of this consent to the Department.

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Cool rooms

B19. Cool room(s), refrigerated chambers and strong-rooms are to be constructed in accordance with the NCC:

- a) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
- b) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
- c) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- d) A door which can be opened at all times from inside without a key.
- e) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 d B (A) when measured 3 metres from the sounding device.

Grease traps

B20. A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area. The grease trap room must have a piped connection to the boundary so that it can be emptied.

Note: Sydney Water Authority also have requirements for grease arrestors that you need to comply with.

Waterless woks

B21. Where one or more commercial wok stove(s) are to be installed as part of the development only the use of air-cooled (waterless) wok stove(s) are permitted.

Sanitary facilities for food premises

B22. The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the NCC, Part F 3.1, 4.8 and 4.9.

Waste rooms for food premises

B23. To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 – *Design, Construction and Fitout of Food Premises*, and must be:

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- (i) provided with a hose tap connected to the water supply;
- (ii) paved with impervious floor materials;
- (iii) coved at the intersection of the floor and walls;
- (iv) graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
- (v) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*;
- (vi) fitted with appropriate interventions to meet fire safety standards in accordance with the NCC.

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PART C PRIOR TO COMMENCEMENT OF WORKS

Certified Plans

- C1. Plans certified in accordance with section 109C of the EP&A Act are to be submitted to the Certifying Authority and the Department prior to commencement of each stage of the works and shall include details as required by any of the following conditions.

Notice of Commencement of Works

- C2. The Certifying Authority and SHFA shall be given written notice, at least 48 hours prior to the commencement of the works on the site.

Complaints Register

- C3. A complaints register for construction and noise related issues shall be established prior to commencement of works. All complaints are to be responded to and actioned within 48 hours. A copy of the register shall be made available to the Department at all times and shall be forwarded to the Department's compliance team every six months for record.

Contact Telephone Number

- C4. Prior to the commencement of works, the applicant shall advise via letter to Council, the Department and SHFA, and nearby landowners and occupiers including those at 365 Kent Street, 361-363 Sussex Street, 41-55 Shelley Street and 361-363 Kent Street of a contact and 24 hour telephone number for the duration of the construction works. The letter shall also include details of the complaints register established for construction related issues and the phone number for the Department's compliance team during business hours.

Construction Management Plan

- C5. A copy of the Construction Management Plan, prepared pursuant to condition B9 of this consent, must be submitted to the Certifying Authority, RMS, Council and the Department prior to the commencement of works.

Structural Details

- C6. Prior to the commencement of structural works, the applicant shall submit to the satisfaction of the Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:
- i) the relevant clauses of the NCC,
 - ii) the development consent, and
 - iii) drawings and specifications comprising the relevant Construction Certificate.

Connection to Sydney Water sewers

- C7. Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained prior to the commencement of construction work.

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PART D DURING CONSTRUCTION

Road Occupancy Licence

- D1. A Road Occupancy Licence must be obtained from the Transport Management Centre (TMC) for any activity likely to impact on the operational efficiency of the road network. This licence allows the applicant to use a specified road space at approved times, provided certain conditions are met.
Applicants must allow a minimum of 10 working days for processing from date of receipt. Traffic Control Plans are to accompany each licence application.

Hours of Work

- D2. All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out:
- a) between 7am and 7pm, Mondays to Fridays inclusive;
 - b) between 7am and 5pm, Saturdays;
 - c) no audible work is to be undertaken on Sundays and public holidays.
 - d) works may be undertaken outside these hours where:
 - i. it is required by a works authorisation deed executed with the RMS; or
 - ii. the delivery of materials is required outside these hours by the Police or occasional works are required outside these hours by other authorities; or
 - iii. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
 - iv. variation is approved in advance in writing by the Department.

Waste Disposal

- D3. All waste generated on site must be classified and disposed of in accordance with DECCW's *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* and disposed of to a facility that may lawfully accept waste.

Approved Plans to be On-Site

- D4. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, SHFA or the Certifying Authority.

Site Notice

- D5. A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. Any notice is to satisfy all but not be limited to, the following requirements:
- a) the notice is to be able to be read by the general public;
 - b) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any

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- inquiries, including construction/noise complaint are to be displayed on the site notice; and
- d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

Contact Telephone Number

- D6. The applicant shall ensure that the 24 hour contact telephone number is attended by a person with authority over the works throughout the duration of the development.

Construction Noise Management

- D7. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the Construction Noise and Vibration Management Plan, approved by the Secretary.
All reasonable noise mitigation measures shall be implemented and any activities that have the potential for noise emissions that exceed the above criteria must be identified and managed in accordance with a Construction Noise and Vibration Management Plan.
- D8. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the *NSW Industrial Noise Policy*), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- D9. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* or exceed approved noise limits for the site.
- D10. All work, including demolition, excavation and building work must comply with the City of Sydney *Code of Practice for Construction Hours/Noise 1992* and *Australian Standard 2436-1981 - Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

Vibration Criteria

- D11. Vibration caused by construction at any residence or structure outside the site must be limited to:
- for structural damage vibration, German Standard DIN 4150 Part 3 *Structural Vibration in Buildings*. Effects on Structures.
 - for human exposure to vibration, the evaluation criteria set out in the *Environmental Noise Management Assessing Vibration: a Technical Guideline* (Department of Environment and Conservation, 2006).
 - vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
 - These limits apply unless otherwise outlined in the CMP.

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Vehicle Cleansing

D12. Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

Loading and Unloading During Construction

D13. The following requirements apply:

- a) All loading and unloading associated with construction must be accommodated on site.
- b) A Works Zone is required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to SHFA or the relevant authority at least 8 weeks prior to commencement of work on the site. Consent for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The consent will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- c) The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- d) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by SHFA.
- e) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.

Use of Mobile Cranes

D14. The following requirements apply:

- a) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from SHFA or the relevant authority for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of SHFA (or the relevant authority) will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of SHFA (or the relevant authority), will create significant traffic disruptions.
- b) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.00am without the prior consent of SHFA or the relevant authority.

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No obstruction of public way

D15. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

Lighting of Site During Construction

D16. The intensity of lighting of the site, the hours of illumination and the location of the lighting must not cause objectionable glare or injury to the amenity of the neighbourhood. If in the opinion of the Certifying Authority or the Secretary, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury.

Erosion and Sediment Control

D17. All erosion and sediment control measures, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Disposal of Seepage and Stormwater

D18. Any seepage or rainwater collected on-site during construction or groundwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council (in relation to any drains it manages) or the Sydney Harbour Foreshore Authority (in relation to any drains it manages).

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PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Occupation Certificate to be Submitted

- E1. An Occupation Certificate must be obtained from the Certifying Authority and a copy submitted to the Department and SHFA prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Fire Safety Certificate to be Submitted

- E2. A Fire Safety Certificate shall be submitted to the Certifying Authority for all the Essential Fire or Other Safety Measures forming part of this approval prior to the issue of any Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to SHFA, if it is not the Certifying Authority.

Mechanical Ventilation

- E3. Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the Certifying Authority, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:
- a) the NCC;
 - b) Australian Standard AS1668 and other relevant codes;
 - c) the development consent and any relevant modifications; and,
 - d) any dispensation granted by the New South Wales Fire Brigade.

Environmental Performance

- E4. Prior to the issue of the final Occupation Certificate, the applicant is to provide to the Certifying Authority, documentation certifying the development complies with the recommendations of the Ecological Sustainable Report prepared by AECOM dated 1 June 2015, where appropriate.

Solar Reflectivity

- E5. Prior to the issue of the final Occupation Certificate, written evidence from a suitably qualified consultant shall be submitted to the Certifying Authority confirming the final development complies with the recommendations of the Solar Reflectivity Memo prepared by Windtech Consultants dated 15 May 2015. Specifically, the maximum normal specular reflectance of visible light of the selected glazing shall not exceed 20%.

Wind

- E6. Prior to the issue of the final Occupation Certificate, written evidence from a suitably qualified consultant shall be submitted to the Certifying Authority confirming compliance with the recommendations of the Desktop Pedestrian Wind Environment and Wind Entry Memo dated 15 May 2015.

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Road Damage

- E7. The cost of repairing any damage caused to SHFA or other public authority's assets in the vicinity of the Site as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of any Occupation Certificate.

Water Authority Compliance

- E8. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Certifying Authority prior to issue of the Occupation Certificate in the case of buildings or works or a Subdivision Certificate, in the case of subdivision, whichever certificate is issued first.

Waste and Recycling Management

- E9. Prior to the issue of the relevant Occupation Certificate, an operational Waste Management Plan shall be submitted to the relevant Certifying Authority for approval. The plan shall be developed in consultation with SHFA, and have regard to Council's *Policy for Waste Minimisation in New Developments 2005*.
- E10. Prior to a relevant Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant shall provide evidence to the Certifying Authority that the waste handling works have been completed in accordance with the operational Waste Management Plan and that a contract has been made with a licensed contractor for the removal of waste. The contract must detail that waste collection is to occur within the site and that no garbage is to be placed on the public way e.g. footpaths, roadways or reserves at any time.

Installation of Water Efficient Taps

- E11. All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS) where available. The details are to be submitted for the consent of the Certifying Authority, prior to a relevant Occupation Certificate being issued.

Plan of Management

- E12. A final Plan of Management shall be submitted to and approved by the Department prior to the issue of an Occupation Certificate for that area. The Plan of Management must be prepared to address all operational and management procedures to be employed, to ensure that the premises can operate without disturbance to the surrounding locality.

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The plan must include but is not restricted to; compliance with all other operational conditions of this consent; hours of operation; noise; security management; handling complaints; and be generally in accordance with the draft plan of management submitted with the EIS.

The plan must be submitted to and approved by the Department prior to an Occupation Certificate being issued. The plan must include as a minimum:

- Compliance with all other operational conditions of this consent.
- A maximum of 200 patrons at ~~each~~ level 11.
- A maximum of 260 persons total at Level 12.
- Restriction of the Executive Lounge to hotel guests only.
- Noise management practices.
- Security measures in place to ensure safe operation.
- Operation in accordance with any liquor license approved for the development.
- Safety and security measures for patrons and handling complaints.
- The approved Plan of Management is thereafter to be complied with during the use of the premises.

Liquor Licensing

E13. A liquor license shall be obtained from the Office of Liquor, Gaming and Racing for the approved executive lounge and bar prior to issue of any Occupation Certificate.

Compliance with acoustic criteria

E14. Prior to the issue of an Occupation Certificate, an Acoustic Verification Report shall be prepared by a suitably qualified acoustic consultant, in consultation with Council, and submitted for the satisfaction of the Certifying Authority demonstrating that the development is capable of complying with the requirements of the Conditions F22 – F26 (entertainment venue noise) and F27 – F28 (general noise) and complies with the recommendations of the Acoustic Assessment prepared by Acoustic Studio dated 3 June 2015.

Note: Suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

Registration of food premises - health database

E15. The business is to be registered with Council's Health and Building Unit prior to the issue of an Occupation Certificate.

Cooking equipment and ventilation

E16. Cooking shall not commence until an air handling system, in accordance with Part F4.12 of the NCC is approved, installed and operational. Cooking is defined as the process of changing any food from raw to cooked by applying heat, and also includes the preparation

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of food by heating it. This definition does not include heating food in a microwave, a sandwich press, a toaster or similar, unless the kW or MJ combined or separate exceed that specified in the NCC, or if the use of such equipment generates excessive heat, condensation or grease. Cooking equipment that requires an air handling system is specified in AS1668.2 and NCC F4.12.

Mechanical ventilation required – discharge

E17. The cooking appliances that require an approved air handling system shall be designed and installed in accordance with AS1668.1-1998 and AS1668.2-1991 or AS1668.2 – 2012 or an alternative solution satisfying the performance objectives of the NCC. No approval is granted for the burning of charcoal and solid fuel.

Models

E18. Prior to a final Occupation Certificate being issued, an accurate 1:500 scale model of the development as constructed must be submitted to Council for the City Model in Town Hall House.

Note:

- a) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modellers must be consulted prior to construction of the model.
- b) The models are to comply with all of the conditions of the Development Consent.
- c) The models must be amended to reflect any further modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

E19. Prior to an Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to Council for the electronic Visualisation City Model.

The data required to be submitted within the surveyed location must include and identify:

- a) building design above and below ground in accordance with the development consent;
- b) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
- c) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

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PART F POST OCCUPATION

External Lighting

- F1. External Lighting shall comply with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the applicant shall submit to the Certifying Authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.
- F2. The display of commercial or corporate imagery or advertising is not permitted.

Annual Fire Safety Certification

- F3. The owner of the building shall certify to Council and SHFA every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Loading and Unloading

- F4. All loading and unloading of service vehicles in connection with the use of the premises shall be carried out within the loading dock within the building.

Storage and Handling of Waste

- F5. The storage and handling of waste shall be undertaken in accordance with the Waste Management Plan required pursuant to condition B17 of this consent. No waste shall be placed for collection in a public place e.g. footpaths, roadways and reserves under any circumstances.

Operation and Management

- F6. The development shall be managed in accordance with the Plan of Management approved pursuant to Condition E12.
- F7. Use of the executive lounge at level 11 is restricted to hotel guests only and a maximum of 200 patrons at anyone time.
- F8. Use of the executive bar and outdoor deck at level 12 is restricted to a maximum of ~~200 patrons~~ 260 total persons at anyone time.
- F9. No amplified live music or DJ music is to be played from both levels of the executive lounge and bar at any time.

Complaints Management

- F10. The applicant must ensure the following facilities are available to handle community complaints:

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- a) A direct telephone number for the executive lounge and bar, which publicised and answered by onsite manager during operating hours;
- b) A postal address to which complaints may be sent; and
- c) An email address which electronic complaints may be registered.

The appropriate remedial action, where possible, is to be implemented immediately and the licensee or duty manager is to contact the complainant within 48 hours to confirm details of action taken.

A complaints register shall be established to record all details of all complaints received through the means listed above in an up to date Complaints Register. The Register must record, but not necessarily be limited to:

- a) The date and time, where relevant, of the complaint;
- b) The means by which the complaint was made (telephone, mail or email);
- c) Any personal details of the complainant that were provided;
- d) The nature of the complaint;
- e) Any actions take up by the hotel operator in relation ot the complaint, including any follow-up contact; and
- f) If no action was taken by the hotel operator in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register must be made readily available for inspection by the Department, Council, NSW Police SHFA and OLGR at all times.

Recording and notification of incidents

F11. The hotel operator/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

Copies of consents

F12. A full and current copy of all current development consents for the operation of the licenced premises, and the Plan of Management, must be kept on-site and made available for inspection by the Department, SHFA, Certifying Authority, Police, Council Officers or Special Investigators upon request.

CCTV surveillance cameras

F13. CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:

- a) principal entrance/s and exits;
- b) all areas within the premise occupied by the public (excluding toilets);
- c) staircases in multilevel premises; and
- d) the area within a 10m radius external to the public entrance(s) to the premise.

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- F14. Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- F15. All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- F16. CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.
- F17. All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.
- F18. All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.
- F19. The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- F20. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

Noise from entertainment venues

- F21. The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use including any amplified music must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between 7am and midnight when assessed at the boundary of any affected residence. In addition to the above requirements, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00am.

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- F22. The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between midnight and 7am when assessed at the boundary of any affected residence.
- F23. Notwithstanding compliance with (F21) and (F22) above, noise from the use when assessed as an $L_{A10, 15 \text{ minute}}$ enters any residential use through an internal to internal transmission path is not to exceed the existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between 7am and midnight. Where the $L_{A10, 15 \text{ minute}}$ noise level is below the threshold of hearing, (T_f) at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226: 2003 - *Normal Equal-Loudness-Level Contours* then the value of corresponding to that Octave Band Centre Frequency shall be used instead.
- F24. Notwithstanding compliance with (F21), (F22) and (F23) above, the noise from the use must not be audible within any habitable room in any residential use between midnight and 7am.
- F25. The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The $L_{A10, 15 \text{ minute}}$ noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 *Acoustics – Description and measurement of environmental noise*. The background noise level $L_{A90, 15 \text{ minute}}$ is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. It is to be determined from the assessment L_{A90} / rating L_{A90} methodology in complete accordance with the process listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of AS1055.1997.

General noise

- F26. The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
- The $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the *Industrial Noise Policy* and relevant requirements of Australian Standard AS 1055-1997 *Acoustics – Description and measurement of environmental noise*.
 - Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment $L_{A90, 15 \text{ minute}}$ / rating $L_{A90, 15 \text{ minute}}$ process to be in accordance with the requirements for noise monitoring listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of Australian Standard AS1055-1997 *Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise*.
 - Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable.

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- F27. An LAeq,15 minute noise level emitted from the use must not exceed the LA90, 15 minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that:
- Where the LA90, 15 minute noise level is below the threshold of hearing, (T_f) at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226: 2003 - *Normal Equal-Loudness-Level Contours* then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.
 - The LAeq,15 minute noise level and the LA90,15 minute noise level shall both be measured with all external doors and windows of the affected residence closed.
 - The relevant background noise level (LA90, 15 minute) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 *Acoustics – Description and measurement of environmental noise*.
 - Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
 - Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

Neighbourhood amenity

- F28. Signs must be placed in clearly visible positions within the licenced premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.
- F29. The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

No 'spruiking'

- F30. No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property. Furthermore, the sound level of any spruiking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

Noise from glass crushing and removal

- F31. Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.
- F32. All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located within the premises) prior to the removal of such waste from the premises.
- F33. Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises included in the boundaries of the licensed premises.

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ADVISORY NOTES

Appeals

AN1 The applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Compliance with NCC

AN2 The applicant is advised to consult with the Certifying Authority about any modifications needed to comply with the NCC prior to submitting the application for a Construction Certificate.

Other Approvals and Permits

AN3 The applicant shall apply to the relevant authority for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

Responsibility for Other Consents / Agreements

AN4 The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Disability Discrimination Act

AN5 This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the NCC which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

Movement of Trucks

AN6 The applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site and bringing materials onto the site, prior to the commencement of any transport movements.

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