



DEVELOPMENT COMMITTEE BUSINESS PAPER

6 APRIL 2016

The matters contained in this document are to be determined by the Committee under the delegation of authority granted by resolution of Council at its meeting held on 26th September, 2012.

Council's resolution is subject to the decision of the Committee being unanimous or where one or another Councillor has requested that an item be referred to the full Council.

NOTICE IS HEREBY GIVEN THAT
a meeting of the Development Committee
of Botany Bay City Council
will be held on 6 April 2016
at Botany Town Hall, Cnr Edward Street and Botany Road, Botany
commencing at 6:30 pm.

**Ms Lara Kirchner
GENERAL MANAGER**

5.15 PLANNING PROPOSAL NO.1/2016 - LAKES BUSINESS PARK(SOUTH PRECINCT) - 11-13 LORD STREET, BOTANY

File No:	S15/108-03
Attachments:	Attachment 1 - Community Engagement Report - Lakes Business Park Attachment 2 - Planning Proposal - Lakes Business Park Attachment 3 - Letter of Offer
Report Author:	Gilead Chi-Li-Chen - Strategic Planner
Responsible Director:	Heather Warton - Director of City Planning & Environment
Date of Preparation:	31 March 2016

EXECUTIVE SUMMARY

Council is in receipt of a Planning Proposal from Dexus Projects Pty Limited (Dexus) for the site 11- 13 Lord Street Botany. The current owner of the site is Lakes Business Park (NSW) Pty Limited. The Planning Proposal seeks to amend the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) by the rezoning of the site from B7 – Business Park to B4 – Mixed Use; by amending the Height of Building Map from 22m to a range of heights from 11m to 23.5m; and by amending the Floor Space Ratio Map to increase the FSR applying to the site from 1:1 to 2:1.

The Planning Proposal is accompanied with an offer to enter into a Planning Agreement with Council to provide for a cash contribution towards the upgrade of nearby facilities to benefit the community and also enhance the site and area for future residents.

It is recommended that the Council support the Planning Proposal and refer the proposal to the Department of Planning and Environment (DP&E) for Gateway Determination, once the draft Planning Agreement has been finalised.

PREVIOUS REPORT

Council considered a report on a Planning Proposal for the subject site at the Development Committee meeting on 2 March 2016. It was resolved that Council defer the item to the April Development Committee meeting awaiting further information, including a letter of offer in relation to the Planning Agreement.

BACKGROUND

The Lakes Business Park is located approximately 12km south of the Sydney CBD, 3km west of Sydney Airport and 6km north-west of Port Botany. The Lakes Business Park consists of two precincts -North Precinct and South Precinct.

The Planning Proposal only seeks changes to the BBLEP 2013 for the South Precinct. The zoning and planning controls for the North Precinct will remain unchanged.

The South Precinct (Lot 2 DP 717692) is a rectangular shaped lot and bounded by Lord Street to the north; Booralee Park to the east; Road and Maritime Services complex (19 Lord Street) to the west; and a mix of commercial, light industrial and residential to the south. The South Precinct consists of two office buildings; two warehouses; and ground level car parking. Vehicular access is provided via Lord Street.

The South Precinct has a site area of approximately 29,772sqm. The site is located within 20-25 and 25-30 ANEF contours under the Australian Noise Forecast 2033 (ANEF) Chart, and identified on an Acid Sulfate Soils Map as being Class 4. The site is located within the zone of influence of the High Pressure Gas Pipeline that follows the ARTC Rail Corridor to the Qenos Site at the Botany Industrial Park, Denison Street, Banksmeadow.

Under the BBLEP 2013 the site is zoned as B7 – Business Park and has a maximum building height of 22m and a floor space ratio (FSR) of 1:1.

The location of the south precinct of The Lakes Business Park is indicated below:



Figure 1 – Location of the South Precinct of The Lakes Business Park

HISTORY

Development Application - DA153/08

On 28 January 2009 Council granted consent to a Masterplan Development Application for the Lakes Business Park - South Precinct – to redevelop the site over three stages to

accommodate four buildings (4 to 6 storeys) to be used for commercial, high technology and airport-related land uses.

The staged development application proposal included the following elements:

- The use of the land for commercial, high technology and airport related land uses;
- A maximum of 29,770sqm gross floor area to accommodate within the 4 buildings which represents a floor space ratio of 1:1;
- Maximum building envelopes for each of the buildings including footprint, bulk, scale and height;
- 745 car parking spaces;
- Associated landscaping; and
- Vehicular access and circulation arrangement.

Table 1 provides a summary of key development information relating to the approved development:

	Building A	Building B	Building C	Building D
<i>Envelope footprint (sqm)</i>	2,912	2,912	2,612	1,250
<i>Basement footprint (sqm)</i>	2,912	2,912	2,612	1,250
<i>Nominated GFA (sqm)</i>	13,500	8,500	4,000	3,770
<i>No. of storeys above basement</i>	6	5	4	4
<i>No. of basement levels</i>	1	1	1	1
<i>Maximum height (RL – from ground level) (exclude plant and lift overrun)</i>	26.8m	22.8m	18.8m	18.8m

Table 1 – Key development information (South Precinct)

Community consultation with the adjoining landowners was undertaken by Council as part of the Masterplan process for the South Precinct to ensure that solar access for residents south of the site (i.e. 42-54 Daphne Street and 2 Daniel Street) was not adversely impacted. The height and setback of the proposed carpark for the South Precinct (i.e. 6.5m in height and 9.1m setback from the common boundary as conditioned by Council) were defined through agreements reached as part of that consultation process. The approved site layout is illustrated in **Figure 2**.



A Planning Proposal was submitted by LFA (Pacific) Pty Ltd (on the behalf of Lakes Business Park Pty Ltd) in May 2013 seeking amendment to the FSR and Building Height controls contained in the BBLEP 2013. The previous Planning Proposal sought the following:

- Amend the Height of Building Map contained in the BBLEP 2013 from 25m to 33m for the North Precinct and 22m to 32m for the South Precinct; and
- Amend the Floor Space Ratio Map contained in the BBLEP 2013 from 1:1 to 2.1:1 for the North and South Precincts.

On 14 May 2014, the Planning Proposal was refused by Council for the following reasons:

1. The Planning Proposal does not adequately justify the need for the increase in FSR and height.
2. The Planning Proposal does not adequately define the amount of FSR and height that are required to comply with the Masterplan approvals granted by Council for the Northern and Southern Precincts.
3. The Planning Proposal does not adequately address what the impacts of the additional height will be to the residential land zoned R3 Medium Density Residential to the south of the Southern Precinct and Council's Booralee Park.
4. The Planning Proposal is contrary to the public interest.

PLANNING PROPOSAL REQUEST BY DEXUS

An application was made by Dexus Property Services Pty Ltd originally in May 2015 seeking to rezone the site and amend the FSR and Building Height controls contained in the BBLEP 2013. The Planning Proposal as originally lodged sought the following amendments:

- Rezone the subject site from B7 – Business Park to B4 – Mixed Use;
- Amend the Height of Building Map contained in the BBLEP 2013 from 22m to a range of 15m, 20m, 27m and 28m; and
- Amend the Floor Space Ratio Map contained in the BBLEP 2013 from 1:1 to 2.1:1.

The Committee should note that B4 Mixed Use permits the following:

Boarding houses; Child care centres; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Light industries; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing.

The Planning Proposal, as originally lodged, is illustrated in **Figures 3 and 4**.

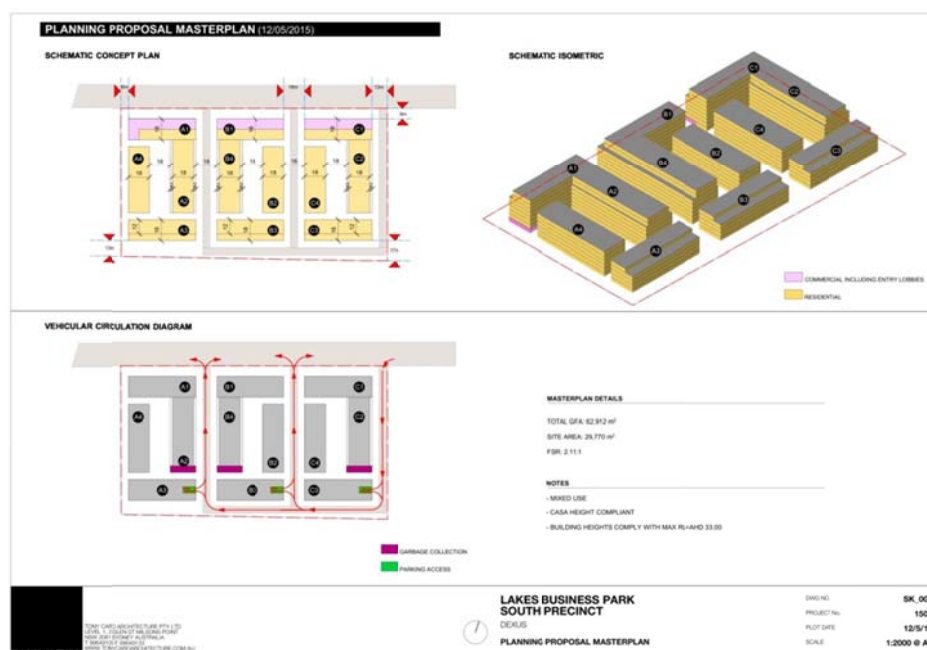


Figure 3 – Dexus Planning Proposal Masterplan May 2015

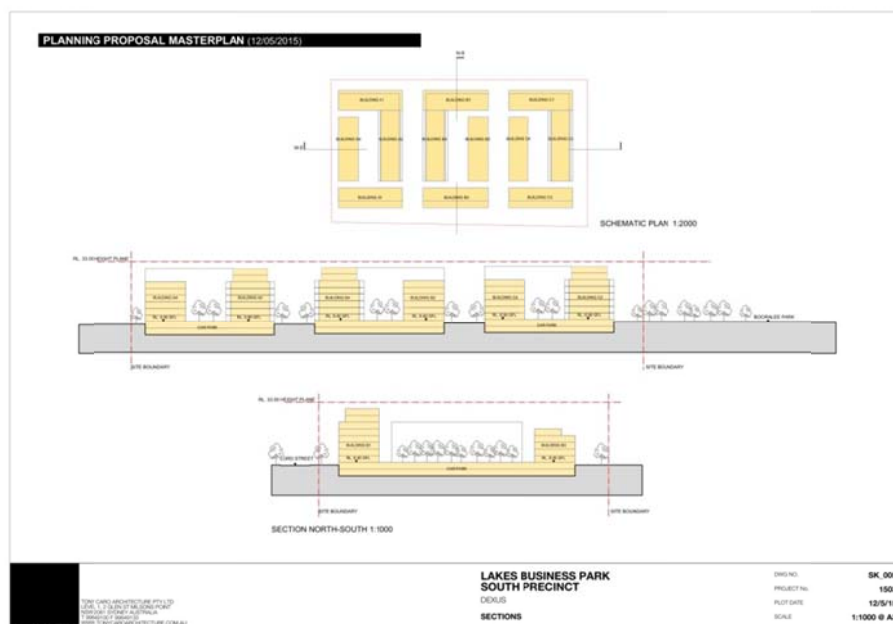


Figure 4 – Dexu Planning Proposal Masterplan May 2015

In accordance with Council’s Community Engagement Policy, a community information session was held on 8 September 2015 at the Lakes Business Park. The intent of the session was to seek community opinion on the Planning Proposal. The session was facilitated by Mr Ian Colley of KJA, an independent facilitator. Ten residents attended the information session.

According to the KJA summary report dated September 2015, the residents in attendance were not opposed to the rezoning of the site from B7 to B4, however, as detailed below, raised concerns about particular elements of the proposal and identified these items as aspects of the proposal that need to be addressed:

- **Height:** The height of the proposed built form at the Southern Boundary was considered to be too high.
- **Noise:** The proposed new internal road, in particular, the road at the Southern end of the site boundary could cause noise impacts to residents adjoining the site in Daphne Street.
- **Shadow:** The potential overshadowing of the existing town houses in Daphne Street especially during the winter solstice

Dexu submitted a revised Masterplan (refer to **Figure 5** below) to address the concerns raised by the residents. The following amendments were made to the Masterplan:

- Deletion of the road located along the southern rear boundary;
- Relocation of the garbage loading and basement carpark entries to the north, away from the southern boundary;
- Reduction in height of building for A3 & B3 (located along the southern rear boundary and orientated toward 42-54 Daphne Street and 62 Daphne Street) from 17m (approx) or 4.5 storey to 13.5m (approx) or 3.5 storey;

- Increase the height of building for C3 (located along the southern rear boundary and adjoining Booralee Park) from 17m (approx) or 4.5 Storey to 19.5m (approx) to 5.5 storey; and
- The proposed height of building (i.e. 28m) and FSR to remain unchanged (i.e. 2.1:1).

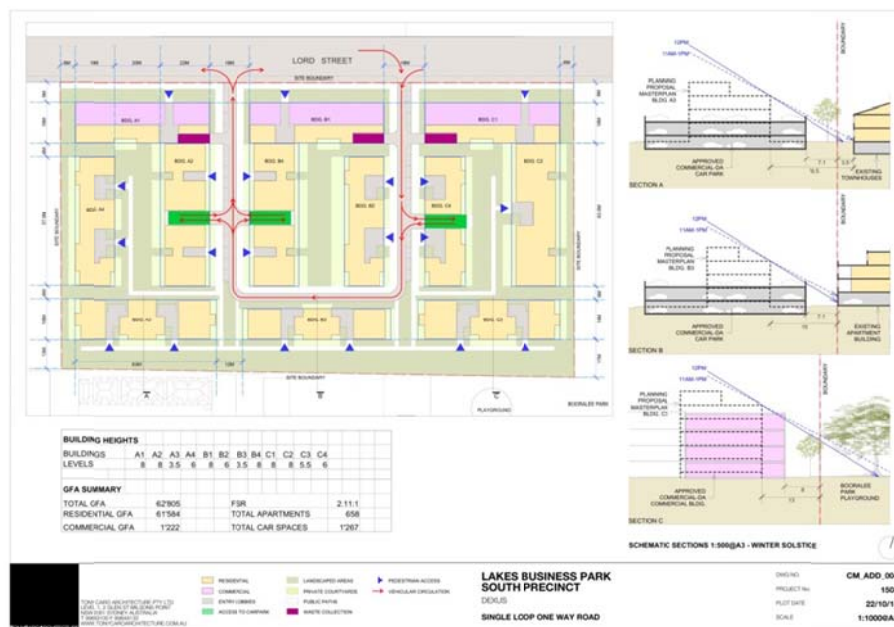


Figure 5 – Dexus Amended Masterplan Layout

Another Community Information Session was held on 5 November 2015 at Lakes Business Park for the revised Masterplan attended by 10 residents. The following issues were raised by the residents:

- **Height:** The proposed 8 storey buildings are excessive and do not reflect the character of Botany Bay LGA.
- **Public Benefits:** There is a lack of public benefits generated from the Planning Proposal.
- **Open Space:** More open spaces should be provided for existing residents.
- **Architectural and Environmental Quality:** Better architectural and environmental quality should be provided.
- **Landscaping** – Appropriate landscaping should be provided and must not be like Wilson-Pemberton Street.

The Community Engagement Report covering both community sessions (prepared by KJA) is attached as **Attachment 1** to this report.

The feedback provided by Council and the residents was relayed to the proponent which resulted in further amendments to the Masterplan. The revised Masterplan was submitted to Council on 12 January 2016 which now seeks the following:

- Rezone the subject site from B7 – Business Park to B4 – Mixed Use;
- Amend the Height of Building Map contained in the BBLEP 2013 from 11m to 23.5m; and

- Amend the Floor Space Ratio Map contained in the BBLEP 2013 from 1:1 to 2:1.

The Planning Proposal application indicated that the yield would be 572 units and that the unit mix would be consistent with Council's DCP controls (which is a maximum of 25% studio and one bedroom units).

Council Officers have prepared a Planning Proposal submission for Gateway Determination based on the information lodged by the applicant, including the revised Masterplan lodged 12 January 2016 and is attached as **Attachment 2** to this report.

EVALUATION OF REVISED MASTERPLAN LODGED 12 JANUARY 2016

Ministerial Directions (s.117 directions)

The rezoning will result in the reduction of business and industrial land contained in the Botany Bay LGA and therefore is inconsistent with the objectives of Direction 1.1 Business and Industrial Zones. An Economic Impact Analysis was submitted by the applicant and the inconsistency has been addressed in Part 3 of the Planning Proposal contained in **Attachment 2**. The applicant's economic consultant has concluded:

- The loss of existing employment opportunities resulting from the proposed amendment to *BBLEP* will be minimal;
- In the broader Metropolitan Sydney context the Southern Precinct of the Lakes Business Park is not strategic industrial land; nor is it critically important to port and airport operations. Other employment lands in the Botany Bay local government area have a stronger competitive position.
- The demand for warehousing at Lakes Business Park South is low as evidenced by the current high 25% vacancy rate. Current uses consist mainly of small ancillary warehousing attached to office uses such as show rooms, spare parts and minor assembly rather than manufacturing or distribution.
- The rezoning of the subject site will not have a significant impact on the supply of warehouses in the Botany Bay LGA as the site accounts for a very low 0.6% proportion of industrial land supply and 0.1% of warehousing jobs in the Botany Bay LGA. Furthermore, there is more than 30 years of supply of undeveloped industrial land in the Botany Bay LGA - sufficient to cater for future employment growth even without the subject site.

Regional or sub-regional strategy, State Environmental Planning Policies

The Planning Proposal is not inconsistent with relevant State and local strategic documents (such as Metropolitan Plan for Sydney 2036, draft East Subregional Strategy; and Botany Bay Planning Strategy 2031) and applicable state environmental planning policies.

Interface with the adjoining residential zone

To minimise impacts on the existing streetscape and adjoining properties, the building heights were revised with the tallest buildings (i.e. 7 storeys) to be located along Lord Street frontage

and gradually stepping down to the southern rear boundary. As illustrated in *Drawing No. C_ADD_011* dated 8 January 2016, Building A3, B3 and C3 will be 3 storeys (11m) in height with a minimum setback of 9.5m from the southern rear boundary. The indicative building envelopes along southern rear boundary are generally consistent with the existing residential dwellings located on Daphne Street and Daniel Street.

The proposed building heights (i.e. development standard) are illustrated below:

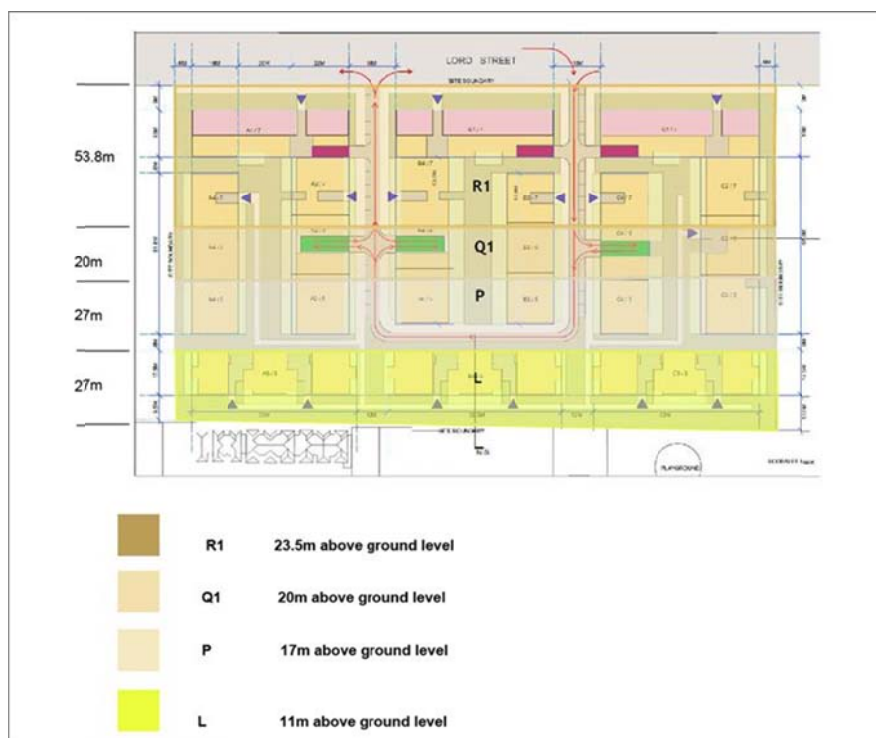


Figure 6 – Planning Proposal proposed maximum building heights January 2016

Future detail design for the individual buildings will be subject to development application(s).

Shadow Impacts

According to the submitted shadow diagram (dated 8 January 2016) prepared by Tony Caro Architecture, 3 hours of solar access will be provided to the neighbouring residential developments to the south on 21 June. It is however recommended that prior to community consultation on the Planning Proposal that the applicant be requested to lodge elevational shadows illustrating the overshadowing impact on the northern elevation of the development fronting Daphne Street, including No. 2 Daniel Street.

Traffic

A traffic report prepared by Traffix has been submitted by the applicant to assess the likely traffic impacts generated by the proposal. Three development options of Lakes Business Park were considered:

- Option 1 – Approved Master Plan:

Northern Precinct: Demolish existing development and construct approved commercial development having a total GFA of 48,480m². Southern Precinct: Demolish existing development and construct approved commercial development having a total GFA of 29,770m².

- Option 2 – Approved Master Plan (Northern Precinct) & Planning Proposal (Southern Precinct):

Northern Precinct: Same as Option 1.

Southern Precinct: Demolish existing development and construct Planning Proposal development (658 residential units & 1,222m² of commercial GFA).

- Option 3 – Expand Existing Development (Northern Precinct) & Planning Proposal (Southern Precinct):

Northern Precinct: Expand existing development to include an additional 14,100m² of commercial GFA.

Southern Precinct: Same as Option 2.

The Lord Street/Botany Street intersection performances for existing and future scenarios are illustrated below:

Intersection Description	Scenario	Control Type	Period	Degree of Saturation	Average Delay	Level of Service
Botany Road / Lord Street	existing	signals	AM	0.503	10.1	A
			PM	0.463	19.4	B
	Option 1	signals	AM	0.629	13.7	A
			PM	0.706	29.9	C
	Option 2	signals	AM	0.602	17.0	B
			PM	0.590	21.6	B
	Option 3	signals	AM	0.610	17.5	B
			PM	0.565	21.3	B

**Table 2 – Lord Street/Botany Road Intersection Performance
Existing & Future Scenario**

According to the report, the development options will have only moderate impacts on the operation of Botany Road/Lord Street intersection during both the AM and PM peak periods which operate with acceptable delays and degree of saturation. Even at the worst-case development scenario, the modelling demonstrates that the intersection would still have the capacity to accommodate additional traffic volumes with no upgrades required.

The Traffic Impact Assessment was undertaken prior to the revised Master Plan submitted to Council on 12 January 2016. The yield in the revised Master Plan has been reduced from 658

to 572 apartments and GFA from 62,912sqm to 54,885sqm. A revised Traffic Impact Assessment will be required prior to community consultation.

As Botany Road is a 'classified road', the Planning Proposal will be referred to the Road & Maritime Services for public authority consultation.

Infrastructure Services

A Civil Engineering and Infrastructure Services Assessment Report has been undertaken by Costin Roe Consulting. The study suggests that the existing services have the capacity to, or can be amplified, to satisfy the demands of the proposal.

PLANNING AGREEMENT

Council engaged an independent economic and planning consultant, AEC Group, to calculate the uplift of the proposed rezoning as a result of the proposed additional building height and FSR. The report recommended that a capture rate of 50% should be applied to the land value uplift. A copy of the report was provided to DexuS on 7 March 2016.

Council officers have been in negotiation with DexuS in relation to the Planning Agreement and to determine the appropriate public benefits associated with the Planning Proposal.

On 29 March 2016, DexuS submitted a revised Letter of Offer to Council (**Attachment 3**) to enter into a Planning Agreement in accordance with Section 93F of the *Environmental Planning and Assessment Act 1979*.

DexuS proposes a cash contribution of \$9 million as a form of public benefit in respect of the Planning Proposal. DexuS also seeks a 30% discount (to apply to the future residential component only) on the Section 94 development contribution payable to the future development applications on the site.

A contribution of the amount proposed is of benefit to Council particularly in that the public benefit contribution will be collected upfront and can be utilised immediately after the gazettal of the rezoning. Unlike the section 94 contributions, Council can spend the contributions received from the Planning Agreement to wholly fund the public facilities and infrastructure identified in the Planning Agreement, in a targeted way.

The public benefits to the community, including those items identified in Council's 2040 Vision to be identified in the Planning Agreement will be:

- A walkway along Mill Pond;
- Jetty repair in the Mill Pond;
- Interpretative signage along the wetlands;
- Community bus service from Botany local centre to Mascot Station;
- Upgrade of the Botany local centre;
- Purchase of unit/s within a future development for affordable housing; and
- Construct a multi storey car park at the Botany local centre.

Costing for these works have not yet been undertaken, but a further report on the project costs and the recommended priority of the projects above will be referred to Council. Not all of these works may be possible to be undertaken with the contribution, but the priority will be the walkway along Mill Pond, jetty repair, and interpretive signage. Depending on the cost of these works, the other works may also be undertaken.

Council's solicitor advise that the Planning Agreement needs to be finalised and registered on the title as possible, particularly due to the length of the Planning Proposal process and as it is likely that the site will be on-sold to the future developer. It is therefore proposed that the Planning Agreement be prepared by Council's solicitors (at the applicant's expense), signed by the applicant, and placed on exhibition. The Planning Agreement will be required to be registered on the property title, before the Gateway Determination. If a Gateway Determination is given, the enacted Agreement will form part of the Planning Proposal exhibition documents. If the Gateway Determination is not issued by the DP&E, the Planning Agreement will be withdrawn and reference to it deleted by Council from the property title.

PUBLIC AUTHORITY CONSULTATION

The following State and Commonwealth government authority will be consulted:

- Airservices Australia;
- APA Group – High pressure gas line;
- Department of the Commonwealth and the lessee of the Sydney Airport;
- NSW Environment Protection Authority;
- Office of Water;
- Road and Maritime Services;
- Sydney Airport Corporation Limited; and
- Transport for NSW.

Should the Gateway Determination deem it necessary for Council to consult with other State and Commonwealth government authorities, Council will forward a copy of the Planning Proposal to the relevant authorities.

COMMUNITY CONSULTATION

Council proposes that the Planning Proposal be exhibited as follows:

- In accordance with section 57 of the *EP&A Act*, the Planning Proposal will be placed on public exhibition for 28 days; and
- Any other requirements as determined by the Gateway under section 56 of the *EP&A Act*.

As noted above, the executed Planning Agreement will form part of the exhibition material.

FINANCIAL IMPLICATIONS

The costs of the rezoning process will be borne by the proponent. The Planning Agreement will provide Council with significant funds to undertake new works of benefit to the community nearby.

CONCLUSION

The Planning Proposal seeks the following amendments:

- Rezone the subject site from B7 – Business Park to B4 – Mixed Use;
- Amend the Height of Building Map contained in the BBLEP 2013 from 22m to a range of heights from 11m to 23.5m; and
- Amend the Floor Space Ratio Map contained in the BBLEP 2013 from 1:1 to 2:1.

The Planning Proposal is not inconsistent with relevant State and local legislations; directions, policies and strategic documents and will have a positive environmental, social and economic impact. The accompanying offer to enter into a Planning Agreement provides funding to Council to provide significant public benefit to the locality.

A copy of the draft Planning Proposal prepared by Council Officers is contained in **Attachment 2**. The draft Planning Agreement based on the applicant's offer will be finalised and will be signed by the relevant Dexu parties. The draft Planning Agreement will then be advertised for 28 days in accordance with the Act and then signed by Council. The Agreement will be registered on title. In the meantime, Council will be waiting for the Gateway Determination. If the Gateway Determination is not made, the Planning Agreement will be recinded.

RECOMMENDATION

It is recommended that:

- 1) A Planning Proposal for the site 11- 13 Lord Street Botany be prepared in accordance with Section 54 & 55 of the Environmental Planning & Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 to amend the Botany Bay Local Environmental Plan 2013 to:
 - a) Rezone the site from B7 – Business Park to B4 – Mixed Use;
 - b) Amend the Height of Building Map from 22m to a range of heights from 11m to 23.5m; and
 - c) Amend the Floor Space Ratio Map to show the floor space ratio for the site to be from 1:1 to 2:1.
- 2)
 - a) The Planning Proposal be referred to Department of Planning and Environment for Gateway Determination in accordance with Section 56 of the Act;
 - b) Should a Gateway Determination be issued, Council will not exhibit the draft Planning Proposal until the Planning Agreement referred to in point 3) below has been executed by all parties to the Agreement and the Agreement is registered on the title of the site. The Department of Planning and Environment is to be advised of this.

- 3) The results of the Gateway Determination are to be reported to Council.
- 4)
 - a) Council agrees to enter into a Planning Agreement with the relevant Dexu entities, being Dexu Projects Pty Limited, Dexu Property Services Pty Limited, and the land owner, the Lakes Business Park (NSW) Pty Limited generally in accordance with the letter of offer dated 31 March 2016;
 - b) The General Manager be delegated to finalise the drafting of the Planning Agreement and the applicant (and parties to the Agreement) are to sign the Planning Agreement prior to Point 2 above being actioned;
 - c) The Agreement is to be placed on public exhibition for 28 days in accordance with the Environmental Planning & Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000; and
 - d) Should there be no submissions received on the draft Planning Agreement, the General Manager is to be authorised to enter into the Agreement on behalf of Council. If submissions are received, a further report is to be referred to Council.