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Lodged on NSW Planning Portal

**Bayside Council Submission on Planning Proposal for 776 & 792-794 Botany Road & 33 Henry Kendall Crescent Mascot Planning Proposal - PP-2023-1805**

Thank you for the opportunity to comment on the Planning Proposal for 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot (Mascot LAHC Site).

Bayside Council provides this submission on the Planning Proposal (PP). Bayside Council formally endorsed this submission at its meeting held on 28 February 2024.

**Background**

In recent years, Council has received several PP requests and an increased interest in redevelopment of the Botany Road south of Gardeners Road, Mascot area (Botany Road Corridor). The area has been identified for investigation due to a mismatch between Floor Space Ratio (FSR) and Height of Buildings (HOB) controls.

At the October 2022 Council Meeting, it was resolved that Council endorses commencement of project and master planning for the Botany Road Corridor as it could potentially offer a contribution to the future provision and diversity of housing given its reasonable location and access to public transport and amenities (**Attachment 1**). The subject site is within the bounds of this investigation area.

Taking into consideration this resolution, at the May 2023 Council Meeting, it was resolved that assessment of the subject PP should be deferred to ensure that the proposal would not undermine any future vision to be established for the Botany Road Corridor by the master planning process (**Attachment 2**).

It was also highlighted that the draft PP encompassed several unresolved issues including heritage impacts, traffic and access, urban design, impacts on adjoining properties and the streetscape, and impact on community services and commercial activity in the precinct.

As the proposal lodged for rezoning review remains predominately the same as the proposal that was previously assessed, Council's maintains its position to defer the matter.

Although the need for affordable and social housing is acknowledged, Council is concerned that significant changes to planning controls for this site without awaiting development of the future masterplan may prevent the achievement of quality outcomes for the Botany Road

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Corridor as a whole. Council wishes to avoid ad-hoc decision making and instead consider how the site relates to the broader strategic context.

It is highly advised that assessment of the PP should not continue until adequate investigation of the Botany Road Corridor has been conducted. This submission summarises and reiterates the matters that were raised at the previous Council Meeting in the interest of achieving an optimal outcome that will align with what may be envisaged for the overall area. The Bayside Local Planning Panel Report which was considered at the Council Meeting is also attached and provides a comprehensive assessment of the proposal against the strategic planning framework (**Attachment 3**).

The following key concerns are raised for your consideration:

## **1. R4 High Density Residential Zoning & Active Street Frontage**

The objectives of Local Planning Direction 7.1 - Employment Zones of the *Section 9.1 Local Planning Directions* issued by the Minister, seek to protect employment land in employment zones. Direction 7.1 states that a PP must retain the areas and location of employment zones and not reduce the total potential FSR for employment uses.

The subject site is currently zoned E1 Local Centre. Under the direction of the Sydney Eastern City Planning Panel (SECPP), the PP was updated to change the zoning from E1 Local Centre to R4 High Density Residential. The Active Street Frontage facing Botany Road is also proposed to be removed. This directly contradicts the objectives and directions outlined in Local Planning Direction 7.1 as not only will the proposed use result in the reduction of employment floor space, but it will also pose as a precedent for surrounding sites, diminishing the values that differentiate a local centre.

Removal of employment uses on the site could adversely change the character of the local centre and reset the vision of this part of Mascot. The draft PP report states that the inconsistency is justified as the site is located on the fringe of Mascot local centre where commercial uses would not be viable. The site's location is not on the outskirts of the Mascot local town centre, as evidenced by the existing E1 Local Centre zoning and the active street frontage extending from Gardeners Road down across all blocks facing both sides of Botany Road (**Figure 1**). The level of activation provided by uses that would typically animate the public domain and provide linear consistency in a local centre zone will no longer be maintained.

Council engaged RPS Group to undertake an independent peer review of the *Commercial Market Justification* prepared by HillPDA (dated September 2021) and submitted with the PP. It was confirmed that a complete and thorough economic evaluation of the site and its immediate context has not been provided to justify the significant uplift in residential floor space nor the elimination of commercial floor space.

Furthermore, the proposal is not consistent with Local Planning Direction 5.1 - Integrating Land Use and Transport as it would enable significant residential intensification despite a location at the edge of the typically accepted 800m catchment zone from a high frequency rail station. The *Improving Transport Choice – Guideline for planning and development* (DUAP 2001) specifies that best practice is achieved when commercial and residential developments are located within proximity to rail and/or bus services. It must be confirmed that appropriate transport infrastructure is in place to support the additional residential density.

Given the above, there is insufficient detail to justify the proposed land zone change and the removal of the active street frontage. There may be merit in removal of the ASF

requirement in this area subject to the DPHI being satisfied that there is appropriate justification for its removal.



Figure 1 Subject site outlined in dark blue. Land Zoning map with E1 Local Centre zone shaded in light blue (left) & Active Street Frontages map (right).

## 2. Heritage Conservation

The objectives and priorities of the *Eastern City District Plan, Bayside Local Strategic Planning Statement* (Bayside LSPS) and Local Planning Direction 3.2 – Heritage Conservation of the *Section 9.1 Local Planning Directions* require that places and items of historical significance are preserved, respected, and celebrated. The site is in proximity to the following 16 heritage items:

- 997-999 Botany Rd, Mascot; House Group
- 1001 Botany Rd, Mascot; Electricity Substation No.147
- 1005 Botany Rd, Rosebery; Former National banks of Australasia
- 814 Botany Rd, Botany; Memorial Park
- 1007 Botany Rd, Mascot; Coronation hall
- 149 Coward St, Mascot; Botany Family Day Care
- 1009-1021 Botany Rd, Mascot; Commercial Building Group
- 118-120 Coward St, Mascot; Uniting Church and Rectory
- 139 Coward St, Mascot; Mascot Fire Station
- 153 Coward St, Mascot; Sydney Water Pumping Station
- 110 Coward St, Mascot; House
- 117 Coward St, Mascot; House
- 119 Coward St, Mascot; House
- 121 Coward St, Mascot; House
- 123 Coward St, Mascot; House - “Orara”
- 125 Coward St, Mascot; House- “Highhurstwood”

During assessment the PP was referred to Council's Heritage Advisor who raised the following concerns which continue to apply:

- a. It is unacceptable for any part of the cenotaph or memorial of Mascot Memorial Park to be overshadowed at any times of the day or year. Whilst partially setting back the building would assist in minimising overshadowing, further measures are required. The building mass along Coward Street may need to be realigned to circumvent the memorial and cenotaph area.
- b. The bulk and scale of the building along Coward Street is also visually imposing when viewed from Mascot Memorial Park. To mitigate this, the continuous volume along Coward Street should be reduced and appropriately articulated. The 3m setback on the Coward Street frontage does not adequately relate to the setback from the park or the lower scale residential allotments along Coward Street and replacing the active street frontage with residential entries and uses may undermine the significance of the item.
- c. The proposal is at odds with the management objectives of the Mascot Memorial Park and surrounding development as established in its listing in the State Heritage Inventory.

The PP does not currently demonstrate that the degree of uplift proposed will adequately address visual and amenity impacts on the surrounding heritage items, particularly Mascot Memorial Park.

### **3. Traffic & Access**

During the assessment of the PP, Council engaged Cardno to undertake an independent peer review of the traffic impact assessment which was lodged with the PP. It was confirmed by Cardno that Henry Kendall Crescent is most likely to achieve the safest access to and from the site despite the Proponent's traffic consultant suggesting that residential access to and from Botany Road would improve the operation and safety of the Coward Street and Henry Kendall Crescent intersection. Cardno recommended that a single driveway could be considered off Botany Road for ambulances only.

As these items may have a critical effect on the proposal in terms of traffic modelling and road safety, and as adequate justification has not been provided for the high priority key traffic concerns, the PP should not be supported on traffic grounds.

### **4. Flooding**

Evidence has not been provided that the PP is consistent with Local Planning Direction 4.1 – Flooding of the *Section 9.1 Local Planning Directions*.

Council has identified the subject site as affected by the Probable Maximum Flood (PMF) Event. It is noted that the site is identified as low hazard in all events up to and including the PMF Event. Part of the land is between the flood planning area and the PMF area and is therefore subject to flood related development controls. The labelling of affected properties has been based on assumptions which are not site specific. As a result, shallow sheet flows may still be present on site. Development must take into consideration site conditions to ensure stormwater design is appropriate.

The proposed built form will obstruct flows from entering and result in changes to overland flow behaviour. It must be demonstrated that the proposal will not result in

adverse impacts (less than 10mm in the 1% AEP Event and less than 50mm in the PMF Event as per Council's *Development Control Plan 2022*), and no increase in flood hazard in the surrounding area including the carriageways of Botany Road, Henry Kendall Crescent and Coward Street.

A comprehensive flood impact assessment must be provided demonstrating that there are no adverse flood impacts of this development on the surrounding properties and the existing floodplain area. The flood impact assessment report must demonstrate compliance with the relevant guidelines and requirements including the Local Planning Direction, the NSW Government's *Flood Prone Land Policy*, and the *Flood Risk Management Manual* (2023).

A flood advice letter should also be obtained from Council:

<https://www.bayside.nsw.gov.au/sites/default/files/2021-07/Flood%20Advice%20Application.pdf>

## **5. Urban Design**

It is acknowledged that the current planning controls for this precinct appear to be outdated. As was discussed at the beginning of this letter, the Botany Road Corridor has been identified as an investigation area in Council's LSPS and was endorsed for commencement by Council in October 2022.

Changing controls in isolation from the rest of the E1 Local Centre zone would create an anomaly that would be inconsistent with the scale and character of the precinct. If a cohesive pattern of development is to be established within this precinct a master plan for the entire precinct must be established first.

The shadow diagrams also identify that the proposal will cast shadows over Mascot Memorial Park and the proposed through site link, which is unfavourable for the quality and amenity of these public spaces. The proposed development is incompatible with the existing character and function of the area and should therefore be supported by a masterplan that guides the future vision for the wider locality.

## **6. High Ground Water Table**

Whilst groundwater and excavation are generally matters considered at a development application stage, Council requests the Department consider the level of the ground water table in this location and whether future basement excavation will have any impacts on the ground water table and vice versa.

## **7. Tree Management**

There are several significant trees along the periphery and scattered across the site. It is important to ensure the protection of these significant trees, especially those situated within the Botany Road public domain. These trees contribute to a significant boulevard, which is integral to the identity of Mascot Town Centre and should be maintained to further encourage connection with Mascot Memorial Park.

## **8. Site-Specific Development Control Plan**

Council concurs with the recommendation of the SECPP that the revised PP is to include a proposed LEP provision for a site-specific Development Control Plan (DCP).

Council disagrees with Gateway condition 1(a) which required the removal of the proposed provision for the site. Council typically prefers the consideration of a site-specific DCP alongside the assessment of the draft PP. However, in instances where this is challenging and there is a lack of existing guidance to support an optimal outcome, it is common practice to propose the inclusion of the site within the *Bayside Local Environmental Plan 2021* site-specific DCP clause (Clause 6.16).

This clause is valuable in granting Council planning oversight, which will in turn ensure that the site's development is in harmony with the desired future outcome for the Botany Corridor, therefore this clause should be reinstated in the PP.

The draft PP report also contains several inconsistent references pertaining to a site-specific DCP chapter which was not included in the PP documentation package for rezoning review. Furthermore, there are citations of the *Botany Bay Development Control Plan 2013*, which should be substituted with the *Bayside Development Control Plan 2022*. Any inconsistencies should be corrected.

## **9. Social Infrastructure**

According to the Proponent's *Request for Rezoning Review* report (dated 1 August 2023), at least 49 new social housing dwelling and 35 affordable housing dwellings are expected to be delivered through this PP. Council supports the provision of social and affordable housing and seeks clarification on how this supply will be safeguarded and an appropriate unit mix ie: provision of 1, 2 and 3 bedroom apartments is provided. It is encouraged that these dwellings exceed minimum accessibility requirements and are secured in perpetuity. Council also seeks clarification on the model for future management and ownership of affordable housing ie, whether the units will be managed by Council, Land and Housing Corporation or a Community Housing Provider.

The PP may also result in the removal of the Ambulance Station which is important social infrastructure that provides emergency services to the local community in Mascot. NSW Health have not confirmed if the future renewal of the site also includes the retention of the Ambulance Station. To be consistent with Eastern City District Planning Priority E3 and Bayside LSPS Planning Priority 4, it should be clarified with NSW Health that the Ambulance Station can be accommodated in an alternate arrangement.

## **Conclusion**

Council seeks to plan effectively for the growing population which has been acknowledged through the endorsement of the master planning investigation for the Botany Road Corridor. Council does not recommend continuing the assessment of this proposal as the resulting development may compromise the future vision for this area. Council believes that the assessment of the PP should be deferred until the desired future outcomes for the area are determined. Additional matters have also been raised throughout this submission and are summarised as follows:

- **R4 High Density Residential Zoning & Active Street Frontage** - The proposed zoning change from E1 Local Centre to R4 High Density Residential and the removal of the Active Street Frontage are inconsistent with the *Section 9.1 Local Planning Directions*. The proposal has not demonstrated sound economic justification for the significant uplift in residential floor space and the elimination of commercial floor space.

- **Heritage Conservation** - The proposal will adversely affect the heritage values and historically significant public open spaces, particularly Mascot Memorial Park, due to the impacts of overshadowing and visual bulk and scale.
- **Traffic & Access** - The proposal does not justify that residential access to and from Botany Road would be safer and more efficient than access via Henry Kendall Crescent.
- **Flooding** – The site is a PMF flood affected lot and part of the land is between the flood planning area and the PMF area. The proposal will obstruct flows from entering and result in changes to overland flow behaviour therefore consistency with Local Planning Direction 4.1 – Flooding must be demonstrated.
- **Urban Design** – The proposal is premature and unsuitable for the area, as it would undermine the current planning controls and the character and function of the E1 Local Centre zone, as well as the future masterplan for the Botany Road Corridor.
- **Tree Management** – There are many significant trees, especially along Botany Road, forming a boulevard which is integral to the identity of Mascot Town Centre. These trees should be protected and preserved.
- **Site-Specific Development Control Plan** - The site-specific DCP clause should be retained in the PP, as it will enable Council to monitor the site's development and ensure its alignment with the desired future outcome for the Botany Corridor Area. The draft PP report also contains several inaccuracies and discrepancies in the references to a site-specific DCP, which need to be corrected.
- **Social Infrastructure** – Clarification on details and means of securing social and affordable housing is sought. The proposal also risks displacing the Ambulance Station, which is essential for the local community, and it should be verified if it will be accommodated elsewhere if this is the case.

We trust that the SECPP, and DPHI will carefully consider the issues as outlined above.

If you require further clarification, please do not hesitate to contact Ana Trifunovska, Senior Urban Planner on 9562 1698, or via email: [ana.trifunovska@bayside.nsw.gov.au](mailto:ana.trifunovska@bayside.nsw.gov.au).

Yours sincerely



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**Director City Futures**

Enclosed Attachments:

- 1 Housing Strategy Update – Council Meeting Minutes – 26 October 2022

- 2** Planning Proposal - Council Meeting Minutes and Report - 24 May 2023 (including 10 May 2023 City Planning and Environment Committee Minutes)
- 3** Planning Proposal – Bayside Local Planning Panel - Minutes and Report – 21 March 2023