

**SYDNEY CENTRAL PLANNING PANEL  
SUPPLEMENTARY REPORT**

<b>Panel Reference</b>	<b>2016SYE007</b>
<b>DA Number</b>	<b>DA-15/191</b>
<b>LGA</b>	<b>Bayside Council</b>
<b>Proposed Development</b>	<p>Stage 1 Masterplan Application for the consolidation of 16 Lots (Lots 11-26 DP 29697) to create the subject site with a combined area of 12,602sqm to accommodate:</p> <ul style="list-style-type: none"> <li>• Four x eight (8) storey commercial towers with a total GFA of 37,805sqm;</li> <li>• 3 levels (two levels above ground and one level partially below ground) of car parking for 473 vehicles, 43 bicycles and 4 loading bays under a landscaped podium;</li> <li>• Extensive landscaping of 8,605sqm including ground level setbacks, green façade, podium level landscaped area and green roof;</li> <li>• A pedestrian overpass linking the podium level on either side of the cul-de-sac at the end of Chalmers Crescent.</li> </ul>
<b>Street Address</b>	7-9, 14-18 and 19-21 Chalmers Crescent, Mascot
<b>Applicant/Owner</b>	F Mayer (Imports) Pty Ltd C/- Neustein Urban
<b>Date of DA lodgement</b>	19 October 2015
<b>Number of Submissions</b>	<b>Nil</b>
<b>Recommendation</b>	<b>Approval, subject to conditions</b>
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	The application is referred to the JRPP pursuant to Clause 3 of Schedule 4A of the Act as the Capital Investment Value (CIV) of the proposal is over \$20 million. Masterplan proposal with a CIV of \$113,700,000.00
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 4A – Development for which regional panels may be authorized to exercise consent authority functions of councils <ul style="list-style-type: none"> <li>• Part 4 Division 2A – Special procedures concerning staged Development Applications</li> </ul> </li> <li>• Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to development applications</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Remediation</li> <li>• Botany Bay Local Environmental Plan 2013</li> <li>• Botany Bay Development Control Plan 2013</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Architectural Plans- Rev K and L/A- prepared by Conrad Gargett Riddel Ancher Mortlock Woolley</li> <li>• Phase I ESA report- prepared by AECOM and dated 18 October 2016</li> </ul>
<b>Report prepared by</b>	Angela Lazaridis – Senior Development Assessment Officer
<b>Report date</b>	09 January 2016

## RECOMMENDATION

It is RECOMMENDED that the Sydney Central Planning Panel (SCPP), as the Consent Authority, resolve to:

- (1) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum building height of 46.4m metres (51.00m AHD);
- (2) Approve Development Application No. 15/191 for a Stage 1 Masterplan for the consolidation of 16 Lots (Lots 11-26 DP 29697) to create the subject site with a combined area of 12,605sqm to accommodate four x eight (8) storey commercial towers with a total GFA of 37,805sqm; three (3) levels of car parking for 473 vehicles, 43 bicycles and 4 loading bays under a landscaped podium; extensive landscaping of 8,605sqm including ground level setbacks, green façade, podium level landscaped area and green roof; and a pedestrian overpass linking the podium level on either side of the cul-de-sac at the end of Chalmers Crescent.

## EXECUTIVE SUMMARY

On 19 October 2015, Council received Development Application No. 15/191 seeking consent for a Stage 1 Masterplan for the consolidation of 16 Lots (Lots 11-26 DP 29697) and part of Chalmers Crescent (1,118sqm) to create the subject site with a combined area of 12,602sqm to accommodate four x eight (8) storey commercial towers with a total GFA of 37,805sqm; three (3) levels of car parking (two levels above ground and one level partially below ground) for 490 vehicles, 43 bicycles and 4 loading bays under a landscaped podium; extensive landscaping of 8,605sqm including ground level setbacks, green façade, podium level landscaped area and green roof; and a pedestrian overpass linking the podium level on either side of the cul-de-sac at the end of Chalmers Crescent at 7-9, 14-18 and 19-21 Chalmers Crescent, Mascot.

On 28 July 2016, the abovementioned development application was considered at the former Sydney East Joint Regional Planning Panel (JRPP) meeting. Council presented a report (attached as Appendix A) to the Panel recommending the application be refused for the following reasons:

1. *The applicant has failed to provide the land owners written consent to lodgement of the development application for the use of part of the Chalmers Crescent road reserve and the area above the road.*
2.
  - a) *Pursuant to Clause 7 of SEPP 55 the Council is not satisfied that the land is suitable for the proposed development, as the applicant has failed to provide any evidence that the land is suitable for the use or could be made suitable for the use. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
  - b) *Pursuant to Clause 6.1(3) of the BBLEP 2013, the Council is not satisfied that the land is suitable for the proposed development, as the applicant has not provided evidence in the form of an Acid Sulfate Soils Manual or Management Plan to demonstrate that the land is suitable for the use. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
- 3.

- a) *The proposed development exceeds the maximum FSR of buildings for the site as provided by Clause 4.4(2) of the Botany Bay LEP 2013 and is inconsistent with the objectives of the clause. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
  - b) *The development application has not provided a Cl. 4.6 variation therefore the proposed development fails to adequately justify the contravention of the FSR development standard in Clause 4.4 of the Botany Bay LEP 2013 and has not demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and therefore there are insufficient environmental planning grounds to justify contravening the development standard. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
4. *The proposed development exceeds the maximum height of buildings for the site as provided by Clause 4.3(2) of the Botany Bay LEP 2013 and is inconsistent with the objectives of the clause. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
  5. *The contravention of the FSR and height development standard will not be in the public interest as it is not consistent with the objectives of the standard. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(i)).*
  6. *The proposal does not comply with Control C2 of Part 3A.3.1 and Control C10 of Part 3A.3.4 of the Botany Bay DCP 2013 in that service vehicles do not enter the premises in a forward direction and all movements are not carried from the site boundaries. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(iii)).*
  7. *The proposal does not comply with Control C1 of Part 6.3.5 of the Botany Bay DCP 2013 in that the development is not contained within the site boundaries, therefore there is uncertainty in the amount of setbacks provided to the development. (Environmental Planning and Assessment Act 1979 Section 79C(1)(a)(iii)).*
  8. *The proposal has not adequately addressed the likely impacts of the development, being additional gross floor area, potential contamination and acid sulfate soils. (Environmental Planning and Assessment Act 1979 Section 79C(1)(b)).*
  9. *The proposal has not demonstrated the suitability of the site for the development. (Environmental Planning and Assessment Act 1979 Section 79C(1)(c)).*
  10. *The proposed development is not in the public interest as the proposed design in its current form results in adverse impacts on the amenity of the locality as a result of non-compliance with FSR, height, setbacks and off-street car parking, which are inconsistent with the built form envisaged for the subject site. (Environmental Planning and Assessment Act 1979 Section 79C(1)(e)).*

At this meeting, the Panel deferred the matter on the basis that amended drawings are provided for assessment to comply with the following reasons:

- *The application is to be specified as a Staged Development application under s83(b) of the EPA Act 1979 involving a Concept Plan without a detailed application for any of the stages;*

- *Restrict the application to land for which owners consent has been or can be provided, and provide setbacks in accordance with the Council's controls;*
- *The application is to provide and dedicate to the public as road suitable land for the creation of a cul-de-sac at the end of Chalmers Crescent, sufficient for use by articulated vehicles;*
- *The applicant is to provide appropriate evidence under clause 7 of SEPP 55 that the land is suitable or could be made suitable for the proposed use;*
- *Compliance with the required LEP FSR of 3:1;*
- *Provide adequate justification under clause 4.6 of the LEP as to any breach of the LEP height limit;*
- *Demonstrate that vehicles can ingress and egress the site in accordance with Australian Standards and Council's controls, with particular attention to service vehicles;*
- *Comply with the LEP requirements in relation to acid sulfate soils.*

Following the meeting, Council raised the above issues with the applicant. The applicant is in the process of negotiations with Council to purchase the 1,118sqm of road at the end of Chalmers Crescent to have it encapsulated within the site. By securing this road area, the majority of the issues above relating to FSR and setbacks will be resolved through the finalisation of the road purchase or the applicant is granted consent to build over the road. Regardless, the subject Stage 1 application will be assessed as if the eastern portion of Chalmers Crescent has been included in the site area. The Applicant has indicated that once the road is purchased, it will continue to be used as a public right of way.

In addressing the Panels above points of deferral, the following applies:

- The application is for Staged Development under s83(b) of the Act. This application forms Stage 1 for a Masterplan of the development. It is acknowledged that the amended plans received are conceptual and will form the building envelopes for the proposal;
- The Applicant is in the process of negotiation with Council in acquiring 1,118sqm of Council road at the end of the cul-de-sac to form part of the site. Negotiation of the road purchase is to be conducted separately to the planning assessment subject of this application. As owners consent can be provided, the Applicant does not need to amend the plans restricting the development within the existing site boundaries. Inclusion of the road within the site area will allow the development to comply with Council's setback and FSR requirement;
- The proposal had originally proposed widening of the turning head of the cul-de-sac to allow larger vehicle movements to occur without hindrance or safety concerns to the public and the area. The Panels concern stems from the issue that the development was not contained within the existing site boundaries and would have to rely on the existing cul-de-sac. This can now be resolved as a result of the subsequent road purchase and proposed works to the cul-de-sac;
- The applicant has provided a Phase 1 Environmental Site Assessment report prepared by AECOM dated 18 October 2016 and demonstrates that the site could be made

suitable for future development. Future Development Applications for the site under Stage 2 will require to have Phase 2 Contamination reports provided for assessment;

- As stated above, the FSR issue can now be addressed and can comply by including the area of road to be purchased within the site. The FSR proposed is 3:1;
- The Clause 4.6 for the breach in the height of building development standard is satisfactory, primarily as the surrounding developments in the Mascot area have been approved with similar heights to the proposal;
- Amended plans were provided to Council for assessment modifying vehicular access arrangements particularly with the service vehicles. The amended plans demonstrate that loading vehicles have forward ingress and egress from the site. This has been changed from the original plans which proposed forward ingress and reverse egress from the site which was a safety hazard and did not comply with Councils DCP requirements. The amended plans now satisfy this concern;
- The Phase 1 Environmental Site Assessment outlined that Acid Sulfate Soils are likely to be present 'at depth' in the soil profile. The report states that the site can be made suitable for development, therefore Stage 2 Development Applications are to include ASS Management Plans for assessment.

The Applicant has demonstrated that they have addressed the Panels and Council's concerns. Council is satisfied with the modifications to the proposal and the additional information outlining that the site can be made suitable for future development. The proposed development (as amended) is recommended for approval subject to conditions in the attached Schedule.

## **BACKGROUND AND SITE HISTORY, SITE DESCRIPTION AND PROPOSAL DESCRIPTION**

The background and site history, site description and surrounding locality and proposal description have been provided within the report originally presented to the Panel in Appendix A.

## **AMENDMENTS TO STAGE 1 MASTERPLAN**

Below is a table of the key development controls demonstrating the changes from the original plans recommended for refusal and the amended plans:

<b>LEP &amp; DCP Controls</b>	<b>Required</b>	<b>Original Plans</b>	<b>Amended Plans</b>	<b>Complies</b>
<b>FSR</b>	3:1 (37,806sqm)	3.3:1 (based on 11,484sqm site area – road excluded) (37,805sqm)	3:1 (based on 12,602 site area) (37,805sqm GFA)	Yes
<b>Height</b>	44 metres (max)	46.4 metres (top of lift overrun and plant cores)  44 metres (top of	No change to height	<b>No- Clause 4.6 provided. See Note 1 below</b>

		building and balustrade)		
<b>Car Parking</b>	1 per 40sqm (office premises)  Total GFA: 37,805sqm  Car Parking spaces required: 946 spaces	490 car parking spaces (as provided by applicant dated 29.3.2016)	473 car parking spaces (Councils calculations)	<b>No – Refer to Note 2 below</b>
<b>Landscaping</b>	30% of site area (greater than 5,000sqm)	8,605sqm (68%)	No change to landscaping area	Yes
<b>Setbacks</b>	<b>Street:</b> 9 metres from the street frontage with 3 metre landscaped area <b>Side:</b> 2 metres <b>Rear:</b> Nil to 3 metres	Building setback  Street: 0-3 metres Side: 0 metres Rear: 0 metres	<u>Podium</u> Front: 0-5 metres Side: 0-2 metres Rear: 0 metres  <u>Building setback (indicative)</u> <b>Building 1:</b> Front: Nil Side: 6.8m Rear: 4.4m  <b>Building 2:</b> Front: 9.4m Side (to other towers): 17.3m and 15.6m Rear: 8.5m  <b>Building 3:</b> Front: Nil Side: 10.8m and 14.4m Rear: 6.8m  <b>Building 4:</b> Front: Nil Side: 8.3m and 10.8m Rear: 9.9m  <u>Landscape setback:</u>  Front: 0-2 metres Side: 0-2 metres	Yes

			(greater if considering planting on podium) Rear: 0-6 metres	
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The key changes primarily relate to the FSR and setback controls as the original assessment had excluded the road from the site area. The inclusion of the road (1,118sqm) allows compliance with Council's maximum FSR requirement within the Botany Bay LEP and setback controls within the Botany Bay DCP.

#### FSR Envelope

The report presented to the Panel (attached in Appendix A) provided a breakdown of the FSR envelope for the Masterplan (based on an area of 11,484sqm). This is provided below for reference:

<b>Gross Floor Area and FSR</b>		
<b>Combined Floor area of the four commercial buildings</b>	<b>Proposed GFA</b>	<b>Proposed NLFA</b>
Ground and Level 1 car parking level	Nil	Nil
Level 2 (podium)	2,805sqm	2,355sqm
Typical level (8x storeys)	4,375sqm x 8 = 35,000sqm	3,930sqm x 8 = 31,440sqm
<b>Total GFA</b>	<b>37,805sqm</b>	<b>33,795sqm</b>
<b>Proposed FSR</b>	<b>3.3:1</b>	<b>2.94:1</b>

The Applicant has provided a further breakdown of the FSR envelope for the Masterplan (based on a site area of 12,602sqm after the road has been purchased and is included in the site). The amended FSR is provided in the table below:

<b>Gross Floor Area and FSR</b>		
<b>Combined Floor area of the four commercial buildings</b>	<b>Proposed GFA</b>	<b>Proposed NLFA</b>
Ground and Level 1 car parking level	Nil	Nil
Level 2 (podium)	2,805sqm	2,355sqm
Typical level (8x storeys)	4,375sqm x 8 = 35,000sqm	3,930sqm x 8 = 31,440sqm
<b>Total GFA</b>	<b>37,805sqm</b>	<b>33,795sqm</b>
<b>Proposed FSR</b>	<b>3:1</b>	<b>2.7:1</b>

While the gross floor area in total has not altered, the FSR envelope is now compliant as a result of the additional site area included.

Council requested from the Applicant a development schedule showing the breakdown of GFA across each of the towers. The Applicant has stated that the GFA of each tower is provided below but no FSR calculation is meaningful as the site will be consolidated into a single title to meet the BCA requirements.

Gross Floor Area of each building	
Building	Proposed GFA
Building 1	8,477sqm
Building 2	8,756sqm
Building 3	7,719sqm
Building 4	9,391sqm

Council is now satisfied that the GFA breakdowns and the overall FSR envelope is compliant.

#### Car Parking and relocation of loading bays

Amended plans have been provided demonstrating compliance with the 7th point of deferral relating to ingress and egress from the site. The four loading bay areas have been amended within DA-100 L/A- Ground Floor and Lower Ground Floor Plan. The loading areas for service vehicles have now been relocated to allow adequate space for loading as well as two turntables for easy manoeuvring within the site. Below demonstrates the original ground floor car parking level plan and the amended ground floor car parking level plan showing the modifications to the loading areas:



**Figure 1: Original Concept Ground Floor and Lower Ground Floor Plan Carpark**





**Figure 2: Amended Concept Ground Floor and Lower Ground Floor Plan Carpark**

The Applicant had originally quoted a total of 490 car spaces as part of the original plans. The Applicant has stated that there is no change to the overall car parking provided on the site however Council officers have only calculated a total of 473 spaces. This is attributed to the void areas over the loading area and the increase in size of the loading bays. While there is a decrease in the number of car spaces and is still non-compliant with the Botany Bay DCP car parking rates, the number of car spaces continues to comply with the RTA rates for commercial development as specified within Council's Transport Management Accessibility Plan (TMAP). The modifications to the car parking levels and loading areas are supported.

### Building Setbacks

The amended proposal applies the following breakdown relating to building setbacks:

#### Podium

Front: 0-5 metres  
Side: 0-2 metres  
Rear: 0 metres

#### Building setback (indicative)

##### **Building 1:**

Front: Nil  
Side: 6.8m  
Rear: 4.4m

##### **Building 2:**

Front: 9.4m

Side (to other towers): 17.3m and 15.6m

Rear: 8.5m

##### **Building 3:**

Front: Nil

Side: 10.8m and 14.4m

Rear: 6.8m

**Building 4:**

Front: Nil

Landscape setback:

Front: 0-2 metres

Side: 0-2 metres (greater if considering planting on podium)

Rear: 0-6 metres

Side: 8.3m and 10.8m

Rear: 9.9m

The proposed setbacks do not comply with Council's Building setback requirements under Part 6 of the Botany Bay DCP. This is predominantly relating to the location of the podium up against the southern, northern and eastern boundaries. The location of the podium is acceptable as it replicates the setback established by the neighbouring property to the east that also has a nil boundary setback for their above ground parking structure. The limited setbacks on the podium do not reduce the building setbacks which are greater in distance. The towers comply with the minimum side and rear setbacks but do not comply with the front setback requirement of 9 metres. By including the road within the site area, Building 2, 3 and 4 would comply with the front setback however Building 1 would not. The building tower is located with a nil setback however the plans indicate that the shape and location of the building envelopes are likely to change subject to Stage 2 development. In this instance and considering the surrounding development in the area, the setbacks proposed in the concept plan are accepted.

Pedestrian overpass over the road

There were concerns relating to the practicality of the overpass over Chalmers Crescent as Council originally did not want the purchase of the road to go ahead. The Applicant has stated that 'the overpass is one of the key elements that unites the scheme, provides better pedestrian connectivity on the podium level and leaves open the future possibility that the applicant or any successor in title may restore the original five tower scheme. The overpass provides better connections between the north tower and that in the south west corner by reducing the travel distance between the two towers. It will also provide a better podium connection if a future pedestrian route is achieved through the Qantas (Cromwell) site to Coward Street.' Based on this information and considering its location from Mascot Station, the overpass is supported. Greater details on the design of the overpass are to be provided in Stage 2 development application/s.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 CONSIDERATIONS*****Part 4 Division 2A – Special procedures concerning staged Development Applications***

The Stage 1 Master plan subject of this report will be the first of a Staged Development Application as per Section 83B of the *Environmental Planning and Assessment Act 1979*. The plans provided with the application are conceptual only. Should the Panel grant approval to the application, the Stage 1 consent does not authorise the carrying out of development on any part of the site concerned unless:

- a) Consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or
- b) The staged development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.

This now addresses the first point of deferral raised by the Panel.

## **SECTION 79C CONSIDERATIONS**

In considering the Development Application, the matters listed in Section 79C of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

### **(a) Provisions of any Environmental Planning Instrument (EPI), draft EPI and Development Control Plan (DCP)**

#### State Environmental Planning Policy (Infrastructure)

Discussion relating to the traffic generation is provided in the original report attached in Appendix 1.

As outlined in the report, the concept design did not receive full concurrence from RMS. This information was forwarded onto the applicant for amendments and comments. The applicant submitted a revised traffic impact report on 2 June 2016. RMS was forwarded the revised traffic report and they noted that the updated modelling of the intersection of Coward Street/Kent Road addresses their previous comments on the proposed intersection improvement. Their concern relating to a pedestrian crossing has been addressed by conditions.

#### State Environmental Planning Policy No. 55 - Remediation

The provisions of SEPP 55 have been considered in the assessment of the Development Application, along with the requirements of Part 3K of the Botany Bay Development Control Plan 2013 relating to Contaminated Land. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

As part of the Stage 1 application, a Phase 1 Environmental Site Assessment (ESA) was required to be assessed with the application. This was provided to Council for assessment on 18 October 2016.

The Phase 1 ESA provided the following conclusion for the site:

- *Some soil and or/groundwater contamination is likely to be present at the Site. Phase II investigation should be completed in accordance with the frameworks specified in the SEPP 55, ASC NEPM 2013 and NSW EPA Guidelines for the Site Auditor Scheme;*
- *ASS are likely to be present 'at depth' in the soil profile, at/near/below the water table. The Phase II investigation should include assessment for ASS, so that environmental risks (if any) can be appropriately managed during redevelopment of the Site. If ASS are confirmed to be present and likely to be intersected during future redevelopment, an ASS Management Plan will likely be required;*
- *Any identified soil and/or groundwater contamination will require remediation and/or adoption of management measures to mitigate potential contamination exposure risks. Remediation activities should be completed in accordance with a Remedial Action Plan and/or Site Management Plan(s);*
- *The Site could be made suitable for the proposed redevelopment.*

As part of Stage 2 Development, any future development application is to be accompanied by a Phase II report which details any contamination, remediation and dewatering required as a result of excavation of the site. This has been endorsed by Council's Environmental Scientist who has provided conditions of consent for the Stage 1 Development.

Given the above, Council is now satisfied that the site is suitable for its intended use and that further assessment is to be carried out at a later stage with subsequent Stage 2 Applications. Therefore, the proposed development satisfies the relevant provisions of SEPP No. 55 and resolves the fifth and eighth points of deferral by the Panel.

#### Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Stage 1 application and the following information is provided:

<b>Principal Provisions of BBLEP 2013</b>	<b>Complies Yes/No</b>	<b>Comment</b>
Land use Zone	Yes	The site is zoned B5 Business Development under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed masterplan is categorised as 'business premises' and 'office premises' which are permissible uses with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objective in the BBLEP 2013: <ul style="list-style-type: none"> <li><i>To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i></li> </ul>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	<b>No – Refer to Note 1 below</b>	A maximum height of 44 metres applies to the site. <ul style="list-style-type: none"> <li>Top of the roof/balustrade: 44 metres (RL 48.60 AHD);</li> <li>Lift overrun/plant core: 2.4 metres;</li> <li>Top of lift overrun and plant cores: 46.4 metres (RL 51.00 AHD)</li> </ul>
What is the proposed FSR?	Yes	The site area includes 1,118sqm of

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		<p>Chalmers Crescent. Council is likely to support the selling of the road subsequent to further negotiation between the owners and Council. Therefore, the FSR subject to the application is calculated to include the road. This equals a total site area of 12,602sqm.</p> <p>The maximum FSR allowed on the site is 3:1 (37,806sqm).</p> <p>The proposed FSR is 3:1 (37,805sqm GFA) which complies.</p>
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000sqm min and maximum height of 22 metres and maximum FSR of 1.5:1?	N/A	The subject site is not located within an R3 or R4 zone.
Is the site within land marked "Area 3" on the FSR Map	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening?	Yes	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p>	Yes	<p>The site is identified as being affected by Class 2 ASS. A Phase I ESA prepared by AECOM was provided with the application which demonstrated that the site is suitable for the use. Development overlying these soils requires development consent where the works are required below the natural ground and the water table is likely to be lowered. As such, a Preliminary Acid Sulfate Soils Management Plan is to be provided as part of any subsequent Stage 2 development applications.</p>

<b>Principal Provisions of BBLEP 2013</b>	<b>Complies Yes/No</b>	<b>Comment</b>
6.2- Earthworks	Yes	Details relating to any excavation involved with the development will be subject to any subsequent Stage 2 development applications.
6.3 - Stormwater management	Yes	The concept plans demonstrate a combined underground on site detention/infiltration system and rainwater tanks for collection and reuse of rainwater for landscaping on site. The development is considered to be consistent with Clause 6.3 of BBLEP 2013.
6.8 - Airspace operations	Yes	The subject site is within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 51 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013.
6.9 - Development in areas subject to aircraft noise	Yes	The subject site lies within the 25-30 ANEF contour. The site is categorised as development classified as conditional. Subsequent development application will need to be accompanied by an acoustic report.
6.16 - Design excellence	Yes	The proposed design has been the subject of consideration by Council's Design Review Panel. This is discussed in the report in Appendix A. The bulk, scale and height of the

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		proposed development is appropriate as the development will not create any unreasonable impacts on the amenity of adjoining sites. Further details relating to the design excellence of the development will be assessed as part of subsequent Stage 2 development applications.

### Note 1 – Clause 4.6 Variation to Building Height

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 44 metres pursuant under Clause 4.3 of the BBLEP 2013. The proposal will adopt a maximum building height of 46.4 metres.

A breakdown of the heights proposed is as follows:

- Podium height: 7.3 metres (RL11.90)
- Top of the roof/balustrade: 44 metres (RL 48.60 AHD)
- Lift overrun/plant core: 2.4 metres
- Top of lift overrun and plant cores: 46.4 metres (RL 51.00 AHD)

The non-compliance in height results in a variation of 5% from the development standard. The applicant has submitted a statement providing justification that the proposed development is fully contained within the permissible height plane to the top of the roof balustrade. However, the lift overrun/plant cores proposed to provide access to the rooftop protrudes above the height plane by 2.4 metres.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the height of buildings development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request seeking to justify the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Wehbe), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 1009 & NSW LEC 90 (Four2Five), the court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within Wehbe.

The requirements of 4.6(3)(a), 4.6(3)(b) and 4.6(4)(a)(ii) are each addressed separately below:

*Is the development standard unreasonable or unnecessary in the circumstances of the case and are there sufficient environmental planning grounds to justify contravening the development standard?*

The applicant has provided justification for the height exceedance considering that compliance with the height control is unreasonable and unnecessary and there are sufficient planning grounds to justify the proposed variation. These reasons are summarised below:

- *The proposal achieves the objectives of the standard, Council initiated strategic policies, the BBLEP 2013 and the EPA Act;*
- *Comprehensive analysis of the proposal has found no identifiable adverse amenity impact such as loss of privacy, overshadowing, or view loss. Moreover, land surrounding the proposal does not contain uses such as residential or public open space that might otherwise be more sensitive to the form of this proposal;*
- *Strict compliance with the standard will forfeit an opportunity to provide public access to extensive areas of rooftop garden. Due to its history of industrial uses, access to quality greenspace within the immediate locality is limited;*
- *Given the partial nature of the non-compliance and minor degree of flexibility required, strict adherence to the standard despite the opportunity cost would not be in the public interest.*

Officer's comment:

Having regard to Clause 4.6(3)(a), the variation request has demonstrated that the development standard is unreasonable or unnecessary in this case. While the total height exceedance is 2.4 metres, this is only attributed to the lift overruns/plant cores



and not the commercial portion of the building. The height exceedance does not contribute to any overshadowing or privacy loss and will not be visible when viewed from the street. Additionally, the development standard has been lost as a majority of the development within the Mascot Station Precinct have been approved with a greater height to the Botany Bay LEP requirements. Therefore Council was onerous in requesting compliance with the development standard when surrounding development has departed from the standard. As the issue relating to FSR has been resolved with the subsequent road purchase to be encompassed within the site, the built form is predominantly compliant with the exception of the height. Furthermore, the application was referred to Sydney Airport Corporation Limited who raised no objection to the erection of this development to a maximum height of RL 51.00 AHD.

*Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?*

*Objectives of the Height of Building Standard:*

The objectives of the standard under Clause 4.3 as stated in the BBLEP 2013 are:

*1. The objectives of this clause are as follows:*

- a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- b) to ensure that taller buildings are appropriately located,*
- c) to ensure that building height is consistent with the desired future character of an area,*
- d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

*2. The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The applicant has submitted the following statement addressing the underlying objectives of the development standard:

- a) "To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*

*The subject land and surrounding sites were rezoned B5 Business Development under the BLEP 2013 and now subject to the higher maximum FSR of 3:1 and building height of 44 metres. The subject site lies at the interface of aging industrial stock to the west and newer airport-related development to the north, east and south. Given the substantial increase in development potential of these sites, it is inevitable and intended that both the industrial area to the west and newer office development be redeveloped in conformity with the increase envisaged by the controls.*

*This proposal, therefore, forms an important first step in the coordinated renewal process sought by the new LEP, which aims to trigger a cohesive*

*intensification of built form in the Mascot area in accordance with the locality's increasing strategic importance within Sydney's Global Economic Arc.*

- b) *To ensure that taller buildings are appropriately located,*

*The proposed development will rise above existing industrial development to the west and existing airport-related office development to its north, south and east. As noted above, the proposal anticipates the redevelopment of aging industrial stock in the short to medium term.*

*Although newer airport-related developments to the north, east and south are less likely to undergo substantial transformation in the short term, these will also be redeveloped in line with the new controls in the future. The proposal maintains appropriate visual relationship with these existing developments characterised by larger lots and building footprints, landscaped front setbacks, and heights of up to 10 storeys. As detailed in sections and elevations, the proposed development will be visible from Bourke and Coward Streets, with the uppermost storeys of the four towers rising above the existing airport-related developments. This stepped arrangement is appropriate for an industrial/commercial zone and will not negatively impact the streetscape of Bourke or Coward Streets. The location of the proposal is therefore considered appropriate.*

- c) *To ensure that building height is consistent with the desired future character of an area,*

*Proximity of the subject land to the Sydney Airport, its location within the Global Economic Corridor and its potential to support urban renewal within Mascot Town Centre are of strategic importance. In response to these development drivers, Council gazetted BBLEP 2013, which establishes a maximum height of 44 metres for the subject and surrounding land. Council also adopted BBDCP 2013, which outlines the desired future character of the Mascot Character Precinct (Chapter 8.7). The BBDCP 2013 requires the following in relation to desired future character:*

*....*

*Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character.*

*Maintain roof forms to reflect the characteristics of the prevailing designs within the street*

*...*

*Preserve and maintain open space areas within the precinct to cater for a variety of recreational needs.*

*Encourage landscaping to be incorporated within the development and site layout to soften the built form, promote pedestrian comfort and enhance the aesthetics of the neighbourhood.*

*As noted above, an office-park style development is not in keeping with the established character of the aging industrial stock to the west as this stock*

*approaches obsolescence. The proposal complements other existing airport-related office developments to the east and is in accordance with the subject land's evolving strategic role, emerging trends within the locality, and recently gazetted planning controls.*

*This proposal can only be enhanced by the inclusion of an accessible roof garden to soften the appearance and contribute an accessible open space for occupants as is encouraged by the DCP requirements listed above. This entails a non-compliance of 0-5% with the building height standard to provide a tower lift/plant core that will enable access while remaining invisible at street level. The accessible roof garden will improve the amenity of the office park as well as set a positive precedent for future development of remaining industrial sites to the west.*

- d) *To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

*The subject land benefits from a location within an established industrial/commercial area away from sensitive land use areas. As a result the proposal will have no impact on views, privacy and solar access for existing development in areas zoned for residential and open space purposes.*

- e) *To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

*The proposal will improve the existing streetscape along Chalmers Crescent through extensive street tree planting to Council specifications and the replacement of unattractive aging industrial stock with a modern office park style development. The proposal also includes extensive landscaped areas at the ground, roof and podium levels and green walls that provide a vegetated outlook to surrounding development and the street are also proposed. Overall these measures will significantly add to the amenity of adjoining properties as well as the public domain.*

*As noted above, the proposal anticipates future change across aging industrial development to the west setting an appropriate precedent for redevelopment in terms of streetscape, skyline and landscape."*

Officer's comment:

The concept plans for the development demonstrate cohesiveness and high quality design with four towers over three levels of car parking with a maximum height of 46.4 metres. The proposal will have good building separation and will activate the podium level with retail uses that will cater for the workers in the area. This will be subject to any subsequent development applications.

The proposal is located in an area that is undergoing redevelopment from older industrial buildings to high quality commercial centres. The proposal is characterised by larger lots and building footprints however continues to be compatible with the surrounding commercial development. While the height of the proposal is greater than surrounding commercial buildings that have a seven to eight storey height limit, it does not exceed any of the maximum heights approved in residential developments within the Mascot Station Precinct.

The desired future character for the Mascot Business Development Precinct has been met as the proposal satisfies the following:

- Encourages and provides for business development that has an affinity or locational need to be near to Sydney (Kingsford Smith) Airport;
- Ensures that the scale, design, material of construction and nature of the development contributes positively to the visual amenity and the gateway function of the area; and
- Ensures that the development supports an efficient and sustainable transport system with a high level of access to public transport.

The height exceedance will not contribute to visual impact, disruption of views, loss of privacy and loss of solar access to existing development or adversely affect the streetscape, skyline or landscape when viewed from public locations. The location of the development is amidst existing commercial and industrial development and is not directly adjacent to any residential development that could be impacted by the proposal. The 2.4 metre height exceedance is attributed to the lift overruns and plant cores which will not be visible when viewed from the street due to their location in the centre of each tower. The height of the development is similar to approved developments within the Mascot Station Precinct and will be compatible with surrounding commercial development. Compatibility of the proposal is met as it provides a commercial enterprise to the area by replacing the existing industrial low scale development along the street.

*Objectives of the B5 – Business Development Zone:*

The applicant has submitted the following statement addressing the underlying objectives of the zoning standard:

*“The subject site is zoned Zone B5 Business Development under BBLEP 2013, the only objective of the B5 Business Development zone is following:*

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

*The proposed building envelope will enable the delivery of 33,795sqm of business floor space to support the Sydney Airport transport gateway and absorb spill-over in demand for commercial floor space from the CBD. This is an appropriate role for the site within the Global Economic Corridor and represents an important opportunity to contribute to jobs growth within City of Botany Bay. Similarly, it will complement the intensification of residential uses within Mascot Town Centre by providing jobs close to the homes of Botany residents. The proposal, therefore, satisfies the objective of the B5 zone.*

*As the objective of the B5 zone does not explicitly deal with the matter of building height, the aims of the BBLEP 2013 listed under clause 1.2(2) have also been considered:*

- (b) to encourage sustainable economic growth and development,*

*Provision of an office campus in close proximity to Sydney Airport and the extensive residential development of the new Mascot Town Centre will encourage sustainability by co-locating jobs and housing.*

*(e) to protect and enhance the natural and cultural landscapes in Botany Bay,*

*Open space is scarce west of O’Riordan Street, the immediate locality of the subject land, owing to the historic dominance of industrial uses in this area. The proposed roof gardens will contribute extensive landscaped open space to meet the needs of future workers within the office-park development. The proposal will provide a landscaped setting for business development as a model for the Mascot Town Centre.*

*(f) to create a highly liveable urban place through the promotion of design excellence in all elements of the built environment and public domain,*

*As noted above, the proposal makes use of every opportunity to provide added amenity to future workers and redress the current deficiency of green open space areas within the locality while achieving the highest sustainability outcomes and setting a positive precedent for future development. Design excellence of the proposal has already been acknowledged by Council’s Design Review Panel.”*

#### Officer’s Comments:

The proposal is satisfactory in that it meets the objective of the zone. The proposal will allow for a commercial development of four towers over a podium and three levels of car parking. The zoning permits for airport-related uses which the proposal will most likely accommodate. The site consolidates a number of properties resulting in a total GFA of 37,805sqm or 33,795sqm NLFA over a total site area of 12,605sqm (including future road purchase). In the original report presented to the Panel, the FSR departure was justified in contributing to the additional height. The height of the proposal is not raised in the objective itself however due to its location to Mascot Train Station, orientation and the surrounding commercial developments, the development will represent an opportunity to contribute to further job growth within the Mascot Business Precinct.

#### Public Interest and Public Benefit

Preston CJ noted that there is a public benefit in maintaining planning controls and a variation to a development standard should not be used in an attempt to affect general planning changes throughout the area.

The variation is 2.4m and is acceptable as the height exceedance is attributed to the lift overrun/plant cores and not attributed to the commercial portion of the building. The standard has been varied within the immediate locality with the majority of residential buildings north of Coward Street reaching a height of RL 51.00m AHD. The variation is 2.4 metres and is acceptable and is not considered an attempt to affect general planning changes through the area.

On the basis of this assessment, it is concluded that the variation is not contrary to the public interest and is able to be supported.

#### Summary

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Council’s reason for refusing the Clause 4.6 as part of the original report presented to the Panel was on the basis of non-compliance with the FSR for

the site. It is onerous to reject the variation when surrounding development within the Mascot Station Precinct have been approved surpassing the maximum height requirement under the Botany Bay LEP. The concept plans do not propose a building height greater than the OLS height of RL51.00. Maintaining and enforcing the development standard in this case is unreasonable particularly as it is contributed from lift overruns and plant cores on the roof top and not the commercial portion of the building.

The proposed variation of the development standard would not raise any matter of significance for State and Regional Planning. The public benefit of maintaining the development standard is considered outweighed by the benefit of the proposed development to the area and economic corridor.

The applicants Clause 4.6 variation is well founded and the minor departure in height is acceptable. On this basis, it is recommended the development standard relating to the maximum building height for the masterplan pursuant to Clause 4.3 of the BBLEP 2013 should be varied in the circumstances as discussed above. This has now addressed the sixth point of deferral raised by the Panel.

#### Botany Bay Development Control Plan 2013

The most relevant and applicable clauses of the Botany Bay DCP relating to the amended plans are considered in the assessment of this Stage 1 Masterplan and are provided below:

#### **Part 3A - Car Parking**

The amended plans demonstrate the reduced amount of car parking spaces earmarked within the concept plans. The amendments to the plans are discussed below with regard to car parking design and loading services:

Control	Proposed	Complies
<b>3A Parking and Access</b>		
<b>3A.2. Parking Provisions of Specific Uses</b> <u>Commercial</u> 1 space / 40sqm GFA  <u>Service Bays</u> For business /office premises with a total GFA of 37,805sqm, the following is required: <ul style="list-style-type: none"> <li>▪ 1 Courier van – 6</li> <li>▪ SRV – 2</li> <li>▪ MRV- 3 + 1/8000sqm GFA</li> </ul>	<u>Commercial</u> Based on a GFA of 37,805sqm, the development triggers 946 car spaces. The amended proposal provides 473 car spaces.  <u>Service Bays</u> Service bays/loading bays: 4 loading bays have been provided Both, MRV and HRV's will service these areas.	<b>No – Refer to Note 2 below</b>
<b>3A.3.1 Car Park Design</b>	Pedestrian access easily	Yes

Control	Proposed	Complies
Pedestrian entrances and exits shall be separated from vehicular access paths.	identifiable. Pedestrian entrances and exits are separated from vehicular access paths.	
<b>C1</b> All off-street parking facilities shall be designed in accordance with the current Australian Standards AS2890.1 and AS2890.6. The design of the off-street commercial vehicles facilities shall be in accordance with AS2890.2	Details relating to this matter are to be demonstrated at future development application stages.	To comply
<b>C2</b> Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction.	The amended concept plans demonstrate that all service vehicles enter and exit the site in a forward direction.	Yes
<b>C40</b> The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	The garbage holding room (to be serviced by the garbage truck) and garbage rooms are located within in the lower ground floor car park directly adjoining the loading bay.	Yes
<b>3A.3.2 Bicycle Parking</b> <b>C1-C5</b> To comply with AS2890.3 & AUSTROADS and provide end of trip facilities and security.	The DCP requires 95 bicycle spaces to be provided. The plans indicate that 43 bicycle spaces are provided within the lower ground level car park. This does not comply with the 10% requirement however as the site adopts the recommendations and requirements of TMAP, the amount of bicycle parking meets the policy. The site provides end of trip facilities (i.e. showers and bicycle repair/sales).	Acceptable
<b>3A.3.4 On-site Loading &amp;</b>	Service vehicles: 4 loading bays to accommodate 4	<b>No – Refer</b>

Control	Proposed	Complies
<b>Unloading</b> <b>C1-C11</b> For business /office premises with a total GFA of 37,805sqm, the following is required: <ul style="list-style-type: none"> <li>▪ Courier van – 6</li> <li>▪ SRV – 2</li> <li>▪ MRV- 3 + 1/8000sqm GFA (5)</li> </ul> For commercial developments, the loading and unloading of vehicles and collection of waste is to be separate to the public car park.	SRV/MRV/HRV vehicles and 5 courier vans.  The applicant has stated that the development is not anticipated to require regular servicing by MRV/HRV. The loading bays are located separately to the public car park and are situated at the front of the site.	<b>to Note 2</b>

### **Note 2 – Car parking, loading and unloading and access**

The amended plans have reduced the total number of car parking spaces from 490 to 473 spaces. As discussed in the original report, Control C2 of Part 3A of the BBDCP 2013 requires commercial/office premises to provide parking spaces based on a ratio of 1 space/40sqm. This generates a total number of 946 spaces required for the development. The amended number of total car spaces is 473. This is a shortfall of 473 car spaces. The applicant has relied on the Transport Management Accessibility Plan (TMAP) which calculates car parking for commercial developments at a rate of 1 space/80sqm. This will result in a total of 473 car spaces. The concept parking number equals the requirement.

The loading bays have been amended so that one is located under Building 1 and 2 and the other located under Building 4 within the ground and lower ground floor car park level. In total, there are 4 loading bays to cater for MRV/HRV service vehicles. The proposal is inconsistent with the number of spaces for service vehicles as part of the Botany Bay DCP which requires a total of 11 service vehicle spaces (including courier, SRV/MRV/HRV). As discussed in the original report, the Applicant has stated that the RMS Guidelines require between 7-8 spaces for service vehicles with 4 of those spaces being truck spaces. The proposal complies with the RMS Guidelines by providing 4 truck spaces and five courier vehicle spaces. This arrangement is acceptable.

The plans have been amended so that the ingress and egress of the loading areas are accessed in a forward direction. This is carried out through the inclusion of two turntables to allow vehicles to manoeuvre within the space. This addresses the concerns that were raised by Council's Traffic Department and the external traffic consultant's report. Additionally, behind the loading bays under Building 4, the applicant has included a garbage and recycling room.

PTC who were the external traffic consultants engaged by Council has acknowledged that the current proposal is a masterplan and comprehensive details relating to the car parking arrangements will be provided with future development applications. Some key issues that PTC raised under the original review and that will need to be addressed in future development applications relate to the car parking circulation and loading bay access particularly as MRV and HRV reverse from the public road into



the dedicated loading bays. Access into the loading bays and car parking circulation has been addressed as part of the amended concept plans. Further detail relating to car parking and loading arrangements are to be dealt with as part of Stage 2.

### **Part 3G, 3I, 3J, 3K and 3N of the BBDCP 2013**

Part 3G- Stormwater Management, Part 3I- Crime Prevention, Safety and Security, Part 3J- Aircraft Noise and OLS, Part 3K- Contamination and Part 3N- Waste Management have been addressed within the original report and are satisfactory.

### **Part 6 – Employment Zones**

Further to the assessment carried out within the original report in Appendix A, the amended plans have been assessed against the numerical controls contained within Part 6. The following table compares the recent modifications of the conceptual plans that were not satisfied in the original report. The controls that have been satisfied previously have been discussed in Appendix A.

<b>Part</b>	<b>Control</b>	<b>Proposed/Comment</b>	<b>Complies</b>
<b>6.3 General Provisions</b>			
<b>6.3.2</b> Building and Site Layout	<b>C2</b> New buildings must address the street, avoid long blank walls facing the street, provide regular modulation of the façade or division of massing.	The four towers over a podium address Chalmers Crescent with the main entry points to the car parking areas and to the buildings off the podium facing the street. The concept plans demonstrate the four commercial towers will not be designed with long solid blank walls. Further detail is to be provided with future development applications.	Yes
<b>6.3.3</b> Floor Space	<b>C1</b> The development is to comply with the maximum permitted FSR under BBLEP 2013	The proposed FSR has been discussed within the BBLEP 2013 table above.	Yes
<b>6.3.4</b> Building Design and Appearance	<b>C1</b> Building height is to comply with the maximum permitted height under BBLEP 2013	The proposed height of the buildings has been discussed within the BBLEP 2013 table and Note 1 above.	<b>No – Refer to Note 1 above</b>
	<b>C3</b> Compliance with CASA requirements	SACL has provided concurrence for the maximum building height of 46.4 metres (RL 51.00 AHD).	Yes

	<p><b>C4</b> The maximum height of development must be compatible with the height of other buildings in the immediate vicinity unless proper planning reasons are presented for the discrepancy.</p>	<p>The sites in the vicinity of the development match the proposed height of the proposal. Residential developments at 7.9 Kent Road (47.4m) and 1-5 Kent Road (47.2m) exceed the 44 metre height limit.</p> <p>Commercial towers directly adjacent to the site have a maximum height of seven to eight storeys. The development preserves surrounding development in terms of visual privacy, overshadowing, and view loss. Therefore the proposal is compatible with existing development in the area.</p> <p>The proposed development is in accordance with the Council's desired future character of the area and has been referred to the relevant state agencies who have no objection to the masterplan.</p>	Acceptable
	<p><b>C6</b> All rooftop structures are to be suitably screened</p>	<p>The rooftop structures i.e. plant rooms and lift overruns are suitably screened and are setback away from the edges of the towers. The structures will not be visible due to their location.</p>	Acceptable
	<p><b>C14</b> Building height, mass and scale should complement and be in keeping with the character of surrounding and adjacent development</p>	<p>The proposal will respond to the existing commercial developments to the east and north of the site, which are characterised by large building footprints and minimal setbacks. The area is undergoing redevelopment from small scale industrial buildings to airport-related commercial towers/hotels. It is expected that the properties to the west and</p>	Yes

		north-west of the site will be redeveloped in a similar manner.	
	<b>C22</b> For new development all loading and unloading facilities and car parking are to be located at the rear or side of any buildings	All loading/unloading and car parking areas are located within the lower ground, upper ground and level 1 car parking levels and will be within the building footprint. The concept plans have been amended so that the loading areas have been located towards the centre and western side of the development with the inclusion of turntables to allow for easy manoeuvring.	Yes
	<b>C27</b> Floor space is to be distributed on the site to ensure the scale of the building reinforces the role of the street and buildings are arranged and aligned to create a pleasant working environment	<p>The proposed floor space in each tower is distributed to create an appropriate scale of development. The applicant has proposed a GFA envelope to comply with the FSR of 3:1 as follows:</p> <ul style="list-style-type: none"> <li>• Building 1: 8,447sqm</li> <li>• Building 2: 8,756sqm</li> <li>• Building 3: 7,719sqm</li> <li>• Building 4: 9,391sqm</li> </ul> <p>The commercial towers are positioned and orientated to maximise solar penetration and create functional open space at podium level.</p>	Yes
<b>6.3.5</b> Setbacks	<p><b>C1</b> Setbacks are to be in accordance with Table 1.</p> <p><u>Building Setback:</u> Front – 9 metres to a non-classified road Side – 2 metres to non-residential zone Rear – Nil to 3 metres</p> <p><u>Landscaping setback:</u> Front – 3 metres to a</p>	<p>The masterplan proposes the following:</p> <p><u>Podium</u> Front:0-5 metres Side: 0-2 metres Rear:0 metres</p> <p><u>Building setback (indicative)</u> <b>Building 1:</b> Front: Nil Side: 6.8m Rear: 4.4m</p>	<b>No – Refer to Note 3</b>

	<p>non-classified road</p> <p>Side – 2 metres to non-residential zone</p> <p>Rear – Nil to 3 metres</p>	<p><b>Building 2:</b> Front: 9.4m Side (to other towers): 17.3m and 15.6m Rear: 8.5m</p> <p><b>Building 3:</b> Front: Nil Side: 10.8m and 14.4m Rear: 6.8m</p> <p><b>Building 4:</b> Front: Nil Side: 8.3m and 10.8m Rear: 9.9m</p> <p><u>Landscape setback:</u></p> <p>Front: 0-2 metres Side: 0-2 metres (greater if considering planting on podium) Rear: 0-6 metres</p>	
	<p><b>C4</b> Setbacks are to be deep soil zones</p>	<p>The development will be built to the northern, southern and eastern boundaries of the site. However, the applicant has made provisions for deep soil planting on the site. The site provides for 2,185sqm landscaped area along the lower ground level. These landscaped areas will be located in between parking bays along the southern, eastern and northern side of the site.</p>	Acceptable
<p><b>6.3.6</b> Parking and Vehicular Access</p>	<p><b>C1</b>All vehicles (including deliveries) are to enter and leave the site in a forward direction with no vehicles permitted to reverse from or onto public road. A Swept Path Analysis may be required for the largest vehicle accessing the site.</p>	<p>The amended concept plan demonstrates that all loading bays allow for forward ingress and egress by incorporating turntables.</p>	Yes

	<b>C2</b> A Traffic and Parking Assessment Report shall be prepared.	A traffic and parking assessment report prepared by Transport and Urban Planning Pty Ltd has been submitted with the masterplan application.	Yes
	<b>C4</b> Parking provision should be in accordance with Part 3A.	Parking and access has been discussed in greater detail within Part 3A of the report above.	Acceptable
	<b>C6</b> Separation of service areas (loading/unloading) and parking areas is required.	There are four loading bays on site which are located at the front of the site within the building footprint. The loading docks will be separated from the main public car park area.	Yes
	<b>C7</b> All loading and unloading operations shall be carried out wholly within the dedicated service bays at all times.	Details relating to the loading and unloading operations are to be provided as part of any subsequent development applications.	To comply
	<b>C2</b> Existing trees are to be retained and adequate provision allowed for their protection as required within Part 3F of the BBDCP 2013.	Refer to the Tree Management section in Part 3L above.	Refer to Part 3L above
<b>6.3.21</b> Business Premises and Office premises in the B5 Business Development zone	<b>C1</b> Building expression through façade modulation, roof silhouette and use of contemporary materials and finishes is required to achieve buildings that are of architectural merit.	A schedule of colours and finishes and a schedule of materials are to be submitted with future development applications.	To comply
	<b>C2</b> Buildings are to have a clearly delineated entranceway to address its main frontage.	The site has four entrances/exits into the car parking levels. The podium has been designed so that the building entrances will be visible across the site. Further detail relating to design elements will be provided with subsequent	Yes

		development applications.	
	<b>C7</b> There should be a balance between the building footprint, parking/circulation and landscaping/open space. The majority of landscaping should front the street.	<p>The four commercial towers are located over a podium which expands across the entire site and will be two storeys in height. There are three levels of car parking with two levels contained above ground and the lower ground level partial underground. The building footprint and landscaped area is considered acceptable when assessing the relationship between building and open space.</p> <p>The majority of the landscaped area is located on the rooftop terrace in addition to the southern, northern and eastern portion of the podium. While this is not compliant, this is acceptable due to the limited amount of space for landscaping. Patches of deep soil is proposed along the side boundaries of the site.</p>	Acceptable

### **Note 3 – Setbacks**

Discussion relating to setbacks is provided above in the assessment of the modifications. While the setbacks are not met, the setbacks are compatible with the surrounding development in the area and will not cause any adverse impacts to sunlight and bulk and scale.

**(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.**

This has been discussed in detail in Appendix A. The Applicant can now comply with the FSR, traffic generation, car parking and building envelopes are acceptable therefore the proposal is supported.

**(c) The suitability of the site for the development.**

The site is located within a 25-30 ANEF Contour which permits commercial development as 'conditional' development. An acoustic report was not provided with the masterplan application and will need to be provided with any future construction of the site.

The Phase I ESA report identifies that the site is suitable for future development. A Phase II report is to be provided for assessment with subsequent Stage 2 Development Applications.

The subject site is of sufficient size to accommodate the building form and achieve an acceptable level of internal amenity in terms of building orientation and relationship with the surrounding area.

Accordingly, the site is suitable to accommodate the proposed development and the proposed development is considered suitable in the context of the site and the locality.

**(d) Any submission made in accordance with the Act or Regulations.**

In accordance with Part 2 of Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a thirty (30) day period from 4 November to 4 December 2015. No submissions were received during the notification period.

**(e) The public interest.**

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest. The application is considered to have satisfactorily addressed Council's and relevant agencies requirements and will provide a development outcome that satisfies and meets the desired future character of the Mascot Business Development Precinct.

## **CONCLUSION**

In accordance with Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act*, the Application is referred to the Sydney Central Planning Panel for determination.

The final amended plans, now submitted to the SCPP for determination, and negotiations between Council and the Applicant in acquiring 1,118sqm of the eastern portion of the road are considered to address a majority of the issues raised in the Panel's record of deferral (dated 28 July 2016), and the design of the concept proposal (as amended) is to Council's satisfaction.

As discussed, the inclusion of the road within the site area will provide compliance with the FSR and partial compliance with the building setbacks. The applicant has not altered the original GFA for the four towers but has relied on the additional site area to comply.

In regards to SEPP No. 55 and Acid Sulfate Soil requirements, the submission of the Phase I ESA report has demonstrated that the site is suitable for future developments. Council is satisfied that this issue has been resolved. Any Stage 2 Development Applications are to provide Phase II ESA for consideration.

The proposal seeks a 2.4 metres height variation to the 44m maximum building height which is comprised of the lift overrun/plant cores. A Clause 4.6 variation demonstrates that the proposal satisfies the underlying objectives of the height control and the proposal will result in the orderly and economic development of the site. The height exceedance is supported by Council.

The car parking layout is considered indicative at this stage, however the amended location and orientation of the service loading bay has been satisfied to allow for forward ingress and egress of service vehicles from the site. While the number of car parking spaces does not comply with the minimum number of spaces under the Botany Bay DCP, the number of car spaces proposed complies with the requirements under the RMS Guidelines and the TMAP. The departure from the number of service is also acceptable as it complies with the RMS Guidelines for the area.

The Stage 1 Masterplan appropriately complies with the form, scale and FSR controls within the BBLEP 2013 and BBDCP 2013 and has been generally endorsed by the Urban Design Review Panel as part of the original proposal.

Therefore, the proposal is recommended for approval subject to the conditions recommended in the attached Schedule.



## 7-9, 14-18 AND 19-21 CHALMERS CRESCENT, MASCOT

### SCHEDULE OF CONDITIONS OF CONSENT

#### **GENERAL CONDITIONS**

- The development is to be carried out in accordance with the following plans (in its amended form) and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent

**Table 1:**

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
DA-010 Site Plan Rev K	Conrad Gargett Riddel Ancher Mortlock Woolley	Dated 21 July 2015 Received 19 October 2015
DA-100 Ground Floor and Lower Ground Floor Plan- Car Park Rev L/A		Dated 8 September 2015 Received 20 December 2016
DA-101 Level 1 and Upper Ground Floor Plan Car Park Rev L/A		Dated 8 September 2015 Received 20 December 2016
DA-102 Level 1a Floor Plan Car Park Rev L/A		Dated 8 September 2015 Received 20 December 2016
DA-103 Level 2 Floor Plan – Podium Office/Retail Rev K		Dated 21 July 2015 Received 19 October 2015
DA-105 Typical Floor Plan- Office Rev K		Dated 21 July 2015 Received 19 October 2015
DA-107 Roof Level Plan Rev K		Dated 21 July 2015 Received 19 October 2015
DA-200 West and South Elevations Rev K		Dated 21 July 2015 Received 19 October 2015
DA-201 East and North Elevations Rev K		Dated 21 July 2015 Received 19 October 2015
DA-300 Section A-A and Section B-B Rev K		Dated 21 July 2015 Received 19 October 2015
LA01 Landscape Ground Floor Plan Rev D	Taylor Brammer Landscape Architects Pty Ltd	Dated 24 July 2015 Received 19 October 2015
LA02 Landscape Podium Plan Rev D		Dated 24 July 2015 Received 19 October 2015
LA03 Landscape Roof Plan and Bridges Rev D		Dated 23 July 2015 Received 19 October 2015
LA04 Landscape Section and Plant Schedule Rev D		Dated 23 July 2015 Received 19 October 2015
C100 Rev C- Site Plan	SGC Consultants Pty Limited	Dated 14 August 2015 Received 19 October 2015
C101 Rev C- Bulk Earthworks Plan		Dated 14 August 2015 Received 19 October 2015
C102 Rev C- Stormwater Concept Plan- Site Plan Sheet 1 of 2		Dated 14 August 2015 Received 19 October 2015
C103 Rev C- Stormwater Concept Plan- Site Plan Sheet 2 of 2		Dated 14 August 2015 Received 19 October 2015

C104 Rev C- Stormwater Concept Plan Details Sheet		Dated 14 August 2015 Received 19 October 2015
C105 Rev C- Soil and Water Management Site Plan and Details		Dated 14 August 2015 Received 19 October 2015
Ref: 28223DT- Survey Plan	Harrison Friedmann and Associates Pty Ltd	Dated 26 June 2009

Reference Document(s)	Author	Dated Received
Ref. 14108r- Assessment of Transport and Traffic Impacts	Transport and Urban Planning Pty Ltd	Dated 25 June 2015 Received 19 October 2015
Ref: 14108L3- Addendum to Traffic Report Rev L- Transport, Traffic and Parking Impacts	Transport and Urban Planning Pty Ltd	Dated 7 March 2016 Received 29 March 2016
Job No.: 60519343- Phase I ESA	AECOM	Dated 18 October 2016 Received 5 December 2016
Ref: 2013.0230-L03- Stormwater Addendum Letter	SGC Consultants Pty Limited	Dated 23 July 2015 Received 19 October 2015
Project No. 13076- Rev C- Hydraulics and Fire Protection Services	Michael Frost and Associates Pty Ltd	Dated 20 July 2015 Received 19 October 2015
Statement of Environmental Effects	Neustein Urban Planning and Design	Dated September 2015 Received 19 October 2015

2. Prior to the determination of any Stage 2 or subsequent Development Applications, the applicant shall consult/negotiate and obtain agreement from Bayside Council, as land owner of the roadway, regarding any proposed purchase or lease of any part of the roadway to enable the development to be carried out.
3. This concept approval does not grant consent for any consolidation, demolition, remediation, excavation or building works. This concept approval is limited to approval for the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum gross floor area, uses, maximum floor space ratio and minimum car parking provisions.
4. Section 94 Contributions are required to be paid in accordance with Council's Section 94 Contributions Plan current as at the time of lodgement of future development application for building works, or as stated in the Plan.
5. This consent relates to land in Lots 11-26 in DP 29697, as such, building works must not encroach on to adjoining lands or other public places. (road purchase)
6. Separate Stage 2 and future development consent shall be sought for demolition of any structures and any civil and built development. Remediation of the site will be Category 2 under SEPP 55, and development consent is not required, but remediation will need to be completed prior to the construction for any building in the relevant Stage.
7. Restrictive covenant
  - a) Within one month of the date of the issue of the operational consent, and prior to the lodgement of the first development application for Stage 2 of the site for buildings

and prior to the lodgement of any section 96 application to modify this consent, whichever occurs first, a restrictive covenant is to be registered on title that burdens the development site land and is enforceable by Council (Council to be the prescribed authority imposing the covenant) in accordance with section 88E of the Conveyancing Act 1919.

b) The terms of the covenant shall be as follows:

*“without limiting any rights available under the Environmental Planning and Assessment Act 1979, any future development on the land must not be undertaken, without the approval of the Council, that would result in:*

- i) An exceedance in the GFA and FSR for any building on the land from the maximum allowable density as set out at Condition 7 Table 2 “GFA and FSR” other than a tolerance for construction variation to a maximum of 2000 square metres of GFA/corresponding FSR for the entire development;*
- ii) An exceedance in the height for any building on the land from the maximum allowable building height as set out at Condition 9 Table 3 “Building Height”;*
- iii) A car parking rate that is less than the minimum allowable parking rates as set out at Condition 14 Table 4 “Car Parking Provision”;*

*In the development consent DA2015/191 (as amended from time to time).”*

- c) Future Stage 2 development applications will also have a covenant in the above terms placed on any future development consent for those applications.
- d) The purpose of this covenant is to ensure that all future owners of the land, who might not otherwise be aware, are on notice that Council has already given concessions resulting in the development being in excess of the relevant controls relating to GFA, FSR, building height and car parking.
- e) The covenant is to run with the land. The covenant is to be placed on the title at no cost to the Council.
- f) This restriction shall cease to exist and the Council will consent to the removal of this restriction from the title following the issue of the final occupation certificate for the last Stage 2 Development Application and the covenant is not required to be transferred onto lots within any future strata plans.

**Note: Condition No. 9 does not permit the variance of GFA, FSR from the maximum stated in Table 2; or variance from the maximum Building Height from the maximum stated in Table 3. Any variation within the terms of the covenant must be justified where necessary via a clause 4.6 variation and agreed to by the consent authority. This condition only varies the wording of the covenant condition to allow for future variations due to construction requirements, within the terms of the covenant. All variations will still need to be addressed on merit. Council will not unreasonably withhold agreement to modify the covenant for more substantive changes following merit based assessment.**

### **GFA and FSR**

- 8. Future development must not be inconsistent with the maximum GFA and FSR for the site as shown in Table 2:

**Table 2: GFA and FSR**

<b>Gross Floor Area and FSR across site</b>	
<b>Total GFA</b>	37,805sqm
<b>Proposed FSR</b>	3:1

9. Where there is a difference between the maximum FSR specified in Table 2 and the approved building envelope for each building, the FSR shall be the lesser of the possible FSR within the envelope or that shown in Table 2.

### **Building Envelopes and Heights**

10. The maximum approved building heights as depicted in DA-200 West and South Elevations Rev K and DA-201 East and North Elevations Rev K prepared by Conrad Gargett Riddel Ancher Mortlock Wolley dated 21 July 2015, as shown in Table 3.

**Table 3: Building Height**

<b>Height of Buildings</b>	
	<b>Height (metres and RL)</b>
Building 1	46.4 metres (RL 51.00AHD) (top of lift overrun/plant cores) 44 metres (RL 48.6 AHD) (top of building and balustrade)
Building 2	46.4 metres (RL 51.00AHD) (top of lift overrun/plant cores) 44 metres (RL 48.6 AHD) (top of building and balustrade)
Building 3	46.4 metres (RL 51.00AHD) (top of lift overrun/plant cores) 44 metres (RL 48.6 AHD) (top of building and balustrade)
Building 4	46.4 metres (RL 51.00AHD) (top of lift overrun/plant cores) 44 metres (RL 48.6 AHD) (top of building and balustrade)

11. The maximum height of the podium must be in accordance with DA-200 West and South Elevations Rev K and DA-201 East and North Elevations Rev K dated 21 July 2015.
12. The following applies to plant rooms and lift overruns for Stage 2 and future development:
- All plant rooms and lift overruns are to be no more than 2.4 metres in height beyond the habitable building height specified in Condition 9 (Table 3) above.
  - All plant rooms and lift overruns shall be integrated into the roof form of the building and suitably architecturally screened.
  - No habitable areas shall be permitted above the maximum building heights shown in Condition 9 (Table 3).
13. Floor to floor heights to be 6 metres for retail uses and minimum 3.6 metres for commercial uses.

14. General design issue arising from the Stage 1 Development that affect the exterior of the building that need to be addressed in detail in the future Development Applications include:

- a) Precise design details of the facades including details of the finishing materials to be used to achieve a harmonious relationship in terms of materials, fenestration, proportions of elements and patterning of the façade. This includes a detailed materials schedule and sample board that clearly identified all external finishes and colours and glazing;
- b) All commercial buildings are to have individual entries on all frontages and provide activation at the podium level;
- c) All roof top plant and associated equipment shall be located within the approved building envelope, which includes roof-top plants, lift overruns, parapets and screening devices; and
- d) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access and Mobility DCP 2013.

### **Car Parking**

15. The approved car parking rates for residential uses shall be in accordance with Table 4.

**Table 4: Car parking provisions**

<b>Car Parking</b>	
	<b>Car parking spaces</b>
<b>Total car parking spaces</b>	473

16. In all future Stage 2 and future development applications for buildings, each car parking structure/level shall be designed in accordance with Part 3A Parking and Access and Part 6.3.6 of the Botany Bay DCP 2013; including and limited to the provision for a 4.5 metre headroom and sufficient turning area for a waste collection and service vehicles to enter and leave the site in a forward direction and compliance with AS2890.

### **Environmental Design**

17. The Stage 2 and future development applications shall include a report addressing:

- a) AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction;
- b) The report must be prepared by a suitably qualified practicing professional Acoustical Consultant. A report must be prepared and submitted with each development application and the building plans endorsed with the required acoustical measures;
- c) Any new electrical substation/s and fire hydrants required to be provided, shall be identified in the future Stage 2 and subsequent development applications. These are to be integrated into the building and suitably screened. They must not be positioned in the street setback unless using existing facilities which must be screened. The location and treatment of these utilities shall be shown on the detailed landscape plan for each development stage.

- d) Access points along the northern- eastern boundary of the site are to be retained should consent from the neighbouring properties be provided for a pedestrian site link to the north of the site (to Coward Street).

### **Engineering Matters**

18. The following Australian Standard needs to be adhered to in the detail design phase of the development. These sections will need to be submitted to and approved by Council:
  - a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements; and
  - b) Demonstrate compliance with Section 3.4 of AS2890.1 in relation to queue length area at driveway entrance.
19. The following Australian Standard needs to be adhered to in the detail design phase of the development. These sections will need to be submitted to and approved by Council:
  - a) All service vehicles shall enter the property front in/front out;
  - b) It will need to be demonstrated that a safe headroom clearance of 4.5m has been achieved along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck; and
  - c) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
20. The following Australian Standard needs to be adhered to in the detail design phase of the development. These sections will need to be submitted to and approved by Council:
  - a) Disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6, SEPP 65 ADG and Council requirements, and
  - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
21. The following DCP Requirements shall be implemented in the detail design phase of the development. These sections will need to be submitted to and approved by Council:  
*(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.)*

The plans shall incorporate but not be limited to the following:

- a) The On-Site Detention System (OSD) shall be designed according to Part 6 of the Botany Bay Stormwater Management Technical Guidelines (SMTG). It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and

**permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.**

- b) A new stormwater pit and pipe system shall be constructed for the entire length of Chalmers Crescent and connect to the existing Council stormwater pit on Kent Road,
  - c) The On-Site Detention System (OSD) discharge outlet shall be connected to the new stormwater pit and pipe system on Chalmers Crescent, Mascot,
  - d) If underground car parking is proposed, no pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
  - e) If underground car parking is proposed, the pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
  - f) If underground car parking is proposed, the pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,
  - g) If underground car parking is proposed, all site specific environmental concerns will have to be addressed,
  - h) All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council drainage system. As such, details of the pollution control device shall be shown on stormwater management plan,
  - i) The rainwater tank(s) shall be constructed in a way enabling the overflow from the Rainwater tanks to drain to the on-site detention system,
  - j) The rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the OSD system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the OSD system is equivalent to 50% of the size of the rainwater tanks,
  - k) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
  - l) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Council’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” that was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.
22. The following requirements shall be implemented in the detail design phase of the development. These sections will need to be submitted to and approved by Council:

- a) The development shall provide a minimum of 1 (one) car space per 80m<sup>2</sup> of gross floor area,
  - b) The signalised intersection at Kent Rd and Coward St will need to be upgraded prior to the commencement of any construction works as part of this development under Stage 2.
23. The following requirements shall be implemented in the detail design phase of the development. These sections will need to be submitted to and approved by Council as part of the future DAs:
- a) A detail civil and pavement design for the reconstruction of Chalmers Street, including the reconstruction of footpaths, kerb & gutter, full width pavement, stormwater drainage and any traffic calming devices needed to manage the increased traffic volumes.
24. Any existing easement(s), right of carriageway(s), right of footway(s) and lease(s) burdening the property, need to be addressed during the detail development application. Construction on or over any easement(s), right of carriageway(s), right of footway(s) and lease(s) without written approval/agreement of the beneficiary is strictly prohibited. The extinguishing of any easement(s), right of carriageway(s), right of footway(s) and lease(s) must be done with the written approval/agreement of the beneficiary and detailed within the relevant stages of development as specified within this consent. Prior to the issue of any Occupation Certificate for the relevant stages of development as specified within this consent, any proposed new easements shall be created in consultation with Council and the beneficiary.
25. Any proposal for acquiring any portion of Council land shall only occur if the acquisition is for the full width of the road reserve. If there are properties who's access is affected by acquisition of the road reserve, an easement benefiting the effected properties shall be created burdening the former road reserve.
26. A Future traffic study is required to incorporate and model the capacity of the Kent Road, Chalmers St intersection due to the intensification and of the AM and PM traffic movements and the change in the traffic composition.

### **Environmental Matters**

27. Following the Stage 1 Preliminary Site Investigation, if required, a Stage 2 Detailed Site Investigation and a Stage 3 Remedial Action Plan shall be prepared and remediation of the site shall be carried out. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to and approved by Bayside Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979.
28. An acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS at the site. Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory.
- 29.



- a) Every future Stage 2 and later development application is to provide a report prepared by a qualified Geotechnical Engineer that models the consequences of lower ground car parking level construction of the development will have on groundwater flow, flooding of the locality, building stability including buildings nearby to the development site and groundwater levels;
- b) If this modelling and investigation give rise to adverse consequences to any or all the nominated issues, the onus is upon the applicant to respond to and address the consequences in a manner that negates adverse impact on the neighbourhood. Such measures are to be detailed in the development application.

### **Conditions imposed from external agencies**

30. Sydney Airport Corporation Limited (SACL) provided the following conditions:

- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. The approved height is inclusive of all lift overruns, vents, chimneys, aerials, TV antennae, construction cranes etc. Should you wish to exceed this height a new application must be submitted.
- d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- f) Information required by Sydney Airport prior to any approval is to include:
  - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
  - ii) the swing circle of any temporary structure/equipment used during construction;
  - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;

- iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- g) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- h) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.
- i) The height of the prescribed airspace at the site is 51 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in the erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the airport, cannot be approved.

#### Planning for Aircraft Noise and Public Safety Zones

- j) Current planning provisions (s. 117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning and for Sydney Airport was endorsed by Air services Australia on 13 March 2009 (Sydney Airport 2029 ANEF).
- k) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

#### 31. Ausgrid provided the following conditions:

- a) Any work undertaken near Overhead Power lines needs to be undertaken in accordance with:
  - i. Workcover Document ISSC 23 "Working Near Overhead Power Lines"
  - ii. Ausgrids Network Standards
  - iii. Ausgrids Electrical Safety Rules
- b) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- c) In general, works to be considered by Ausgrid include, but are not limited to, the following:
  - i. Changes in electrical load requirements;
  - ii. Changes to Ausgrids infrastructure (ie. asset relocations, decommissioning substations etc.);
  - iii. Works affecting Ausgrids easements, leases and/ or right of ways;
  - iv. Changing the gradients of any roads or paths;

- v. Changing the level of roads or foot paths;
- vi. Widening or narrowing of roads;
- vii. Closing roads or laneways to vehicles;
- viii. In all cases Ausgrid is to have 24 hour access to all its assets; and

- d) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

32. Sydney Water provided the following conditions:

- a) The proposed development falls into the category requiring a minimum frontage of 200mm to the development site;
- b) A reticulation solution to provide 200mm water main frontage to the development area would require approximately 300 metres of main amplification from the existing main in Chalmers Crescent;
- c) The 150mm drinking water main in Chalmers Crescent needs to be upsized to a 200mm main;
- d) Detailed water requirements will be provided at the Section 73 Application phase.
- e) The waste water main available for connection is the 225mm main located in Chalmers Crescent;
- f) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets;
- g) Detailed waste water requirements will be provided at the Section 73 application phase.

33. Roads and Maritime Services provided the following conditions:

- a) "Any pedestrian crossing across the eastern leg of Coward Street based on the TMAP concept would reduce the capacity of the intersection, due to the need to provide extended red arrow protection for this crossing and therefore this crossing may not be adopted by RMS.
- b) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime."

34. Future development stages will be integrated development and will require referral to relevant authorities and conditions will be imposed on subsequent development stages.

35. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/191 dated as 19 October 2015 and that any alteration, variation, or extension to the use, for which approval has been given would require further approval from Council.