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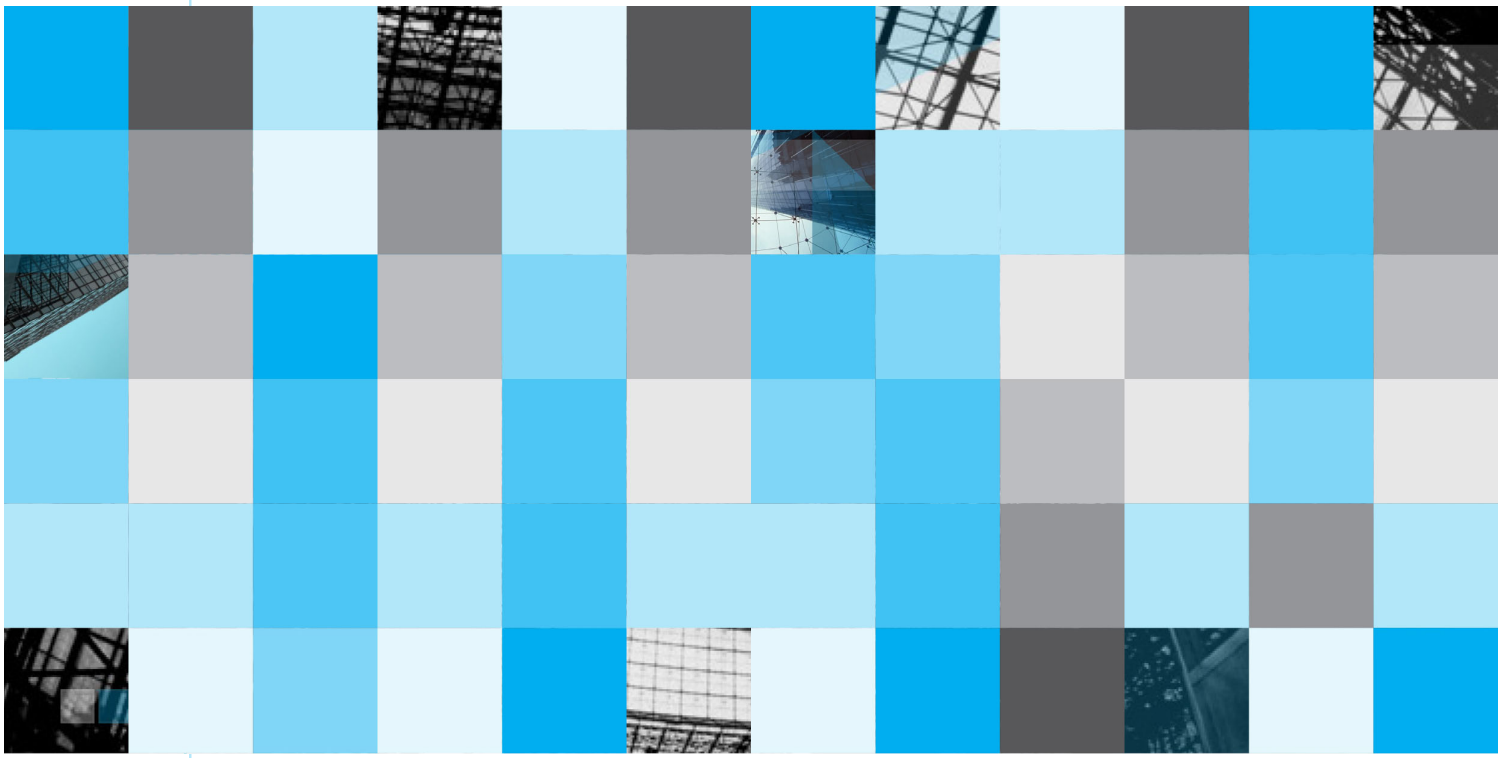

1-5 Chalmers Crescent, Mascot

Statement of Environmental Effects

SUTHERLAND & ASSOCIATES PLANNING

ABN 14 118 321 793 ACN 144 979 564

Statement of Environmental Effects

1-5 CHALMERS CRESCENT, MASCOT

Demolition, consolidation and construction of a commercial development comprising retail and office space

June 2019

Prepared under instructions from
Chalmers Crescent Pty Ltd

by

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1.0 INTRODUCTION

This Statement of Environmental Effects has been prepared in support of a Development Application made under Part 4 of the Environmental Planning and Assessment Act 1979 for demolition, lot consolidation and construction of a 12 storey commercial development at 1-5 Chalmers Crescent, Mascot.

This Statement of Environmental Effects has been prepared in support of the scheme and should be read in conjunction with the architectural plans prepared by Rothelowman architects. The proposal is accompanied by the following supporting documentation:

- Survey – Harrison Friedmann
- Landscape Plan – Ground Ink
- Traffic and Parking Impact Report – Varga
- Wind Report – Windtech
- Geotechnical Report – EI Australia
- Preliminary Site Investigation – EI Australia
- Acid Sulphate Soils Management Plan – EI Australia
- Stormwater Management Report and Stormwater Plan – Van Der Meer
- Flood Report - ACOR
- BCA Report – Building Innovations Australia
- Energy Efficiency Report – Certified Energy
- Accessibility Report – Code Performance
- Acoustic Report – Pulse Acoustic
- Waste Management Plan – Waste Audit
- Construction Management Plan – Platform PPS
- QS Report – Altus Group

This Statement has been prepared pursuant to section 4.12 of the Environmental Planning and Assessment Act 1979 and clause 50 of the Environmental Planning and Assessment Regulation 2000. The Statement provides an assessment of the development proposal having regard to the relevant legislative context, social economic and environmental impacts, potential amenity impacts of the development on the surrounding locality and the measures proposed within the application to mitigate such impacts.

The Statement details the proposed development's compliance against applicable environmental planning instruments and development control plans including:

- State Environmental Planning Policy No.55 – Remediation of Land
- Botany Bay Local Environmental Plan 2013
- Botany Bay Development Control Plan 2013

Having regard to the applicable legislative framework, it is considered that the proposed development is consistent with the aims and objectives of the relevant environmental planning instruments and development control plan whilst being compatible with the desire future character of the locality and minimising any potential impacts on the amenity of the surrounding properties.

2.0 SITE DESCRIPTION AND LOCATION

2.1 Locality Description

The site is located in the suburb of Mascot which is located within the Bayside local government area. The location of the site is illustrated in Figure 1 below.

The site is located within the Mascot Character Precinct and the Mascot Business Development Precinct as identified in the Botany Bay Development Control Plan. The existing character of the Mascot Business Development Precinct is described in the DCP as follows:

> This Precinct is bounded by Coward Street, Alexandra Canal to the west and the airport to the south. The Precinct is comprised of warehouse and distribution developments (related to freight transportation); and industrial developments including smash repair stations and welding businesses. Newer buildings include commercial and office premises with active street frontages comprising coffee shops and retail outlets. Company headquarters occupy the commercial buildings in close proximity to their warehouse operations.
>
> The Precinct is affected by a number of Classified Road Widenings which are identified on the Botany Bay Local Environmental Plan 2013 - Land Reservation Acquisition Map. The Precinct is affected by 20 to 25 and 25 to 30 ANEF Contours and significant road and rail noise.
>
> Part of the suburb is within the zone of influence of the High Pressure Gas Pipeline that follows the ARTC Rail Corridor to the Qenos Site at the Botany Industrial Park, Denison Street, Banksmeadow. Development Applications, planning proposals and rezoning of land received by Council for land within the Zone of Influence will be referred to the APA Group for consideration and comment.

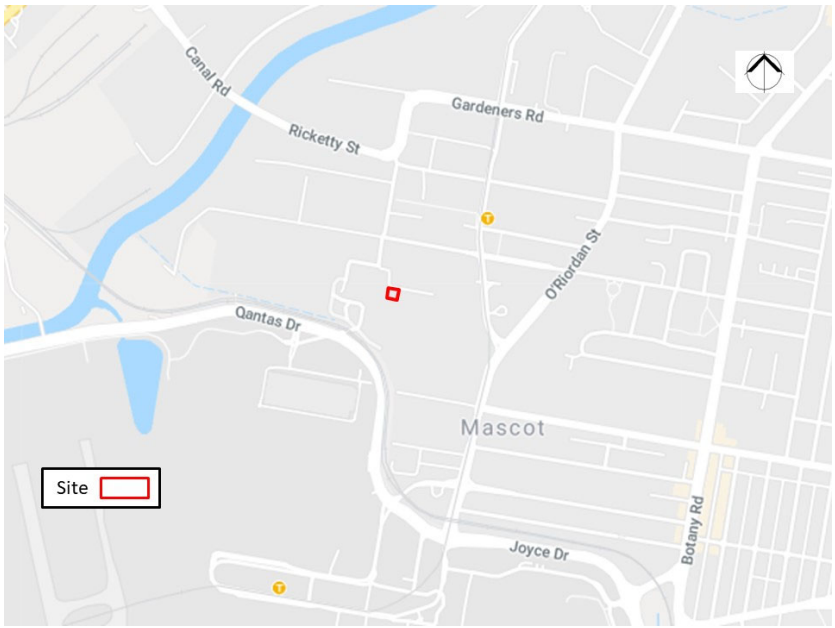

Figure 1:

Site Location: (Source: Google Maps 2018))

2.2 Site Description

The site comprises two allotments and is legally described as Lot 100 in DP 580123 and Lot 1 in DP 1005951 and is known as 1-5 Chalmers Crescent, Mascot. An aerial view of the site is included as Figure 2.

The site is generally rectangular in shape and has an area of 3,154 square metres. The site has a frontage of 60.945 metres to Chalmers Crescent, an eastern boundary of 51.435 metres, a western boundary of 51.88 metres and a southern (rear) boundary of 60.945 metres.

The site is currently occupied by a part one part two storey warehouse building. The building adjoins the eastern, western and southern boundaries and is setback from the Chalmers Crescent frontage. The south eastern corner of the site comprises a hard stand that is currently occupied by a series of outbuildings. The site is serviced by three vehicle crossings from Chalmers Crescent. The building is currently used by a business that involves the manufacturing and distribution of patisserie products.

The topography of the site is generally level. A small amount of landscaping comprising shrubs is located on the site adjacent to the Chalmers Crescent frontage, however, there are no trees on the site. There are several street trees located along the frontage of the site, including a small stand of mature trees in front of 1 Chalmers Crescent and one immature tree in front of 5 Chalmers Crescent.

The site is not identified as a heritage item pursuant to the Botany Bay Local Environmental Plan 2013. The site is also not identified as being located within a heritage conservation area.

Figure 2:

Site (Source: Department of Lands, Six Maps 2018)

Photograph 1:

View of the site from Chalmers Crescent

Photograph 2:

Where the site adjoins 55 Kent Road on its western boundary

Photograph 3:

Chalmers Crescent frontage of the site looking east

Photograph 4:

Chalmers Crescent frontage of the site looking east

Photograph 5:

View of the site from Chalmers Crescent looking toward the south west

2.3 Surrounding Development

To the east, the site adjoins 7-9 Chalmers Crescent which is currently improved by 2 x two storey industrial buildings one of which is built to the common boundary with the subject site. 7-9 Chalmers Crescent is the subject of Development Application DA15/191 that was approved by the Sydney Central Planning Panel on 1 March 2017. Development Application DA15/191 provided Stage 1 concept approval for the consolidation of 16 allotments known as 7-9, 14-18, and 19-21 Chalmers Crescent. The concept approval provided for the following:

- Construction of four eight storey towers comprising primarily commercial uses with lower floor retail space above a single two-storey parking podium
- 3 levels of car parking (including lower ground level) for 428 vehicles, 43 bicycles, and four loading bays with access from Chalmers Crescent.

To the north the site, on the opposite side of Chalmers Crescent is 4 Chalmers Crescent which is improved by a part one part two storey warehouse building which adjoins the eastern boundary. The building is provided with

a nil setback from the Chalmers Crescent frontage on its southern side and a small landscaped setback on its western side.

Also to the north the site, on the opposite side of Chalmers Crescent is a substation and 6, 8 and 10 Chalmers Crescent which are improved by part one part two storey industrial buildings that are occupied by a range of businesses. These buildings are provided with a small setback from the Chalmers Crescent frontage and have either nil or small setbacks from their eastern and western boundaries.

The site adjoins 55 Kent Road to the west, which is improved by 2 x two storey warehouse buildings one of which is built to the common boundary with the subject site. This site is provided with substantial hardstand car parking and manoeuvring areas with vehicular access via Kent Street from both the northern and western frontages. The site also has frontage Chalmers Crescent for part of its eastern boundary.

A large warehouse building currently used as the Qantas Catering facility is located to the south the site.

Photograph 6:

Chalmers Crescent streetscape looking in an easterly direction

Photograph 7:

7-9 Chalmers Crescent the adjoining property to the east

Photograph 8:

The eastern end of Chalmers Crescent

Photograph 9:

10 Chalmers Crescent looking in a north easterly direction toward the high rise commercial development with frontage to Coward Street

Photograph 10:

10 Chalmers Crescent

Photograph 11:

6 and 8 Chalmers Crescent located opposite the site looking in a north easterly direction toward the high rise commercial development with frontage to Coward Street

Photograph 12:

4 Chalmers Crescent located opposite the site looking in a north easterly direction toward the high rise commercial development with frontage to Coward Street

Photograph 13:

Western frontage of 4 Chalmers Crescent

Photograph 14:

View of the north eastern corner of the adjoining development to the west at 55 Kent Road

Photograph 15:

Chalmers Crescent streetscape looking in a northerly direction

Photograph 16:

Chalmers Crescent streetscape looking in a southerly direction toward the subject site

Photograph 17:

The adjoining development to the west 55 Kent Road as viewed from Chalmers Crescent

Photograph 18:

55 Kent Road looking in a easterly direction toward the subject site

3.1 DA-15/191 – Stage 1 Masterplan for 7-9, 14-18 and 19-21 Chalmers Crescent, Mascot

On 1 March 2017, the Sydney Central Planning Panel granted development consent to Development Application DA-15/191 at 7-9, 14-18 and 19-21 Chalmers Crescent, Mascot for a 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:

- Four x eight (8) storey commercial towers with a total GFA of 37,805sqm;
- 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;
- Extensive landscaping of 8,605sqm including ground level setbacks, green façade, podium level landscaped area and green roof;
- A pedestrian overpass linking the podium level on either side of the cul-de-sac at the end of Chalmers Crescent.

The approved development was compliant with the 3:1 FSR control, however, it involved a minor variation to the 44 metre height control with a height of 46.4 metres, significant variation to the front setback control and also a 50% variation to the car parking control.

The variation to the car parking control was supported on the basis that the number of car spaces complied with the RTA rates for commercial development as specified within Council's Transport Management Accessibility Plan (TMAP)of 1 space per 80 square metres of office floor area. Furthermore, the front setback variations were supported on the basis that they were nonetheless consistent with the surrounding context.

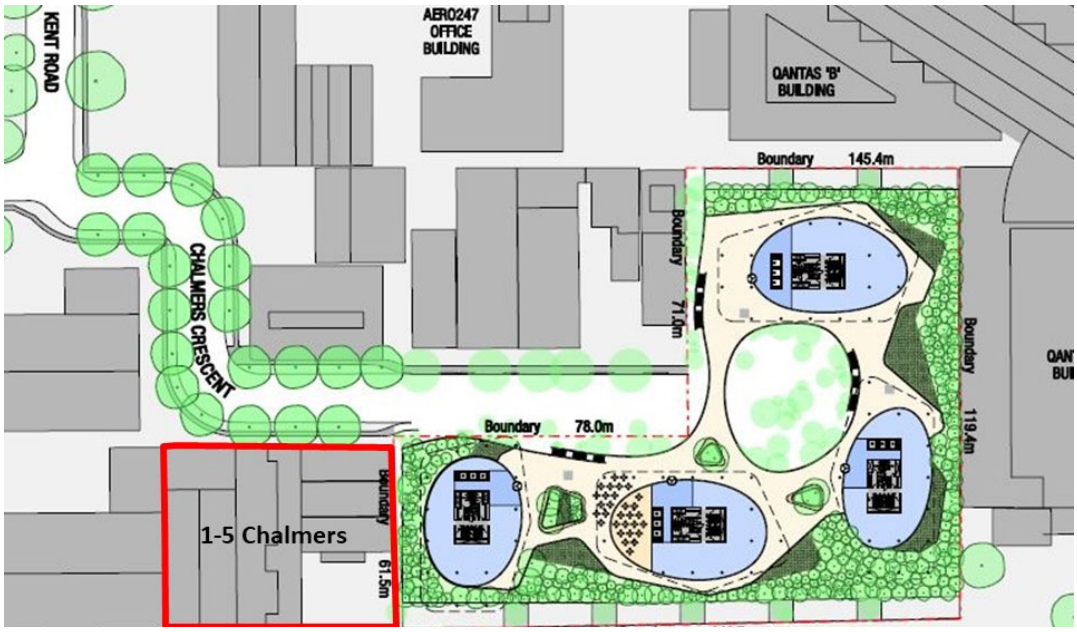

Figure 3:

Approved Masterplan in Chalmers Crescent

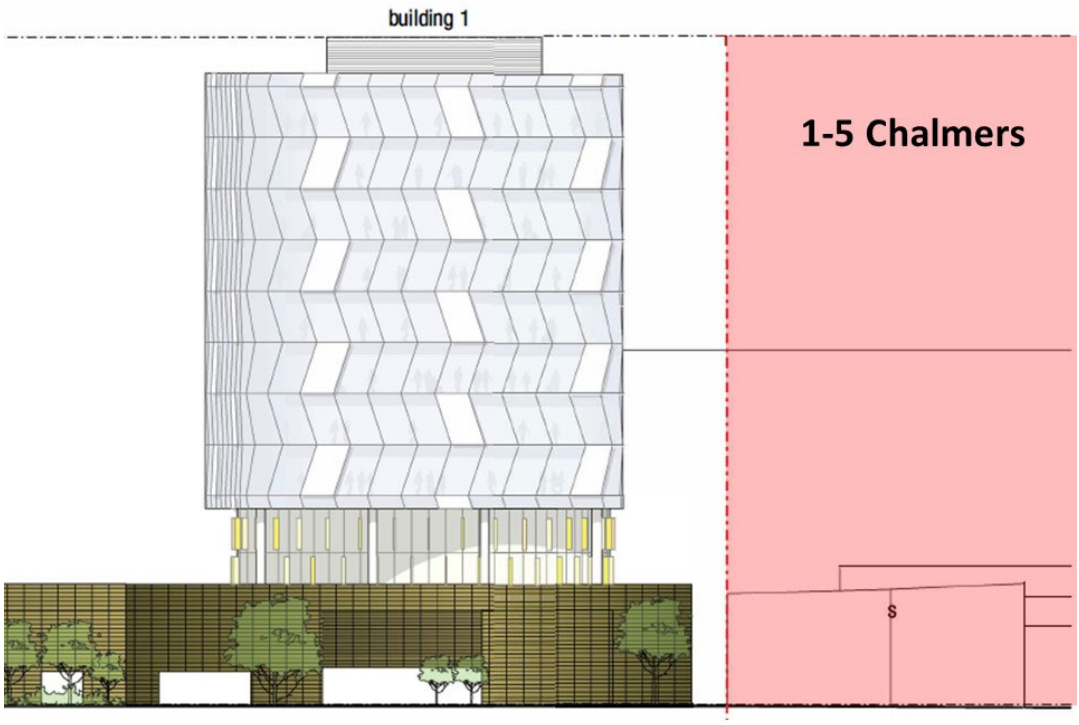

Figure 4:

Elevation of approved building envelope adjacent to the subject site

3.2 DA-2017/1253 – Alterations and additions and change of use to office building – 40 Ricketty Street, Mascot

On 12 June 2018, the Bayside Planning Panel granted development consent to Development Application DA-2017/1253 at 40 Ricketty Street, Mascot for alterations and additions to an existing commercial building including two additional levels.

The approved development was well below the 44 metre height control, however, exceeded the 3:1 FSR control with an FSR of 3.87:1 and also varied the minimum car parking control.

The FSR variation was supported on the following basis (relevant excepts from Council assessment report):

> The proposal is considered to be consistent with the objectives of the FSR development standard for the following reasons:
>
> - The proposed development is compatible with the bulk and scale of the existing development in the area and the future desired character of the locality, given the proposed nature of the site and locality;
> - The proposal has maintained an appropriate visual character in that the building additions are stepped in from the boundaries to further minimise any impact associated with their addition and to provide consistency with the podium type treatments within the Mascot Town Centre which is the backdrop of this development and is consistent the transformation of the area.

- It is not likely that there will be significant adverse impacts from the additional floor space proposed on the amenity of adjoining properties in terms of increased traffic and the lack of on street car parking as the car parking noncompliance is suitably addressed and is acceptable, due to the retention of the existing building , proximity to public transport (train and Bus services) provides bicycle parking and is in proximity to the regional cycleway network and has a large resident population nearby.
- The proposal provides for an appropriate correlation between size of the site and the extent of the development site as a compliant building within the height limit would have significantly greater impacts particularly in relation to dominance, streetscape and overshadowing.

The proposed development is in the public interest as it is consistent with the objectives of the zone in that the proposed development has flexible floor plates within the proposed FSR which can attract and range of tenancies for office premises. This in turn will encourage employment opportunities on the doorstep of a large residential population. It is considered that the proposal is congruent with the objectives of the zone. The proposal is also consistent with the objectives of the development standard and through this assessment has addressed the relevant clauses of 4.6.

The proposed FSR exceedance is not contrary to the public interest as the development has been designed to comply with Council 's maximum building height controls, the bulk and scale of the proposed addition is considered to be appropriate, additional landscaping is to be installed along the Ricketty Street frontage due to RMS not supporting the retention of the existing crossing which will further assist in screening and softening the development. 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.

The car parking variation was supported on the following basis (relevant excepts from Council assessment report):

The proposed alterations and additions to the existing building generate additional floor space and conversions of existing floor space to office accommodation. Table 1 to Part 3A.2 of the DCP provides a rate of 1 car parking space per 40 square metres of floor area, which would require the provision of 172 car parking spaces in this instance. However, this part of the DCP applies to the entire local government area of the former Botany Bay Council

Part 9A of the DCP applies to the Mascot Station Town Centre Precinct which is approximately 80 metres to the east of the subject site and Part 9A.4.4.9 Car Parking Rates of the DCP provides a significantly reduced car parking rate of 1 space per 80 square metres of gross floor area for new office development, which would require a parking provision of 86 parking spaces for the proposed use. Whilst this part of the DCP does not technically apply to the subject site, these reduced parking rates are derived from the Mascot Town Centre Precinct Transport Management and Accessibility Plan (Mascot TMAP) and the subject site is located within the study area to which the Mascot TMAP applies. The car parking rates and traffic analysis within the

TMAP have therefore assumed an office car parking rate of 1 space per 80 square metres for the subject site and so it is considered that the DCP intends a car parking provision of 86 car parking spaces for the proposed quantum of office floor space.

The site is located in very close proximity to Mascot Train Station and a range of bus services. Pedestrian access to the train station has recently been significantly improved with the completion of nearby large scale mixed use developments which incorporate publicly accessible through-site links to provide a pedestrian route to the train station, which is largely of high amenity.

Council and the Joint Regional Planning Panel have also recently approved a shortfall for a site at 1-3 Ricketty Street, (DA-2017/1198) which involved a shortfall of 273 spaces and the approval for the office development at 7-9 Chalmers Crescent (DA 2015/191) involved a shortfall of 473 spaces (50%). These are the most recent commercial approvals in this locality.

The proposed development encourages alternative transport options to the building with the provision of 20 bicycle spaces and end-of-journey facilities within the ground floor. The site is in close proximity to the regional cycleway network.

The reduction in car parking provision on the site will achieve a positive outcome as it will serve to minimise traffic impacts associated with the proposed development which is of critical importance in this location, and will serve to encourage higher public transport patronage and well as walking and cycling. As such this is considered to meet clause 1.2 of the BBLEP 2013, being the aims of the plan in that the approach taken for car parking encourages sustainable economic growth and development by reducing the reliance on the motor vehicle and utilising an existing built form.

In light of the above commentary it is considered that in this instances that the proposed provision of car parking is therefore appropriate for the site in the circumstances.

3.3 Pre-Lodgement Discussions

Pre-lodgement discussions have been held with Bayside Council in relation to the proposal. The feedback concerning the proposal was positive and in particular noted the following:

- The proposed scale of the building at 44m provides a sensible match the approved adjacent development notwithstanding the variation to FSR.
- Given the scale is sensible, the proposed FSR variation is potentially capable of support provided that it can be demonstrated that the variation does not result in any greater impacts beyond a compliant FSR. In particular, it would need to be demonstrated that the additional FSR does not result in traffic impacts beyond a compliant scheme and the most appropriate way of doing this is to provide a lower rate of car parking for the additional office gross floor area. The development should also provide high quality end-of-journey cycling facilities.

4.0 DEVELOPMENT PROPOSAL

4.1 Description

The subject development application seeks consent for the following:

- Demolition of existing buildings on the site;
- Lot consolidation;
- Construction of a twelve storey commercial development comprising two ground floor retail tenancies, four level of parking within the podium, and 8 levels of office use above.

The proposal is detailed on the accompanying architectural plans prepared by Rothelowman architects and specifically involves the following:

Ground Floor

The ground level of the development is set within the four storey podium and is provided with a 4.9-9 metre setback from the Chalmers Crescent boundary as well as a 3 metre setback from each side boundary. The configuration of the ground floor plane provides for a fine grain active frontage with the buildings architecture combined with the public domain improvements, ground level retail and cafe use and pedestrian entry that will serve to activate and enliven the street frontage of the site. At ground level the proposed development provides:

- Two retail tenancies on the Chalmers Crescent frontage.
- A central double height lobby accessed directly from Chalmers Crescent which provides pedestrian access to each level of the development.
- A combined ingress / egress driveway.
- 41 car parking spaces, loading dock, 30 bicycle parking spaces and associated end of trip facilities.
- Sub-station and other plant.

Mezzanine/Levels 1-2

Car parking for 180 car spaces, managers office, storage and plant.

Levels 3-10

Seven levels of office space comprising a total of 139 office suites. Each level contains central communal facilities including breakout spaces and toilet facilities. A number of suites on each level have the benefit of a private balcony, whilst a large communal terrace is provided on Level 10.

4.2 Design Intent

The proposed development is for a new modern commercial building of high architectural quality. The design intention of the new development is to create vibrant building which references the various internal uses in the façade expression and with datums which respond to the recently approved adjacent development. The proposal also seeks to adopt a vertical architectural language above a podium base which references the language of the adjacent concept approval.

The facade composition comprises an activated ground floor plane with a generous glazing which combined with a generous and varied ground level setback will achieve a significant improvement and contribution to the adjacent public domain. The podium levels utilise a highly tactile breezeblock which creates visual interest as well as natural ventilation for the car parking levels. This language is continued in a central vertical plane whilst the two 'wing' office elements are differentiated by the use of concrete which is punctuated by glazing.

The varied architectural language generates a high level of visual interest and will positively contribute to the emerging character of this precinct.

Figure 5:

Photomontage of the proposed development

4.3 Numerical Overview

Element	Proposed
Site Area	3-5 Chalmers Crescent: 2,170.03 square metres 1 Chalmers Crescent: 983.97 square metres Total: 3,154 square metres total
Gross Floor Area	3 - 5 Chalmers Crescent: 7,584 square metres
Floor Space Ratio	3.495:1
Height	44 metres
Storeys	12 storeys
Front Setbacks	Ground – 4.9-9 metres Podium – 3 metres Tower – 9 metres
Car Parking	219 +2 courier spaces
Motorcycle Parking	12
Bicycle spaces	39 (30 internal and 8 visitor)

4.4 Materials and Finishes

The proposed materials and finishes are detailed in the architectural plans provided by Rothelowman architects.

4.5 Access and Parking

Pedestrian access is provided from Chalmers Crescent via a central lobby which provides lift access to all levels of the building. Access to the lobby from both Chalmers Crescent and the car park will be security controlled.

Vehicular access is provided via a combined ingress / egress driveways on the Chalmers Crescent frontage. This driveway will circulate around the site with a series of ramps providing access for vehicles to the four levels of the podium.

4.6 Consolidation and Stratum Subdivision

The proposal involves the consolidation of Lot 100 in DP 580123 and Lot 1 in DP 1005951.

5.0 STATUTORY PLANNING FRAMEWORK

5.1 Environmental Planning and Assessment Act 1979

In accordance with section 4.15(1) of the Environmental Planning & Assessment Act 1979 in determining a development application a consent authority is to take into consideration the relevant matters listed in section 4.15(1). Section 5.2 of this report addresses the relevant provisions of the applicable environmental planning instruments as required by section 4.15(1)(a)(i). Section 5.3 of this report addresses the relevant provisions of the applicable development control plan as required by section 4.15(1)(a)(i). The remaining provisions of section 4.15(1) are addressed further in section 5 of this Statement.

5.2 Environmental Planning Instruments

5.2.1 State Environmental Planning Policy No.55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out of any development on that land and if the land is contaminated, it is satisfied that the land is suitable in its current state or will be suitable after remediation for the purpose for which the development is proposed to be carried out.

A Preliminary Site Investigation has been undertaken by EI Australia and accompanies this application. The Assessment includes a desktop analysis of the history of the site given the limited site access with the majority of the site occupied by buildings. EI Australia have concluded that the site can be made suitable for the proposed warehouse and commercial development subject to a Hazardous Materials Survey being undertaken prior to demolition and a detailed targeted site investigation, which can be undertaken once demolition has occurred.

Based on the above, it is considered that Council can therefore be satisfied that the site is suitable for the proposed development and conditions of consent can be imposed to ensure that the appropriate measures are undertaken during construction.

5.2.2 Botany Bay Local Environmental Plan 2013

Zoning and Permissibility

The site is located within the B5 Business Development zone pursuant to the Botany Bay Local Environmental Plan 2013 (BBLEP). An extract of the Land Zoning Map is included as Figure 7.

The proposal is for the demolition of all structures on the site and the construction of a new 'commercial premises' which is defined as follows:

> ***commercial premises*** means any of the following:
>
> (a) business premises,
>
> (b) office premises,
>
> (c) retail premises.

Commercial premises are permissible with consent in the B5 Business Development zone.

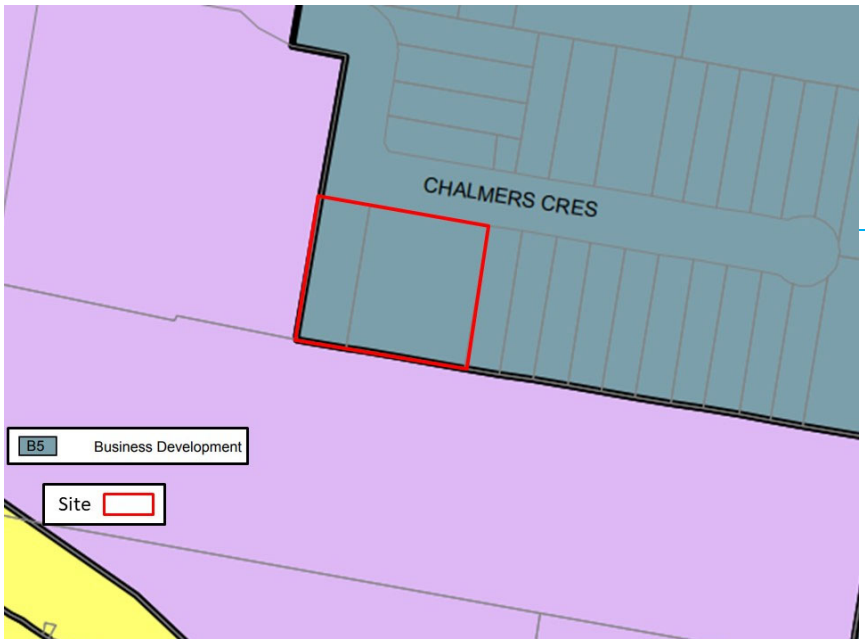

Figure 7:

Extract from the BBLEP Land Zoning Map

Clause 2.3(2) of the BBLEP provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objective of the B5 Business Development zone is:

- 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 proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building. The proposed development provides retail and office uses which will support the viability of the centre and provide much needed modern employment floor space in a location which is in close proximity to Sydney Airport and various transport nodes including Mascot train station and is also well sited to encourage walking and cycling.

For the reasons the proposal is considered to be consistent with the objective of the B5 zone.

Subdivision

Clause 2.6 of the BBLEP states that Land to which this Plan applies may be subdivided, but only with development consent. The application does not propose subdivision.

Demolition

Clause 2.7 of the BBLEP requires development consent to be granted for and prior to the demolition of a building or work. The application proposes the demolition of the existing structures on the site.

Height

In accordance with clause 4.3 'Height of Buildings' of the BBLEP 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 maximum height shown for the site is 44 metres as shown in Figure 8. The proposed development has a maximum height of 44 metres and complies with the maximum 44 metre height control.

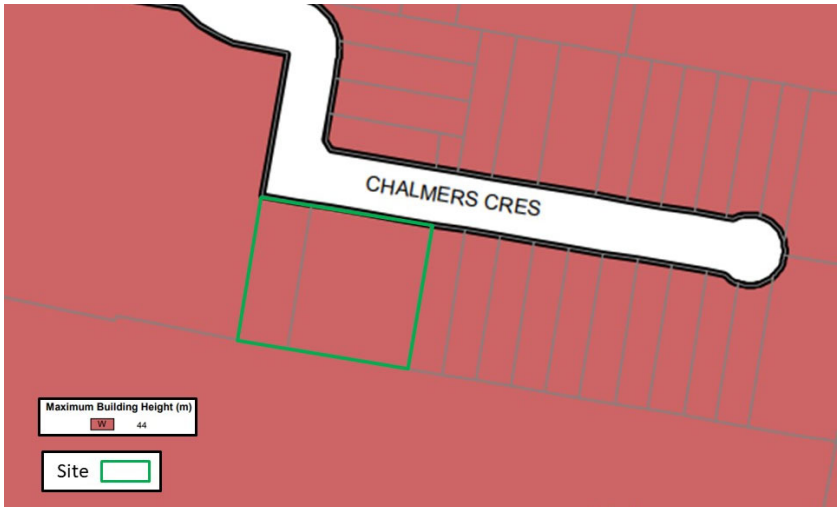

Figure 8: Extract from the BBLEP Height of Buildings Map

Floor Space Ratio

Clause 4.4 of the BBLEP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The Floor Space Ratio Map shows the eastern portion of the site (3 and 5 Chalmers Crescent) within area 'V1' with a floor space ratio of 3:1 applying to this portion of the site. There is no specified floor space ratio for the western portion of the site (1 Chalmers Crescent). An extract of the Floor Space Ratio Map is included as Figure 9.

Figure 9: Extract from the BBLEP FSR Map

The part of the proposed development on the eastern portion of the site (3 and 5 Chalmers Crescent) has an FSR of 3.495:1 which exceeds the FSR control of 3:1 for this part of the site. However, strict

compliance with the FSR control is considered to be unreasonable and unnecessary under the circumstances for the following reasons:

- The proposal has been designed to respond properly to opportunities and constraints of the site and is considered to provide an appropriate outcome having regard to the context of the site. A reduction in the floor space ratio of the development would not result in any meaningful difference in relation to the impact of the proposal however would diminish its fit within the context of the other approved towers with Chalmers Crescent. Furthermore, a reduction in floor space would unnecessarily reduce employment opportunities on an ideally located site, to the detriment of achieving the vision for the Mascot Business Development Precinct.
- The height of the development complies with the 44 metre height limit under the BBLEP 2013 and so any reduction in density would not require a reduction to the overall height and scale of the development.
- The proposed development provides both retail and office uses which will support the viability of the centre and provide much needed employment floor space in a location which is close Sydney Airport and various transport nodes.
- The availability and capacity of local infrastructure and public transport supports the additional floor space proposed. The site is located in close proximity to Mascot Train Station and a range of bus services.
- The density proposed does not give rise to any unreasonable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.
- The location of the subject site and restriction on car parking for the building is such that the proposed additional floor space does not generate any additional traffic beyond that which would be generated by a complying development on the site which would involve the same car parking provision.
- A high level of amenity is provided for occupants of the development.
- There is a sustained history over many years, including before the BBLEP 2013 came into effect, of Council supporting variations to the FSR control for many sites within Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate, as is the case for the proposed development.
- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

Clause 4.6(2) of BBLEP 2013 provides that development consent may be granted for development even though the development would contravene a development standard imposed by BBLEP, or any other environmental planning instrument.

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
- there are sufficient environmental planning grounds to justify contravening the development standard.

A request for an exception to the FSR development standard, prepared on behalf of the applicant, is included as Appendix A which demonstrates that strict application of the development standard, in the absence of any tangible impact, would be unreasonable and without basis.

Heritage

The site is not identified as a heritage item in Schedule 5 of the BBLEP nor is the site located in the vicinity of any heritage items. The site is also not located within a heritage conservation area.

Acid Sulfate Soils

Clause 6.1 of the BBLEP relates to acid sulfate soils. The objective of the clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The site is identified as Class 2 land on the Acid Sulfate Soils Map. Pursuant to clause 6.1(2) development consent is required for works below the natural ground surface and by which the watertable is likely to be lowered. Subclause (3) provides that development consent must not be granted under the clause for the carrying out of works unless an acid sulfate soils management plan has been prepared. An Acid Sulphate Soils Management Plan prepared by EI Australia accompanies this application.

Earthworks

The objective of clause 6.2 of the BBLEP is to ensure that earthworks for which development consent is required will not have a detrimental impact on the environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Subclause (3) requires the consent authority to consider the following matters before granting development consent:

> (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
>
> (b) the effect of the proposed development on the likely future use or redevelopment of the land,
>
> (c) the quality of the fill or the soil to be excavated, or both,
>
> (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
>
> (e) the source of any fill material and the destination of any excavated material,
>
> (f) the likelihood of disturbing relics,
>
> (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area
>
> (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The extent of proposed earthworks are unlikely to result in a significant or adverse disruption of drainage patterns at the site, given that there is no basement proposed. A detailed stormwater management and drainage plan has been prepared and accompanies this application. The plans detail the provision for

onsite stormwater detention and various control measures across the site. The proposed development is unlikely to disrupt or negatively impact on neighbouring land uses or structures with adequate measures proposed to mitigate against potential instability during the construction. It is not expected that relics will be unearthed given the site has previously been developed. The site is not significant in terms of its contribution to habitat nor is it environmentally sensitive. All reasonable measures will be taken to avoid, minimise or mitigate the impacts of the development.

Stormwater management

Clause 6.3 Stormwater management of the BBLEP provides that:

> (1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.
>
> (2) This clause applies to all land in residential, business and industrial zones.
>
> (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
>
> (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
>
> (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
>
> (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

A detailed stormwater management and drainage plan has been prepared and accompanies this application. The plans detail the provision for onsite stormwater detention and various control measures across the site. All reasonable measures will be taken to avoid, minimise or mitigate the impacts of stormwater runoff from the development.

Airspace Operations

Clause 6.8 of the BBLEP prevents Council from granting consent to a proposal which would penetrate the Limitation or Operations Surface, unless it has consulted with the relevant Commonwealth body about the application. The subject site is subject to a 51 metre AHD Obstacle Limitation Surface. However, the proposal does not penetrate the Obstacle Limitation Surface with a maximum height of approximately RL 48.50.

Development in areas subject to airport noise

Clause 6.9 provides that before granting consent to development on land in the vicinity of Sydney Airport the consent authority:

a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and

b) will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

The site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and in determining the subject application Council must take into consideration the guidelines provided in AS 2021 for aircraft noise. In this regard, the proposal consists of a commercial use within an existing industrial area, which is considered 'conditional' within the 25-30 contour under Table 2.1 of the Australian Standard AS 2021 for aircraft noise.

Design excellence

Clause 6.16 applies to land at Mascot Station Precinct on the Key Sites Map. The site is located within the Mascot Station Precinct. Subclause (3) states that development consent must not be granted to development involving the construction of a new building or to external alterations to an existing building on land to which this clause applies unless the consent authority considers that the development exhibits design excellence.

Subclause (4) states:

> (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:
>
> (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
>
> (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
>
> (c) whether the development detrimentally impacts on view corridors,
>
> (d) the achievement of the principles of ecologically sustainable development.

The proposed development is considered to exhibit design excellence for the following reasons:

- The bulk, massing and modulation of the proposed development complies with the height of buildings control and is consistent with the density of development approved for the majority of other sites in the precinct.
- The design intention of the new development is to create a building which references the adjacent approved commercial building envelopes. The tower elements are setback and located above the podium and will appear as a lightweight and contemporary elements to the building. The facade of the podium has a highly textured finish which will give the podium a modern appearance with a high level of modulation within the façade treatment.
- A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane by improving the

relationship between the building and the frontages through the provision of active uses along the frontage and by introducing a landscaped character to the site.

- The proposed development will sit comfortably within the future streetscape of Chalmers Crescent.
- The internal planning of the proposed development is well resolved and a high standard of architectural design and materiality is proposed as detailed in the architectural plans prepared by Rothelowman architects.
- The proposed development will achieve a high level of amenity for the occupants.
- The proposal achieves the principles of ecologically sustainable development.

5.3 Botany Bay Development Control Plan

The Botany Bay Development Control Plan 2013 (BBDCP) came into force on 17 December 2013 and has been amended on several occasions.

The DCP has been prepared to guide future development within the Botany Bay Local Government Area, support the controls found within the Botany Bay Local Environmental Plan 2013 and protect and enhance the public domain.

The following table addresses the proposal's compliance with the relevant provisions of Parts 3, 6 and 8 of the DCP.

Control	Requirement	Proposed
Part 3 General Provisions		
3A.2 Car Parking	General: Table 1 provides the following minimum car parking rates: Office premises are required to provide 1 space per 40m2 of GFA. Table 1 does not provide a minimum car parking requirement for a café with a GFA less than 100m2, but does indicate that the following parking provision is desirable: 1 space / 2 employees; plus 1 space / 3 seats (internal and external); or 1 space / 10m^2 GFA, whichever is greater In relation to cafes Table 1 indicates that applicants can take into account car parking available in adjacent parking areas, including on-street and its time of usage. Alternatively a parking assessment based on survey	Based on the proposed gross floor area each use generates the following requirement of car parking: Office premises floor area (9,441m2) – 236 car parking spaces. Café/Retail (174.4m2) - 17 car parking spaces. Total car parking spaces required = 253 The proposal provides 219 car parking spaces. Refer to discussion under Section 5.3.1.

Control	Requirement	Proposed
	of similar sized developments can be utilised	
	Car parking: C4 Where tandem or stack parking is proposed, the following shall be complied with: (i) A maximum of two (2) spaces will be permitted for each tandem or stacked parking arrangement. No small car spaces defined in AS2890.1 shall be used as tandem or stacked parking; (ii) For multi-unit developments, each tandem or stacked parking arrangement shall be allocated to the same unit/ strata title; (iii) Tandem or stacked parking arrangement shall not be used for visitor parking; and (iv) Shuffling of stacked vehicles shall be carried out wholly within the premises.	A small amount of tandem parking is proposed, however, the proposed tandem parking arrangement has been designed consistent with the DCP requirements in that: • A maximum of two spaces are provided; • It will not be used for visitor parking; and • All vehicle manoeuvring associated with the tandem parking arrangement will be undertaken within the boundaries of the site.
	Bicycle Parking: C7 In every new building, where the floor space exceeds 600m² GFA (except for houses and multi unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.	The proposed development incorporates 38 bicycle parking spaces within the basement level carpark which substantially exceeds 10% of the required parking provision of 333 car spaces.
3A.3.1 Car Park Design	General: C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2. C2 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	A Traffic and Parking Report prepared by Varga accompanies the application which addresses compliance with the standards relating to the car park design and includes a swept path analysis.

Control	Requirement	Proposed
	site is made in a forward direction (except for dwelling houses). C5 A swept path analysis shall be provided for manoeuvring of commercial vehicles.	
	Location: C10 Off-street parking facilities are not permitted within the front setbacks. C11 Car parks must provide a direct and safe access to a building's entry and exit (well lit and free of concealment opportunities). C12 Off-street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.	No car parking is provided within the front setback. All vehicles will enter and exit the site in a forward direction minimising the impact of vehicles on pedestrian movements. The vehicular entry point will be lit at night and free of concealment opportunities. The ground level car parking will be concealed within the building envelope and will not be visible from Chalmers Crescent. The upper parking levels will be concealed by the building façade.
	Access: C13 Pedestrian entrances and exits shall be separated from vehicular access paths. C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments.	All vehicular access to the site has been designed to ensure all vehicles enter and exit the site in a forward direction minimising the impact of vehicles on pedestrian movements. Pedestrian access is separated from vehicular access. The proposal provides a single access point which will facilitate an appropriate traffic outcome as it will allow vehicles to enter and exit the site in a forwards direction and minimise conflict between cars and service vehicles.
	Basement parking: C21 Basement car parking facilities are preferred for large scale development. C22 Basement parking areas are to be located directly under building footprints to maximize opportunities for deep soil planting.	The proposal does not include basement level car parking.
	At-Grade Parking: C25 At-grade parking shall be avoided for large scale residential and commercial development.	All parking is contained within the building and there is no at-grade car parking.

Control	Requirement	Proposed
	Non-Residential: C29 Car parking areas shall be adequately finished with fully sealed surfaces, internal drainage systems, line markings, appropriate kerbing, paved aisle dividers and/or wheel stops. C30 Appropriate landscaping which responds to the site conditions and surrounding context, particularly the transition between public and private spaces must be provided on-site. C31 The minimum width of access driveway for non-residential development shall be designed to accommodate the largest commercial vehicle accessing the site in accordance with AS2890.2.	All parking and manoeuvring areas will be sealed and finished in accordance with Council requirements. The proposal incorporates site landscaping as detailed in the accompanying landscape plan prepared by Ground Ink. A Traffic and Parking Report prepared by Varga accompanies the application which addresses vehicular access and manoeuvring.
	Pavement: C32 All off-Crescent parking areas and internal circulation roadways shall be sealed with hard-standing all weather materials or approved alternatives to Council's satisfaction.	All parking and manoeuvring areas will be sealed and finished in accordance with Council requirements.
	Lighting: C34 Adequate lighting shall be provided if the parking facility is expected to be used at night. Design of lighting shall be in accordance with relevant Australian Standards and be consistent with the relevant requirements to allow drivers to manoeuvre vehicles safely into and out of parking spaces.	Lighting will be provided in accordance with the relevant Australian Standards.
	Accessible parking: C35 Accessible parking spaces for people with disabilities shall be designed in accordance with AS2890.6.	The development provides a total of 8 accessible car parking spaces that are located in close proximity to an accessible lift.
	Waste Collection Points: C40 The waste collection point shall be designed to:	A Waste Management Plan accompanies the application and indicates that waste will be collected from within the building by a private waste contractor

Control	Requirement	Proposed
	(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. C41 Where any collection vehicles are required to enter a building, the access will provide for: (i) Minimum vertical clearance (clear of all service ducts, pipes etc) of 4.5 metres, depending on the gradient of access and the type of collection vehicle; (ii) Collection vehicles shall enter and exit the premises in a forward direction; (iii) Maximum grades shall be 1:20 for the first 6 metres from the property boundary, then a maximum of 1:8 with a transition of 1:12 for 4 metres at the lower end; (iv) A minimum width of an access driveway shall be in accordance with AS2890.2; (v) Minimum turning circle radius is to be 10.5 metres; (vi) For new development, access must be designed to accommodate a Council garbage truck (MRV) as well as any vehicles used by private waste contractors; and (vii) For new residential development fronting a classified road, provision must be provided on site for a 23 cubic metre capacity rear load garbage compactor to enter and exit the site in a forward direction. Refer to Part 3N.5.2 Garbage	

Control	Requirement	Proposed
	Dimensions for Residential Waste Collection. C42 For multi-unit residential buildings and multi-storey commercial buildings, waste collection points shall be located inside the building, for example - in an underground car park, as this reduces noise impact on surrounding residents.	
3A.3.2 Bicycle Park Design	C1 Bicycle parking areas shall be designed in accordance with Australian Standards AS2890.3 and AUSTROADS Guide to Traffic Engineering Practice, Part 14, Bicycles. C2 Bicycle parking and access shall be designed to ensure that potential conflicts with vehicles are minimised. C3 Bicycle parking is to be secure (lockers, compounds or racks) and located undercover with easy access from the street and building entries. C4 End of trip facilities accessible to staff (including at least 1 shower and change room) are to be provided for all commercial, industrial and retail development.	The proposal provides secure bicycle parking within the ground floor that is easily accessible from the street and building entries which will be designed to comply with the relevant Australian Standards. End of trip facilities are provided that include separate male and female shower and change rooms.
3A.3.3 Traffic and Transport Plans and Reports	C1 A Traffic and Parking Impact Assessment Report shall be provided for development: (i) Listed in Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007; and (ii) Where, in the opinion of Council, the proposed development is likely to generate significant traffic and/or parking demand or land use. C2 The Traffic and Parking Impact Assessment Report shall be prepared by a qualified and experienced traffic engineer.	A Traffic and Parking Report prepared by Varga accompanies the application which addresses compliance with the car parking requirements and standards relating to the car park design, local traffic conditions, traffic generation associated with the development and the availability and frequency of public transport.
3A.3.4	C2 The number of service bays shall be provided in accordance with Table	Office premises with a GFA of 10,000-14,999m2 are required to provide a

Control	Requirement	Proposed
On-Site Loading and Unloading Facilities	2. Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number.	minimum of 4 service bays for courier vans, 2 bays for SRV and 2 bays for MRV. The proposal provides 1 loading bays capable of accommodating an SRV as well as 2 courier spaces/service bays. Whilst not strictly meeting the minimum requirement, having regard to the proposed use of predominantly small office with minimum deliveries, adequate provision for parking of services vehicles is provided. Servicing of the development is addressed further within the Traffic and Parking Report prepared by Varga that accompanies the application.
3C Access and Mobility	Commercial and industrial developments: A Statement of consistency is to be lodged with the DA. Appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards. General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities. In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided. The ratio of accessible parking spaces will comply with Table D3.5 of BCA, except that car parks for retail and medical facilities will provide 5% of spaces as accessible.	The Accessibility Report which accompanies this application confirms that appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards is provided. Eight accessible parking spaces are proposed within the carpark.
3D Signage	Not applicable.	Signage for the building will be the subject of a future development application.

Control	Requirement	Proposed
3E Subdivision & Amalgamation	DAs shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area.	The proposed lot consolidation will not detract from the existing or prevailing subdivision pattern which is significantly varied. The proposed development represents a high quality architectural outcome for the site that is consistent with the desired future character of the Mascot Business Development Precinct.
3F – Not Allocated		
3G Stormwater Management	Stormwater Management: C2 Stormwater runoff generated from the development site shall be collected and discharged in accordance with Council's Part 10 – Stormwater Management Technical Guidelines.	The application is accompanied by Stormwater Concept Plan prepared by Van Der Meer that provides details of the stormwater management measures that have been designed having regard to the Part 10 – Stormwater Management Technical Guidelines.
	Water Sensitive Urban Design: C1 All Development Applications shall adopt the following ten WSUD design elements (refer to Water Sensitive Planning Guide: for the Sydney Region (2003)): (i) Integrating the design; (ii) Respecting the site; (iii) Conserving water; (iv) Preventing increased flooding; (v) Preventing increased stream erosion; (vi) Maintaining water balance; (vii) Reducing ecotoxic risk; (viii) Controlling stormwater pollution; (ix) Managing the construction site; and (x) Ensuring long-term effectiveness.	The application is accompanied by Stormwater Concept Plan prepared by Van Der Meer that provides details of the stormwater management measures that have been designed having regard to water sensitive urban design elements. The development incorporates water sensitive urban design measures as outlined in this documentation.
	Stormwater Quality: C1 Water quality objectives stated in "Botany Bay & Catchment Water Quality Improvement Plan (BBWQIP)" shall be satisfied.	The application is accompanied by a Stormwater Concept Plan prepared by Van Der Meer which demonstrates that the development will achieve the necessary post development pollutant load standards.

Control	Requirement	Proposed
	C2 As a minimum, stormwater runoff generated from developments for regular rainfall events (i.e. 1 in 2 ARI storm events) must be captured for treatment prior to discharge from the site.	
3H Sustainable Design	Passive design: C1 Buildings are to be oriented and designed to achieve optimum solar access and natural ventilation where practical. C2 Measures to reduce heat loss and gain in winter and summer must be incorporated into the building design. Details to be provided at DA stage. C3 The following design elements must be incorporated in regards to the natural ventilation of buildings: (i) Windows and doors are to be sited to allow for cross flow ventilation from prevailing winds; (ii) Landscaping and water features are to be used to provide evaporative pre-cooling; (iii) Internal walls and partitions are to be positioned to allow for any prevailing passage of air through the building; and (iv) Insulation is to be used in external walls and roofs to reduce heat escaping from a building in winter and to maintain a lower internal temperature in summer.	The design of the building takes advantage of the sites northerly aspect and will receive excellent levels of solar access and natural ventilation. The proposed design and construction methodology reduce heat loss and gain in winter and summer and provide for natural ventilation, incorporating the following measures: • fittings and fixtures to minimise energy use, • Insulated roofing to limit heat gain and heat loss to the environment, • Construction comprises high thermal mass components such as on-ground concrete slab flooring and concrete wall panels.
	Solar Panels: C4 Solar hot water systems are encouraged to be installed in all new developments and major alterations and additions.	No solar panels are proposed.
3I Crime Prevention, Safety and Security	The building is to be designed in accordance with CPTED principles.	The proposed development provides opportunities for natural surveillance to Chalmers Crescent. The entries to the development will be appropriately lit at night to enhance safety, visibility and legibility. Effective access control has

Control	Requirement	Proposed
		been achieved through the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development such as the entrances and lobbies will be well used.
3J Aircraft Noise & OLS	In certain circumstances and subject to Council's discretion, Council may grant consent to development where the building site has been classified as "conditional" or "unacceptable" under Table 2.1 of AS2021-2000 Pursuant to Part 3J.3 of the DCP if a building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to Civil Aviation Safety Authority and Airservices Australia for assessment.	The site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and in determining the subject application Council must take into consideration the guidelines provided in AS 2021 for aircraft noise. In this regard, the proposal consists of commercial and warehouse uses within an existing industrial area, which is considered 'conditional' within the 25-30 contour under Table 2.1 of the Australian Standard AS 2021 for aircraft noise As the site is within the area identified on the OLS map and the building exceeds 15.24 metres, Council is required to refer the application to the Civil Aviation Safety Authority and Airservices Australia for assessment.
3K Contamination	Contamination of the site is to be investigated in accordance with SEPP 55 and the Managing Land Contamination: Planning Guidelines.	The development application includes sufficient information to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination as detailed under the SEPP 55 discussion above.
3L Landscaping and Tree Management	General Requirements: A Landscape Plan is to be prepared. C1 Existing trees including street trees must be preserved. The arrangement of buildings, secondary dwellings, pods, car parks, driveways, ancillary building and paved vehicle/other circulation spaces must consider existing trees and incorporate them into the site layout. C2 Landscaping will be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain, or from within the	The proposed development incorporates deep soil landscaping within the front building line to Chalmers Crescent, and within both the eastern and western side boundary setbacks, as well as planters on the upper levels. A Landscape Plan prepared by Ground Ink accompanies the application and has taken into consideration the requirements detailed within the BBDCP.

Control	Requirement	Proposed
	site, and to screen utility and vehicle circulation or parking areas. Emphasis is to be placed upon landscaped setbacks. C9 A deep soil landscape zone is required for all developments within boundary setbacks (particularly where a site adjoins a residential property), communal and private open space, and green corridors.	
	Planting Design & Species C2 A minimum of 80% of a planting scheme is to consist of native plants. Locally indigenous species, as specified in Part 10 – Technical Guidelines for Landscaping on Development Sites, are to be incorporated where practical and suit the microclimate conditions.	A Landscape Plan prepared by Ground Ink accompanies the application and has taken into consideration the requirements detailed within the BBDCP in terms of species selection.
3M Natural Resources	Not applicable.	Not applicable.
3N Waste Minimisation and Management	Demolition, construction and ongoing waste is to be minimised. A Site Waste Minimisation Plan is to be submitted for all development applications.	A Waste Management Plan prepared by Waste Audit accompanies the application which addresses waste management during demolition, construction and ongoing use. A common garbage storage room is provided at ground level.
Part 6 Employment Zones		
6.1.3 Contamination	Contamination of the site is to be investigated in accordance with SEPP 55 and the Managing Land Contamination: Planning Guidelines.	The development application includes sufficient information to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination as detailed under the SEPP 55 discussion above.
6.1.4 Design Quality Principles	Developments covered by this Part are required to consider the following Design Quality Principles:	
	P1 The contribution of industrial and business land use activity at the Local, Regional and State levels.	The proposal will provide for an increased employment density on the site with modern employment floor space in a desirable location which is close Sydney Airport and various transport nodes.

Control	Requirement	Proposed
		The proposal provides for both commercial and retail uses which are ideally suited to other land uses in the Mascot Business Development Precinct.
	P2 The improvement to the built form/urban form and public domain of the industrial and business areas of the City.	The proposed development provides a new modern commercial building of high architectural quality, with the proposed development representing a high quality architectural outcome for the site that will positively contribute to the character of the Mascot Business Development Precinct whilst delivering an increased employment density on the site. A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building.
	P4 The efficient design, operation and function of industrial / business land uses.	All plant and equipment required for the development will be located within the site boundaries and screened from public view. The proposal provides a combined ingress / egress driveways on the Chalmers Crescent frontage. The proposed car parking and vehicular access provides efficiencies in terms of access to the site and the ability to provide car parking suitable for the demand created by the proposed development. A Traffic and Parking Report prepared by Varga accompanies the application which addresses compliance with the standards relating to the access and car park design. The proposed use will not result in any unreasonable impacts on surrounding properties.
	P5 The need for a compatible and workable relationship between industrial/business and nonindustrial/business uses.	The site does not adjoin any residential land uses. The use as retail and office premises is unlikely to generate any unreasonable noise impacts or affect air quality levels. The Traffic and Parking Report prepared by Varga that accompanies the

Control	Requirement	Proposed
		application addresses the impact of the proposed development on local traffic conditions and finds that the proposal will not result in any adverse traffic implications.
	P6 The promotion of developments that are sustainable and encourage the protection of the environment.	The redevelopment of the site is consistent with the principles of ecologically sustainable design.
6.2 Precinct Controls		
6.2.4 Mascot Business Development Precinct	C1 Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car polling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application.	The site is particularly well located in terms of access to a range of public transport options. It is anticipated that a Workplace Travel Plan would be required as a condition of consent.
	C2 Developments, including alterations and additions shall: (i) Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings.	The proposed development provides a new modern commercial and retail building of high architectural quality, with the proposed development representing a high quality architectural outcome for the site that will positively contribute to the character of the Mascot Business Development Precinct. As the site is within the area identified on the OLS map and the building exceeds 15.24 metres Council is required to refer the application to the Civil Aviation Safety Authority and Airservices Australia for assessment.
	C3 Development which seeks the maximum building height under the Botany Bay Local Environmental Plan 2013 and is within land bounded by Coward Street, O'Riordan Street and Bourke Road; development along eastern side of O'Riordan Street; and development within land bounded by Baxter Road, O'Riordan Street, Joyce Drive and Botany Road, will penetrate the Obstacle Limitation Surface (OLS) and would need to be assessed by CASA, Airservices Australia & the Airlines before an application could be	The site is not located within the designated areas.

Control	Requirement	Proposed
	submitted to the Department of Infrastructure & Transport for their determination.	
	C4 Redevelopment of property must take into account any road widening affectation.	The site is not affected by road widening.
	C5 Development must not adversely affect the operation of duplication of the Sydenham-Botany Good Railway Line.	The proposal will not adversely affect the operation of duplication of the Sydenham-Botany Goods Railway Line.
	C6 Development within 25 metres of either side of the centre line of the Airport Line Tunnel is to be referred to RailCorp.	Not applicable.
	C7 Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).	The site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and in determining the subject application Council must take into consideration the guidelines provided in AS 2021 for aircraft noise. In this regard, the proposal consists of commercial and retail uses within an existing industrial area, which is considered 'conditional' within the 25-30 contour under Table 2.1 of the Australian Standard AS 2021 for aircraft noise.
	C8 The introduction of noise abatement measure to achieve compliance with current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	Any noise abatement measures required to achieve compliance with AS 2021 will be integrated within the architecture of the proposed development and will not negatively impact on the character of the streetscape.
	C9 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008'.	Not applicable.
	C10 Development of 4 storeys or more in height, adjacent to a school, are to consider the following:	Not applicable.

Control	Requirement	Proposed
	(i) Mitigation of overshadowing impacts on the school and its grounds through setbacks and controlled bulking and scaling of buildings; (ii) Orientating internal spaces so that low occupancy rooms face school property; and (iii) Windows and balconies are to be designed to reduce opportunities for overlooking school grounds.	
	C11 Any new development proposals (regardless of scale) which are located along O'Riordan Street or Robey Street (within the area defined within Figure 4 – Mascot Business Development Precinct) must be referred to Roads and Maritime for consultation at the Pre-DA stage	Not applicable.
6.3 General Provisions		
6.3.1 Amalgamation and Subdivision	Development must comply with Part 3E - Subdivision and Amalgamation.	The proposed lot consolidation will not detract from the existing or prevailing subdivision pattern which is varied. The proposed development represents a high quality architectural outcome for the site that is consistent with the desired future character of the Mascot Business Development Precinct.
6.3.2 Building and Site Layout	C1 A site analysis plan is to be lodged with the Development Application in accordance with the Council's Development Application Guide.	A site analysis plan forms part of the architectural package.
	C2 Through careful site arrangements new building works must: (i) Address the street and highlight any non-industrial aspects (ie office section) of the development; (ii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; and (iii) Provide regular modulation to the façade or division of massing.	The configuration of the ground floor plane provides for a fine grain active frontage with the buildings architecture combined with the public domain improvements, ground level commercial and cafe use and pedestrian entry that will serve to activate and enliven the street frontage of the site. The design provides differing architectural typologies for the upper and lower components of the building each with considerable articulation, with the

Control	Requirement	Proposed
		commercial tower appearing as a lightweight and contemporary element to the building. No blank walls are proposed facing the street.
	C3 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.	The proposal has been designed to respond properly to opportunities and constraints of the site and is considered to provide an appropriate outcome having regard to the context of the site. A reduction in the floor space ratio of the development would not result in any meaningful difference in relation to the impact of the proposal or its fit within its context, but would harm the contribution of the project towards employment floor space to the detriment of achieving the vision for the Mascot Business Development Precinct.
	C4 Setbacks are to be deep soil zones (refer to Part 3L - Landscaping for Definition). No part of the building or structure (including basement car parks, driveways, or OSD/infiltration system are to encroach into the setbacks.	Deep soil landscaped zones are provided on the northern, eastern and western sides of the development.
	C13 For sites in excess of 1,000m^2, an outdoor staff recreation area is to be provided. This area: (i) Must be a minimum of 16m^2. with a minimum dimension of 3 metres; (ii) May be located within the front building setback, within an upper floor balcony, in an enclosed courtyard or in any other landscaped setting on the site. If this area is provided within the landscaped area at the front of the site, then the landscaped setback required in Part 6.3.5 - Setbacks should be increased by an additional 1 metre; (iii) Should be designed to include a table and chairs; (iv) Enable at least 6m^2, to receive direct sunlight for the four hours	Terraces are provided throughout the development that well exceed the minimum size and dimension outlined within the DCP and will provide high quality break out spaces that will deliver considerable amenity for building occupants. In addition, a generous 511 square metre roof top terrace is also provided. The terraces are designed and located to receive good levels of solar access and will be provided with shade in summer.

Control	Requirement	Proposed
	between 10am and 2pm during mid winter; and (v) Should provide shading in summer.	
	C15 Building entrances are to be clearly defined and located so that visitors can readily distinguish the public entrance to each building. Access to each entrance is to be provided by a safe direct route, avoiding potential conflict with vehicles manoeuvring on site.	The building entrance will be easily identifiable from the public domain. All vehicular access to the site has been designed to ensure all vehicles enter and exit the site in a forward direction, minimising the impact of vehicles on pedestrian movements.
6.3.3 Floor space	The maximum FSR is identified on the Floor Space Ratio Map within Botany Bay Local Environmental Plan 2013.	The part of the proposed development on the eastern portion of the site (3 and 5 Chalmers Crescent) has an FSR of 3.58:1 which exceeds the FSR control of 3:1 for this part of the site. There is no specified floor space ratio for the western portion of the site (1 Chalmers Crescent). This issue is addressed under the BBLEP 2013 considerations above in this Statement as well as in the Clause 4.6 variation which accompanies the proposal.
6.3.4 Building Design and Appearance	Height: C1 The maximum building height is indicated in the Building Height Map attached to the Botany Bay Local Environmental Plan 2013. C2 The maximum height of an industrial building must comply with other controls in this DCP relating to urban design, solar access, privacy and residential/industrial interface. C3 Compliance with the Civil Aviation Safety Authority requirements. C4 The maximum height of a building must be consistent with the height of other buildings in the immediate vicinity. C6 All rooftop or exposed structures including lift motor rooms, plant rooms, etc., together with air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in	The proposed development complies with the maximum 44 metre height control, with a height of 44 metres proposed. The height of the proposed development will sit comfortably within the streetscape of Chalmers Crescent, being generally consistent with the development recently approved at 7-9 Chalmers Crescent. The architectural package demonstrates that plant and equipment is either enclosed within the building envelope or where provided on the roof will be appropriately screened.

Control	Requirement	Proposed
	order to ensure a properly integrated overall appearance.	
	Design: C7 All development applications involving external building works must be accompanied by a schedule of finishes and a detailed colour scheme for all external walls. C8 External finishes must be robust and graffiti resistant. C10 Walls of new development must make use of non reflective colours and materials to avoid glare. The maximum reflectivity of any glazing is not to exceed 20% to avoid nuisance in the form of glare to occupants of nearby buildings, pedestrians and motorists. C11 All elevations of a building fronting a public place, or visible from a rail line, public place or proposed road, must be constructed of face brickwork or other decorative facade treatment to Council's satisfaction. C12 Buildings should be of a contemporary and innovative design. All public frontages should be specially articulated with the use of brick, stone, concrete, glass (non-reflective), and like materials, but not concrete render. C13 Open style or transparent materials are encouraged on doors and/or walls of lifts and stairwells, where fire safety requirements allow. C14 Building height, mass, and scale should complement and be in keeping with the character of surrounding and adjacent development. C15 New buildings must be designed to: (i) Address the street and highlight any non-industrial aspects (such as the office section) of the development;	The proposal will deliver a modern commercial building of high architectural quality that is generally consistent with the design controls relevant to new development. The design intention of the new development is to create building which references the commercial use whilst providing differing architectural typologies for the upper and lower components of the building. The commercial tower is setback and located above the podium and will appear as a lightweight and contemporary element to the building. The facade of the podium will give the podium a modern appearance with a high level of modulation within the façade treatment. A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. The proposed materials and finishes are detailed in the architectural plans provided by Rothelowman architects. The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane through the provision of active uses along the frontage and by introducing a landscaped character to the site. The proposed building materials will not lead to hazardous, undesirable or uncomfortable glare to pedestrians, motorists or occupants of surrounding buildings.

Control	Requirement	Proposed
	(ii) The administration office or showroom must be located at the front of the building; (iii) The front door to a building is to face the street; (iv) Building entrances should be clearly defined and well articulated through form, materials and colour and provide level or ramped access; (v) Waiting areas and entries to lifts and stairwells are to be close to areas of active use and be visible from building entrances; (vi) Windows on the upper floors of a building must, where possible, overlook the street; (vii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; (viii) New construction is to achieve both functional and visually attractive buildings; (ix) Provide regular modulation to the facade or division of massing; (x) Architecturally express the structure of the building by variation and minimal use of reflective glass; (xi) Visually reinforce entrances, office components and stair wells of units to create rhythm on long facades and reduce perceived scale; (xii) Introduce variation in unit design within building works; (xiii) Introduce solid surfaces, preferably masonry, and incorporate horizontal and vertical modulation including windows in appropriate proportions and configurations; (xiv) New development on corner sites must address both street frontages in terms of facade treatment and articulation of elevations; and	

Control	Requirement	Proposed
	(xv) Avoid bulky roof forms or extensive blank facades in a single material or colour.	
6.3.5 Setbacks	C1 Setbacks are to be in accordance with the following Table 1. The DCP suggests the following setbacks: • A 9m building setback and 3m landscaped setback to Chalmers Crescent. • A 2m landscaping and building setback to the eastern and western side boundaries. • A nil to 3m landscaping and building setback from the southern rear boundary.	The proposal is provided with a variable front setback from the Chalmers Crescent frontage of 4.9-9m on the ground level, 3m on the podium levels, and 9m for the tower levels. The proposed setbacks have been designed to be generally consistent with the recently approved development at 7-9 Chalmers Crescent where it adjoins the subject site, and the general character of other development in the vicinity of the site that is typically provided with nil or minimal setback from Chalmers Crescent. The proposal provides for increased setbacks in locations at the ground floor to provide meaningful landscape pockets and recesses, and variable setbacks on the upper levels to achieve a high level of façade modulation which results in the development having an acceptable visual bulk impact when viewed from surrounding properties and the public domain with the development will sitting comfortably within the streetscape of Chalmers Crescent. The proposal is provided with a 3 metre setback from both side boundaries with exceeds the minimum required 2 metres. The proposal provides a nil setback from the southern rear boundary for the podium levels which is appropriate having regard for the character of surrounding development, however, introduces variable setbacks for the office levels above of between 3.2 metres to 5.2 metres.
6.3.6 Parking and Vehicular Access	C1 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. C2 A Traffic and Parking Impact Assessment Report shall be prepared.	All vehicles will enter and exit the site in a forward direction. The proposal incorporates a loading bay and is designed to allow all servicing, including garbage collection, to be carried out within the site boundaries.

Control	Requirement	Proposed
	C3 Car parking areas are to be suitably covered with canopy trees and are to be screened with landscaping and paved to reduce their impact (refer to Part 3L - Landscaping). C4 Parking provision should be in accordance with the Part 3A - Car Parking. C5 All internal circulation roads, turning areas, parking aisles, parking bays, service areas and service bays are required to be sealed with hard standing all weather materials. Any alternative materials require Council approval. C6 Separation of service areas (loading/unloading) and parking areas is required. C7 All loading and unloading operations shall only be carried out wholly within the dedicated service bays at all times and shall not be made direct from public places, public streets or any road related areas. C8 All loading/unloading facilities and service bays (including parking bays for commercial vehicles) are to be provided in accordance with the current RMS "Guide to Traffic Generating Developments" and Australian Standard 2890.2 - 2002 Off Street commercial vehicle facilities. C9 All loading docks, car parking spaces, internal circulation access and access driveways are to be kept clear of goods at all times and should not be used for storage purposes including garbage storage, good and machinery. C10 Access driveways/vehicular crossings are to be designed to accommodate the turning circle of the largest vehicle expected to use the service area without crossing the centreline of the road. Specific	Where possible service areas have been separated from parking areas. A Traffic and Parking Report prepared by Varga accompanies the application which addresses compliance of the proposal with the car parking requirements and standards relating to the car park and vehicular access design, local traffic conditions, traffic generation associated with the development and the availability and frequency of public transport.

Control	Requirement	Proposed
	consideration is to be given to two-way simultaneous movements C11 The minimum width of the access driveways/vehicular crossing at the property boundary shall be in accordance with AS2890.2. C12 All servicing, including garbage collection, is to be carried out within the site with suitable collection points at convenient locations. C13 The following information is required: (i) Details of all traffic generation and possible impacts; (ii) The largest vehicle expected to access the site (including delivery); (iii) The frequency of deliveries to the site; and (iv) The maximum number of staff expected to be on-site at any one time.	
6.3.7 Signage	Not applicable.	Signage for the building will be the subject of a future development application.
6.3.8 Site Facilities	New site facilities such as mail boxes and electricity sub-stations shall be designed and/or sited so that they enhance the development.	The proposal provides a new substation adjacent to Chalmers Crescent. Letterboxes will be located along the front boundary and be clearly visible and accessible from the street.
6.3.9 Landscape	Landscaping is to be designed to ameliorate the bulk and scale of industrial and business park buildings, to shade and ameliorate large expanses of pavement and surfacing, to create a comfortably scaled environment for pedestrians in the public domain or from within the site and to screen utility areas and the like. Emphasis is to be placed on leafy internal spaces and landscaped setbacks designed for screening and visual amenity.	The Landscaped Plan prepared by Ground Ink that accompanies the application demonstrates a high quality landscaping solution for the site that will provide a generously landscaped setting for the development when viewed from Chalmers Crescent having regard to the character of the area. The proposed development incorporates landscaping within the front building line to Chalmers Crescent, within both side boundary setbacks and is incorporated throughout the design of the building with various planters.

Control	Requirement	Proposed
		The proposed landscaping will soften the built form, provide a human scale to the development whilst providing an improved contribution to the Chalmers Crescent streetscape.
6.3.12 Noise and Hours of Operation	To ensure appropriate noise attenuation measures are incorporated into building design and site layout.	An Acoustic Assessment prepared by Pulse Acoustic accompanies the application and details a number of design measures which will be implemented to ensure that the development incorporates appropriate noise attenuation measures to ensure that noise generated from the operation of the development does not adversely affect surrounding properties.
6.3.13 Waste	Development must comply with Part 3N - Waste Management and Minimisation. Sufficient space shall be provided for on-site separation and storage of recyclables and garbage.	A Waste Management Plan prepared by Waste Audit accompanies the application which addresses waste management during demolition, construction and ongoing use. A common garbage storage room is provided at ground level.
6.3.14 Environmental Protection	To ensure that development takes account of and minimises any adverse effects upon the environment. To limit the potential for noise, air (including odour), ground water, soil and surface water pollution	Appropriate measures will be employed within the design to ensure the development does not result in any adverse environmental effects from the ongoing use of the premises. The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.
6.3.15 Risk	To ensure that any risk to human health, property or the natural environment arising from the operation of the development is minimised and addressed.	The use will not involve the storage and/or transport hazardous substances.
6.3.21 Business Premises & Office Premises in the B5 Business	C1 Building expression through façade modulation, roof silhouette and the use of a variety of contemporary materials and finishes is required to achieve buildings that are of architectural merit, innovation, variety	The proposal represents a new modern commercial building of high architectural quality. The design intention of the new development is to create a building which references the commercial use whilst providing differing architectural typologies

Control	Requirement	Proposed
Development & B7 Business Park Zones	and attractiveness. There is to be a balance between the solid walls and openings and between horizontal and vertical planes. A Schedule of Finishes is required for new buildings. C14 There shall be a minimum landscaped setback of 3 metres on all Crescent frontages, and 4 metres on classified roads. The landscaped setback may be varied by Council to enable landscaping to be in proportion to the height of the building, on large development sites or to be consistent with setbacks in the Crescent. For example, buildings greater than 4 storeys in height will usually require a larger landscaped setback. C15 Not less than 10% of the site area shall be landscaped. New commercial development shall allocate landscaping in accordance with the following ratios: Site Area 0-2,000m^2, minimum 10% 2000m^2-5000m^2 20% >5000m^2 30%	for the upper and lower components of the building. The proposed materials and finishes are detailed in the architectural plans provided by Rothelowman architects which demonstrate that a varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. The proposal provides 12% landscaping at ground level along the front and side boundary setback areas, however, also provides a further 14% equivalent site area as landscaping in planters throughout the building, with a total landscaping provision which is the equivalent of 26% of the site area. The provision of landscaping on the site is consistent with the intent of the DCP and capable of support for the following reasons: • The proposed development incorporates soft landscaping within the front and side building lines with the extent of hard paving minimised to that necessary to provide appropriate vehicular and pedestrian access to the development. • The landscaping proposed within the front building line will complement the existing minimally landscaped character of Chalmers Crescent, but will provide some softening of the proposed development from the street. • Other landscape components have been incorporated into the design and façade of the development which demonstrates a high quality landscaping solution that is appropriate for the site conditions. • The proposed landscaping will provide an improved landscaped setting in relation to the existing site circumstance and the overall

Control	Requirement	Proposed
		development will provide a significant improvement to the Chalmers Crescent streetscape.
Part 8 Character Precincts		
8.7.2 Mascot Character Precinct	Desired Future Character	The proposal is consistent with the desired future character for the Mascot Character Precinct as follows: • The proposed development will enhance the public domain and streetscape of Chalmers Crescent. • The varied architectural language, palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building whilst generating a high level of visual interest and will positively influence the ground floor through the provision of active uses along the frontage and by introducing a landscaped character to the site that will significantly increase vegetation within the front building line to Chalmers Crescent in comparison to the current situation. • The site access and parking facilities will not dominate the streetscape. • Any necessary measures will be adopted into the design to minimise aircraft noise transmission in accordance with AS2021. • The shadow from the proposed development will not impact on any residential properties or public or private open spaces and will allow for solar access to adjoining properties. • The provision of on-site car parking is appropriate for the reasons outlined in this Statement. • The Traffic and Parking Report prepared by Varga that accompanies the application addresses the impact of the proposed development on local traffic conditions and finds that the

Control	Requirement	Proposed
		proposal will not result in any adverse traffic implications. • The proposal will not impact on any significant views.

5.3.1 Car Parking

Table 1 to Part 3A.2 of the DCP provides a rate of 1 car parking space per 40 square metres of floor area for office use which generates a need for 241 car parking spaces for the total of 9,441 square metres of office space within the development. When combined with the 17 spaces required for the retail component, a total of 253 car parking spaces would be required. The proposal provides 219 car parking spaces.

Whilst Part 3A.2 of the DCP applies to the entire local government area of the former Botany Bay Council, Part 9A of the DCP applies to the Mascot Station Town Centre Precinct which is approximately 160 metres to the north of the subject site and Part 9A.4.4.9 Car Parking Rates of the DCP provides a significantly reduced car parking rate of 1 space per 80 square metres of gross floor area for new office development, which would require a parking provision of 118 parking spaces for the office component of the proposal. When combined with the 17 spaces required for the retail component, a total of 135 car parking spaces would be required.

Whilst this part of the DCP does not technically apply to the subject site, the reduced parking rate is derived from the Mascot Town Centre Precinct Transport Management and Accessibility Plan (Mascot TMAP) and the subject site is located within the study area to which the Mascot TMAP applies. The car parking rates and traffic analysis within the TMAP have therefore assumed an office car parking rate of 1 space per 80 square metres for the subject site and so it is considered that a reduced provision of office parking below the 1 space per 40 square metre rate is appropriate in this instance.

The proposal provides 202 car parking spaces for the office component which translates to a car parking rate of 1 space per 47 square metres for the office component which is only marginally less than the current DCP control of 1 space per 40 square metres. This car parking provision for the office component is considered appropriate in the circumstance of the site for the following reasons:

- The reduced car parking provision for the office component satisfies the first objective under Part 3A. 1.2 of the DCP to minimise car parking in areas which have good access to public transport to promote sustainable transport.
- The DCP provides a pathway for considering a reduction in car parking in certain circumstances, including where a site is located adjacent to high-frequency public transport services and/or urban services. The subject site is located in close proximity to Mascot train station and a range of bus services. Pedestrian access to the train station has recently been significantly improved with the completion of nearby large scale mixed use developments which incorporate publicly accessible through-site links to provide a particularly pleasant pedestrian route to the train station.
- Council has recently allowed substantial variation to the car parking provisions applicable to the site in its determination of the adjacent development which has a car parking provision of 1 space per 40 square metres of office space.

- The proposed development encourages alternative transport options to the building with the provision of bicycle spaces and end-of-journey facilities within the ground floor.
- The reduction in car parking provision on the site will achieve a positive outcome as it will serve to minimise traffic impacts associated with the proposed development which is of critical importance in this location, and will serve to encourage higher public transport patronage and well as walking and cycling.
- The Traffic and Parking Report prepared by Varga that accompanies the application also addresses the compliance with the car parking requirements and standards relating to the car park design and finds the proposal to be acceptable in terms of the provision of car parking for the demand created.

The proposed provision of car parking is therefore appropriate for the site in the circumstances.

6.0 SECTION 4.15 CONSIDERATIONS

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979. Guidelines to help identify the issues to be considered have been prepared by the Department of Urban Affairs and Planning (now the Department of Planning and Environment) are included below.

6.1 The provisions of any planning instrument, draft environmental planning instrument, development control plan or regulations

The proposal is permissible pursuant to the Botany Bay Local Environmental Plan 2013 and is in conformity with the envisaged scale and density of development permitted under the LEP. A request to vary the floor space ratio development standard is included as Appendix A. The proposal is also generally compliant with the development controls contained within the Botany Bay Development Control Plan 2013 as detailed in this Statement.

6.2 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context and Setting

What is the relationship to the region and local context in terms of:

the scenic qualities and features of the landscape?

the character and amenity of the locality and streetscape?

the scale, bulk, height, mass, form, character, density and design of development in the locality?

the previous and existing land uses and activities in the locality?

The proposed redevelopment will provide for the renewal of a site within the Mascot Business Development Precinct that will contribute to the vibrancy, economic success and employment floorspace choice within the Mascot Business Development Precinct. The siting, scale, bulk, and massing of the development is consistent with that anticipated for the site and represents an appropriately designed development which will contribute positively to the character of the Mascot Business Development Precinct. The proposed development will not result in any significant impacts on the amenity of the adjoining properties.

What are the potential impacts on adjacent properties in terms of:

- relationship and compatibility of adjacent land uses?
- sunlight access (overshadowing)?
- visual and acoustic privacy?
- views and vistas?
- edge conditions such as boundary treatments and fencing?

The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts to adjoining properties. These issues have been discussed in detail in the body of this report.

Access, transport and traffic

> Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:
>
> travel demand?
>
> dependency on motor vehicles?
>
> traffic generation and the capacity of the local and arterial road network?
>
> public transport availability and use (including freight rail where relevant)?
>
> conflicts within and between transport modes?
>
> traffic management schemes?
>
> vehicular parking spaces?

The proposed development provides appropriately for car parking for the reasons detailed within this Statement and will result in no adverse traffic impact on the surrounding road network as detailed in the Traffic and Parking Report which accompanies the application.

Public domain

The property's presentation in a streetscape context will be enhanced as a consequence of the proposed development given the unique and high quality architectural form. The proposal includes a high quality landscaping solution for the site that will provide a generously landscaped setting for the development when viewed from Chalmers Crescent. The proposed landscaping will soften the built form and provide a human scale to the development. The proposal includes high quality public domain works including street trees that are designed to enhance the visual quality of the streetscape. The development will also improve the surveillance of the public domain.

Utilities

Where necessary utility services will be upgraded to service the development.

Flora and fauna

The proposed development will introduce a landscaped character to the site and will significantly increase vegetation in comparison to the current situation with landscaping proposed within the front building line to Chalmers Crescent, within the side boundary setbacks and is incorporated throughout the design of the building with various planters.

Waste collection

Normal commercial waste collection arrangements will apply to this development. A Waste Management Plan accompanies the application which details how demolition, construction and ongoing waste will be managed.

Natural hazards

The site is not affected by any known hazards.

Economic impact in the locality

The proposal will provide for an increased employment density on the site that will directly contribute to the economic growth of the area.

The proposed development will provide temporary employment through the construction of the development.

Site design and internal design

Is the development design sensitive to environmental conditions and site attributes including:

size, shape and design of allotments?

the proportion of site covered by buildings?

the position of buildings?

the size (bulk, height, mass), form, appearance and design of buildings?

the amount, location, design, use and management of private and communal open space?

landscaping?

The impact of the proposal with respect to design and site planning is positive. The proposed distribution of built form and massing of the building is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome. The scale of the development is appropriate given the development complies with the height control, the recently approved development to the east and the compliance of the development with the objectives of the relevant planning provisions. The design outcome will contribute positively to the built form quality of the building stock located in the Mascot Business Development Precinct.

How would the development affect the health and safety of the occupants in terms of:

lighting, ventilation and insulation?

building fire risk – prevention and suppression/

building materials and finishes?

a common wall structure and design?

access and facilities for the disabled?

likely compliance with the Building Code of Australia?

The proposed development will comply with the provisions of the Building Code of Australia as required by clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no

detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

Construction

What would be the impacts of construction activities in terms of:

the environmental planning issues listed above?

site safety?

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

6.3 The suitability of the site for the development

Does the proposal fit in the locality?

- are the constraints posed by adjacent developments prohibitive?
- would development lead to unmanageable transport demands and are there adequate transport facilities in the area?
- are utilities and services available to the site adequate for the development?

The adjacent development does not impose any insurmountable development constraints. There will be no excessive levels of transport demand created.

Are the site attributes conducive to development?

The site does not have any physical or engineering constraints which would prevent the proposed development from occurring.

6.4 Any submissions received in accordance with this Act or the regulations

It is envisaged that any submissions made in relation to the proposed development will be appropriately assessed by Council.

6.5 The public interest

The property's presentation in a streetscape context will be significantly enhanced as a consequence of the proposed development. The development will improve the surveillance of the public domain and provide a high level of internal amenity for future occupants whilst minimising impacts on neighbouring properties.

The proposal will provide for an increased employment density on the site that will directly contribute to the economic growth of the area with modern employment floor space in a desirable location which is close Sydney Airport and various transport nodes.

The development is consistent with the objectives of the relevant planning provisions. For these reasons the approval of the development is considered to be in the public interest.

7.0 CONCLUSION

The relevant matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 have been addressed in this report and the proposed development has been found to be consistent with the objectives of all relevant planning provisions.

The proposal is permissible with Council's consent within the zone and meets the relevant objectives of the B5 Business Development zone. In accordance with Clause 4.6 of the LEP, variation is proposed to the maximum permitted FSR on the site. The variation is considered reasonable as it meets the objectives of the standard due to the site context, design excellence evident in the proposal, complying height, precedent set by other approvals within the suburb of Mascot, and the absence of amenity impacts on surrounding properties.

Careful consideration has been given to the location, size and design of the proposed development to ensure that a high quality outcome will be achieved. The application demonstrates that the site is suitable for the development proposed which will positively contribute to the office stock within the suburb of Mascot.

For reasons outlined in this Statement of Environmental Effects the proposed development at 1-5 Chalmers Crescent, Mascot should be granted development consent.

APPENDIX A

Sutherland & Associates Planning

REQUEST TO VARY FLOOR SPACE RATIO DEVELOPMENT STANDARD

A

REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD

Introduction

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4(2) of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The request relates to an application for demolition, lot consolidation and construction of a commercial development at 1-5 Chalmers Crescent, Mascot.

Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the BBLEP 2013 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the BBLEP 2013 or any other environmental planning instrument.

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

> (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
>
> (b) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 4.6(3) the applicant requests that the floor space ratio development standard be varied.

Development Standard to be varied

Clause 4.4 states:

> (1) The objectives of this clause are as follows:
>
> (a) to establish standards for the maximum development density and intensity of land use,
>
> (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
>
> (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
>
> (d) 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,
>
> (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
>
> (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

(g) to facilitate development that contributes to the economic growth of Botany Bay.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Floor space ratio is defined under Clause 4.5 of the BBLEP as:

"the ratio of the gross floor area of all buildings within the site to the site area."

The Floor Space Ratio Map shows the eastern portion of the site (3 and 5 Chalmers Crescent) within area 'V1' with a floor space ratio of 3:1 applying to this portion of the site. There is no specified floor space ratio for the western portion of the site (1 Chalmers Crescent). An extract of the Floor Space Ratio Map is included as Figure 1.

Figure 1:
Extract from the BBLEP FSR Map

Extent of Variation to the Development Standard

A gross floor area of 7,584 square metres is proposed on the eastern portion of the site (3 and 5 Chalmers Crescent) which equates to a floor space ratio of 3.495:1. The proposal therefore seeks to vary the floor space ratio development standard by 1,049.8 square metres or 16%.

Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in Wehbe v Pittwater Council [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

In addition, in the matter of Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 [34] the Chief Justice held that "establishing that the development would not cause environmental harm and is consistent with

the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary".

This request addresses the five part test described in Wehbe v Pittwater Council. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. **the objectives of the standard are achieved notwithstanding non-compliance with the standard;**

   The specific objectives of the floor space ratio development standard, as specified in clause 4.4(1) of the Botany Bay Local Environmental Plan 2013 are identified below. A comment on the proposal's consistency with each objective is also provided.

   (a) to establish standards for the maximum development density and intensity of land use,

Whilst a floor space ratio standard is adopted for part of the site, Council has consistently varied this standard within the suburb of Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate. Council has consistently accepted that there are certain circumstances where the established standard does not properly reflect the environmental capacity of a particular site and in these instances it has been appropriate to support an alternative FSR. By way of reference, it has been established that with a 44 metre height, an FSR of up to around 4:1 has consistently been demonstrated to represent an appropriate density within the suburb of Mascot. Examples of where an alternative FSR has been considered acceptable include:

Site	FSR Control	Approved FSR	Approval Date
19-33 Kent Road	3.2:1	3.72:1	30/3/2014
13A Church Avenue	3.2:1	3.6:1	11/6/2014
2-8 Sarah Crescent	3:1	3.19:1	22/7/2014
246 Cowards Crescent	3.2:1	3.88:1	11/9/2014
141 O'Riordan Crescent	3.2:1	3.86:1	19/10/2016
256-280 Coward Crescent	3.2:1	4.42:1	12/2/2015
7-9 Kent Road	3.2:1	3.78:1	Unknown
42 Church Avenue	3.2:1	3.32:1	20/7/2017
671-683 Gardeners Road	3.2:1	3.43:1	19/1/2017
40 Ricketty Street	3:1	3.78:1	12/6/2018

The proposed FSR is consistent with the pattern of variation to the FSR development standard and is therefore considered satisfactory with respect to objective (a) of the standard.

(b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

The envisaged scale of development within the area is established by the 44 metre height under the BBLEP 2013. The proposal is compliant with this height and so presents an appropriate scale of development.

The bulk of the development is mitigated through careful design which involves the commercial tower being setback and located above the podium and appearing as a lightweight and contemporary element to the building.

The setbacks of the tower comply with the front 9 metre setback and also exceed the minimum 2 metre side and rear boundary setback control.

Whilst the front setback for the ground and podium are less than the 9 metre setback suggested by the DCP, Council has recently varied this setback for the immediately adjacent development and the proposed development provides a correspondingly reduced setback to provide consistent streetscape outcome, noting that the proposed setbacks for ground and podium also exceed those approved for the adjacent development.

A comparison of proposed setbacks with the DCP control and recently approved adjacent building envelope is provided in Figures 2, 3 and 4 below.

It has been demonstrated that the proposal provides an appropriate bulk and scale which is compatible with the emerging context of development within Mascot. Accordingly, the proposal satisfies objective (b) of the standard in that it provides an appropriate bulk and also scale and will be consistent with the desired future character of the locality.

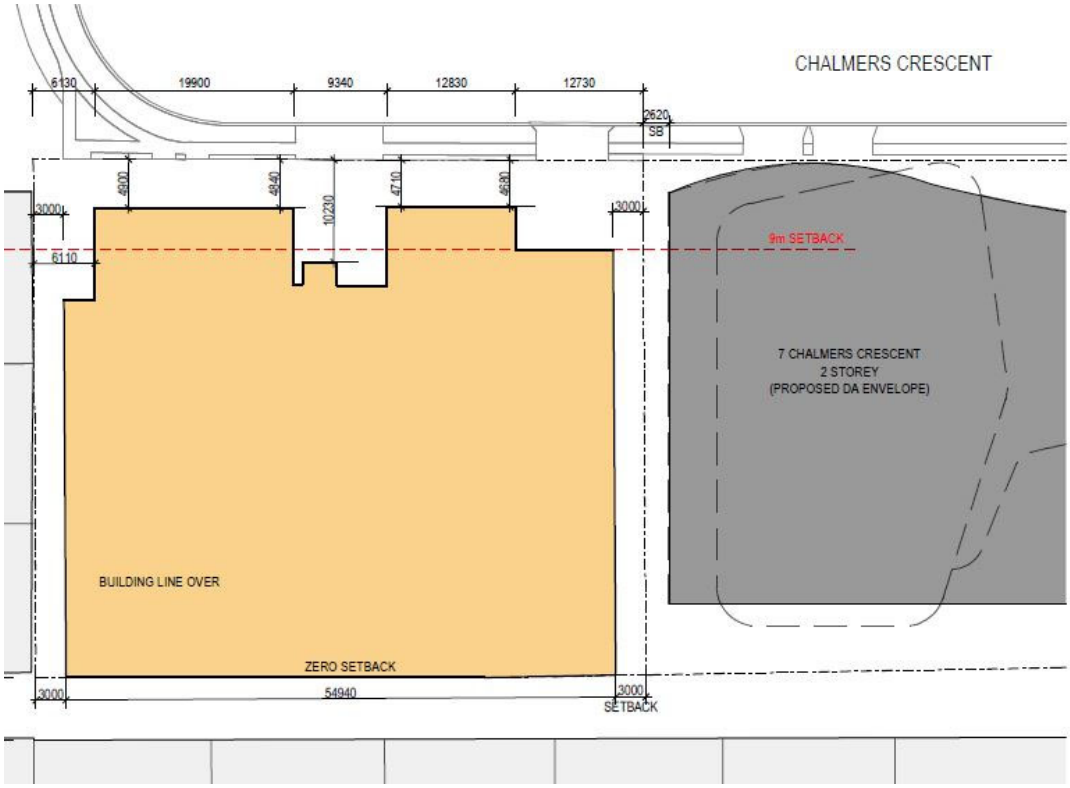

Figure 2:

Comparison of ground level setbacks with adjacent approved building envelope

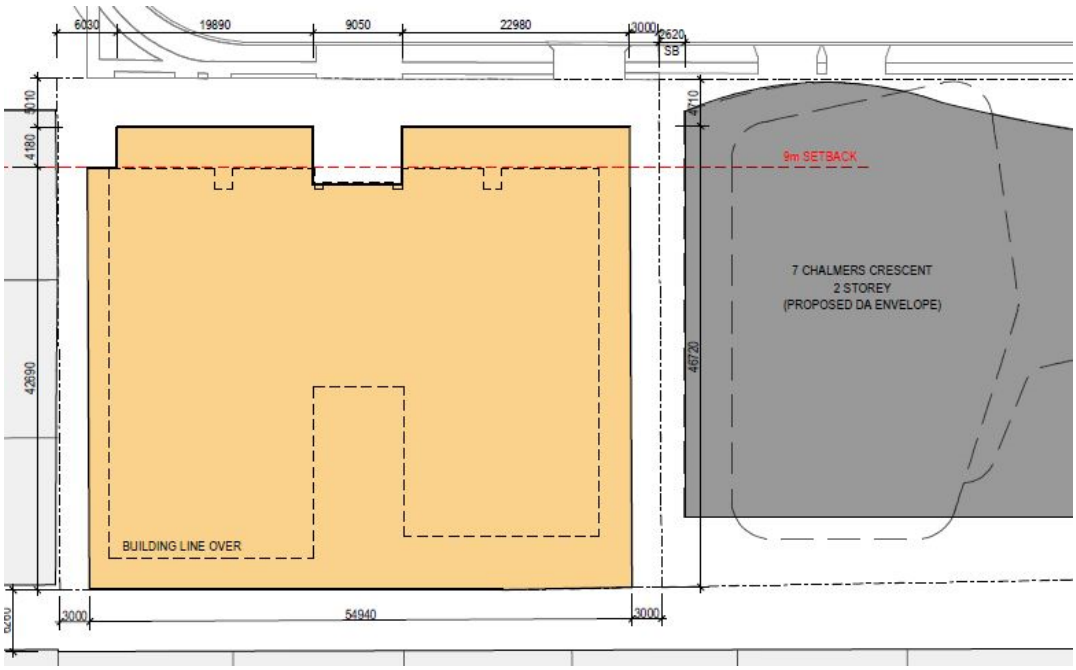

Figure 3:

Comparison of podium level setbacks with adjacent approved building envelope

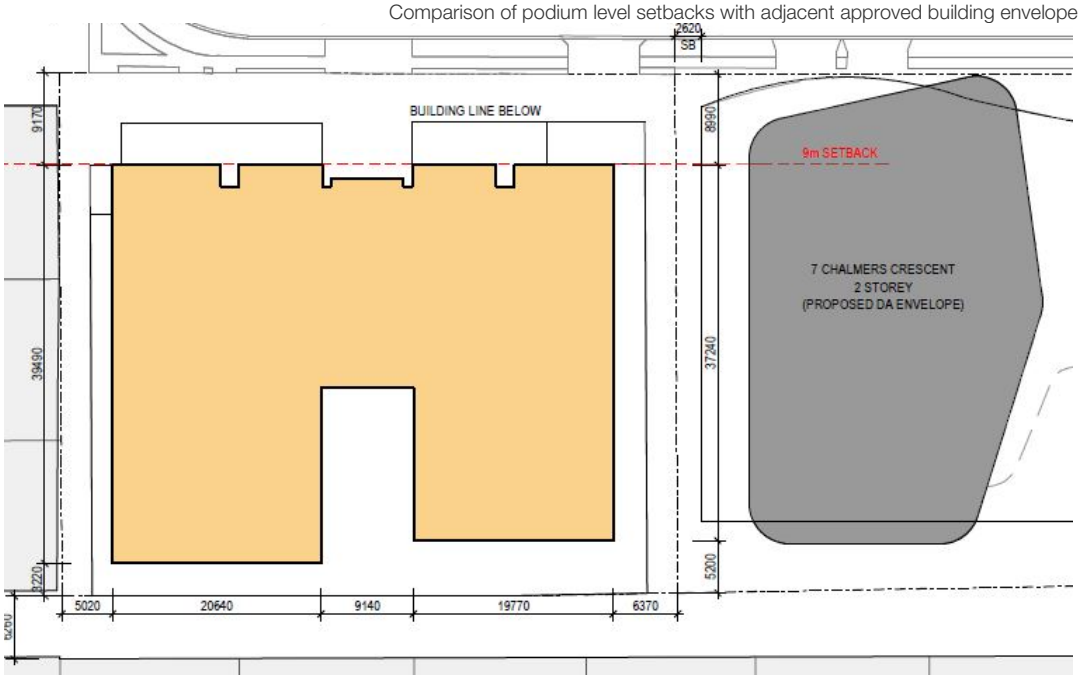

Figure 4:

Comparison of ground level setbacks with adjacent approved building envelope

(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,

Land surrounding the subject site to the north, east and west generally contains older style industrial development and has been zoned to allow for substantial transformation through increased densities and building height. This is evidenced by the recent approval of Development Application DA15/191 that was approved by the Sydney Central Planning Panel on 1 March 2017 which provided Stage 1 concept approval for consolidation of 16 allotments known as 7-9, 14-18, and 19-21 Chalmers Crescent and the construction of four eight storey towers comprising primarily commercial uses with lower floor retail space above a single two-storey parking podium. Notwithstanding, the proposal will provide an appropriate visual relationship for existing development.

Accordingly, the proposal satisfies objective (c) of the standard.

(d) 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 is compliant with the maximum 44 metre height control and provides an appropriate bulk and scale which is commensurate with other new and approved buildings within the area. The proposed development will represent a high quality architectural outcome for the site that will positively contribute to the character of the Mascot Business Development Precinct. A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane to Chalmers Crescent by introducing an active frontage and landscaped character to the site that will significantly increase vegetation within the front building line to Chalmers Crescent. Accordingly, the proposal satisfies objective (d) of the standard.

(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The increased floor space beyond the control does not result in any additional adverse impact on the adjoining properties or the public domain and satisfies objective (e) of the standard.

(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

The subject site is a large land holding which is demonstrated to have the environmental capacity to accommodate the proposed gross floor area without generating adverse impact. The density is similar to that of nearby approved development and in fact less than some recently approved developments including 40 Ricketty Street which has an FSR of 3.78:1. It has been demonstrated on many sites within Mascot that with a height of 44 metres it is possible to comfortably accommodate an FSR of up to 4:1 whilst meeting the various design criteria in Council's DCP to achieve a high level of internal amenity. Accordingly, it has been demonstrated that the subject site has the environmental capacity to absorb the proposed density, objective (f) of the standard is satisfied.

(g) to facilitate development that contributes to the economic growth of Botany Bay

The proposal will provide for an increased employment density on the site. The increased floor space beyond the control will be used as office premises and will directly contribute to the economic growth of the area and satisfies objective (g) of the standard.

2. **the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;**

   The underlying objectives and purpose of the floor space ratio control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed floor space ratio still results in a development which is consistent with the desired future character for the subject site and the Mascot precinct generally and sits comfortably within the context of the site with no significant adverse impacts to adjacent properties.

3. **the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

   The underlying objective of the floor space ratio control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design, location and configuration of the proposed development, the proposal successfully achieves these objectives and will provide a considered built form response that will deliver a positive urban design outcome. However, strict compliance with the floor space ratio control would likely lead to a less satisfactory outcome as it would result a development which fails to fulfil the environmental capacity of the site and would result in an inferior built form that would be contextually inappropriate because it would result in inconsistent setbacks and height with the recently approved adjacent Stage 1 concept plan. Accordingly, it is considered that strict compliance would likely defeat the underlying objective or purpose of the floor space ratio control because it would encourage a less desirable outcome for the site.

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**;

   Council has historically consistently varied the floor space ratio development standard in circumstances where the objectives of the control are achieved and in doing so has consistently accepted that there are certain circumstances where the established standard does not properly reflect the environmental capacity of a particular site and in these instances it has been appropriate to support an alternative FSR.

   Examples of where an alternative FSR has been considered acceptable include:

Site	FSR Control	Approved FSR	Approval Date
19-33 Kent Road	3.2:1	3.72:1	30/3/2014
13A Church Avenue	3.2:1	3.6:1	11/6/2014
2-8 Sarah Crescent	3:1	3.19:1	22/7/2014
246 Cowards Crescent	3.2:1	3.88:1	11/9/2014
141 O'Riordan Crescent	3.2:1	3.86:1	19/10/2016
256-280 Coward Crescent	3.2:1	4.42:1	12/2/2015
7-9 Kent Road	3.2:1	3.78:1	Unknown

Site	FSR Control	Approved FSR	Approval Date
42 Church Avenue	3.2:1	3.32:1	20/7/2017
671-683 Gardeners Road	3.2:1	3.43:1	19/1/2017
40 Ricketty Street	3:1	3.78:1	12/6/2018

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**.

The proposed zoning of the land is considered to be reasonable and appropriate.

Strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The proposal has been designed to respond properly to opportunities and constraints of the site and is considered to provide an appropriate outcome having regard to the context of the site. A reduction in the floor space ratio of the development would not result in any meaningful difference in relation to the impact of the proposal however would diminish its fit within the context of the other approved towers with Chalmers Crescent. Furthermore, a reduction in floor space would unnecessarily reduce employment opportunities on an ideally located site, to the detriment of achieving the vision for the Mascot Business Development Precinct.
- The height of the development complies with the 44 metre height limit under the BBLEP 2013 and so any reduction in density would not require a reduction to the overall height and scale of the development.
- The proposed development provides both retail and office uses which will support the viability of the centre and provide much needed employment floor space in a location which is close Sydney Airport and various transport nodes.
- The availability and capacity of local infrastructure and public transport supports the additional floor space proposed. The site is located in close proximity to Mascot Train Station and a range of bus services.
- The density proposed does not give rise to any unreasonable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.
- The location of the subject site and restriction on car parking for the building is such that the proposed additional floor space does not generate any additional traffic beyond that which would be generated by a complying development on the site which would involve the same car parking provision.
- A high level of amenity is provided for occupants of the development.
- There is a sustained history over many years, including before the BBLEP 2013 came into effect, of Council supporting variations to the FSR control for many sites within Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate, as is the case for the proposed development.
- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The Land & Environment Court matter of Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 2018, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development

There variation to the development standard in this instance is for FSR and unlike a variation to a height control for example, where there is a specific area of encroachment, there is not necessarily one specific area responsible for the FSR control. Notwithstanding, the proposed variation to the FSR control of 1,242.8 square metres could correlate with GFA on Level 10 and part of the GFA on Level 9. Alternatively, this area could also correlate with an office area of 155.5 square metres on each of the 8 office floor levels, which is equivalent of several office suites on each floor.

The environmental planning grounds that justify the component of the development which results in the FSR variation are:

- The above identification of areas within the building which are equivalent to the additional 1,242.8 square metres is particularly useful in considering the environmental planning grounds associated with the proposed variation. The office tower is completely compliant in relation to height, front, side and rear setbacks and the removal of floor space either at the top of the building or from part of each level to simply achieve numerical compliance would not result in any improved outcome for the development and the adjacent properties. (In any event, even if several levels were removed from the top of the building, the floor to ceiling heights of the remaining levels could in theory be increased to compensate, resulting in an identical height for the building). The proposed tower has a scale and proportions as anticipated by the planning controls such that the proposed variation does not result in any detrimental impact or a built form outcome which differs from that which is expected on the site. Therefore, the appropriate contextual fit and compliance of the tower with the relevant planning controls provides an environmental planning ground to support the proposed variation.
- It is noted that Preston J provides that the development is not required to demonstrate a beneficial effect relative to a compliant development, however, in this instance it is considered that strict compliance would not achieve any improved outcome for the development and would in fact simply result in less employment floor space than that which is capable of being provided on the site within the environmental capacity of the site.
- The proposed variation to the FSR control does not result in any adverse impacts to adjacent properties when compared to a compliant FSR.
- The proposed variation to the FSR control does not result in any increased traffic impact when compared to a compliant FSR because the car parking provision is reduced on the site and the development in fact provides less car parking, and therefore less traffic, than that which could be provided under a compliant

scheme. Specifically, the proposal provides 219 car parking spaces whereas an FSR compliant proposal could provide 227 car spaces.

- The proposed FSR variation will provide for additional employment floor space which is an environmental benefit particularly in this location where Council is trying to encourage employment floor space to balance the significant delivery of residential floor space over recent years in the area. The additional employment floor space will support the viability of the centre and provide much needed employment floor space in a location which is close Sydney Airport and various transport nodes.

The objects specified in section 5(a)(i) and (ii) of the EP&A Act are:

> 'to encourage:
>
> i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
>
> ii) the promotion and co-ordination of the orderly and economic use and development of land…'

The proposed development is consistent with the aims of the Policy and the objects of the EP&A Act in that:

- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.
- Strict compliant with the FSR standard in this particular instance would represent a departure from the manner in which the issue of FSR has been considered in recent times in Mascot to the significant detriment of the employment floor space on the site and with no measurable benefit for the public or surrounding properties. Accordingly, strict compliance would simply prevent the attainment of employment floor space which is within the demonstrated environmental capacity of the site.
- The proposed variation allows for the most efficient and economic use of the land.

On the basis of the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed FSR non-compliance in this instance.

Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in Wehbe v Pittwater Council [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will 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.

Objective of the Development Standard

The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B5 Business Development zone which has the following objective

- 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 proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building. The proposed development provides retail and office uses which will support the viability of the centre and provide much needed modern employment floor space in a location which is in close proximity to Sydney Airport and various transport nodes including Mascot train station and is also well sited to encourage walking and cycling. For these reasons the proposal is considered to be consistent with the objective of the B5 zone.

Clause 4.6(5) Secretary Considerations

The matters for consideration under Clause 4.6(5) are addressed below:

> (5) In deciding whether to grant concurrence, the Secretary must consider:
>
> (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,

The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.

> (5) In deciding whether to grant concurrence, the Secretary must consider:
>
> (b) the public benefit of maintaining the development standard,

This Clause 4.6 request has demonstrated there are significant environmental planning benefits associated with the contravention of the standard. There is no material impact or benefit associated with strict adherence to the development standard and in my view, there is no compelling reason or public benefit derived from maintenance of the standard.

Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

As demonstrated above the proposal is consistent with the objectives of the zone and the objectives of Clause 4.4 notwithstanding the proposed variation to the maximum FSR development standard.

Requiring strict compliance with the FSR development standard on the subject site would result in an outcome that would contextually be essentially no different from the proposed development and would not result in any meaningful benefit to the streetscape or the amenity of adjoining properties. Strict compliance would simply result in a loss of employment floor space below the demonstrated environmental capacity of the site.

Allowing the flexible application of the floor space ratio development standard in this instance is not only reasonable but also desirable given the context of the site and that the site has the environmental capacity to absorb the proposed density.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better urban design outcome in this instance in accordance with objective 1(b).

Conclusion

Strict compliant with the floor space ratio development standard contained within clause 4.4(2) of the Botany Bay Local Environmental Plan 2013 has been found to be unreasonable and unnecessary in the circumstances of the case. In addition, there are sufficient environmental planning grounds to justify the variation. Finally, the proposed development and FSR variation is in the public interest because it is consistent with the objectives of the standard and the zone. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.

APPENDIX B

Harrison Friedmann

SURVEY B

APPENDIX C

Rothelowman Architects

ARCHITECTURAL PACKAGE C

APPENDIX D

Ground Ink

LANDSCAPE PLAN D

APPENDIX E

Varga

TRAFFIC AND PARKING ASSESSMENT E

APPENDIX F

Windtech

WIND REPORT F

APPENDIX G

EI Australia

GEOTECHNICAL REPORT G

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EI Australia

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APPENDIX I

Van Der Meer

STORMWATER MANAGEMENT REPORT AND CONCEPT PLAN

APPENDIX J

ACOR

FLOOD REPORT J

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Building Innovations Australia

BCA REPORT K

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WASTE MANAGEMENT PLAN

APPENDIX P

Platform PPS

CONSTRUCTION MANAGEMENT PLAN P

APPENDIX Q

Altus Group

QS REPORT Q

APPENDIX R

EI Australia

ACID SULPHATE SOILS MANAGEMENT PLAN R