

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

Panel Reference	PPSEC-249
DA Number	MDA-2022/216
LGA	Bayside Council
Proposed Development	Modification to DA-2019/281 including deletion of basement level, internal and external changes, amendment of materials and finishes and changes to landscaping
Street Address	253 Coward Street, Mascot
Applicant/Owner	<u>Applicant</u> : T & P Developments Pty Ltd <u>Owner</u> : Skylife Coward Pty Ltd
Date of DA lodgment	19 December 2022
Number of Submissions	Nil in the first round Nil in the second round
Recommendation	Approval, subject to modified conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure and community facilities over \$30 million (Nominated CIV: \$55,819,024)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Bayside Local Environmental Plan 2021
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans – FJMT Studio • Landscape Plan – FJMT Studio • Statement of Environmental Effects – Sutherland and Associates Planning

Report prepared by	Andrew Ison, Senior Development Assessment Planner
Report date	5 July 2023

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

EXECUTIVE SUMMARY

The modification application (MDA-2022/216) seeks consent for the deletion of basement level, internal and external changes, amendment of materials and finishes and changes to landscaping.

Development consent for an Integrated Development comprising demolition of existing buildings, construction of an eleven (11) storey commercial building comprising one (1) basement level car park, ground floor retail / commercial tenancies, commercial and parking on level one (1), parking on levels two (2) and three (3), and seven (7) levels of office use above was issued by the Sydney Eastern City Planning Panel on 28 May 2020.

The subject site is known as 253 Coward Street, Mascot ('the site'). The site comprises a lot with three separate frontages including Coward Street to the north, Kent Road to the east and Chalmers Crescent to the south. The site occupies a regular shaped area of 4,047m². The current vehicular access to the site is via Kent Road.

The site is located on the southern side of Coward Street, which contains a number of commercial, office and industrial buildings, with high density mixed use developments on the opposite of Coward Street. It is located within an area identified as the Mascot Business Development Precinct as per Part 6 of the Botany Bay DCP 2013.

The site is located in the E3 Productivity Support zone pursuant to Clause 2.2 of the Bayside Local Environmental Plan 2021 (LEP). The approved development subject to this modified application is

defined as a commercial development, which is permissible with consent in the E3 Productivity Support zone.

The principal planning controls relevant to the proposal include a number of State Environmental Planning Policies, the Bayside Local Environmental Plan 2021 ('LEP'), and the Botany Bay Development Control Plan 2013 ('DCP'). The proposal is inconsistent with various provisions of the planning controls, however the proposal is acceptable for reasons discussed in the report. The key non-compliant provisions include:

- Clause 4.4 of the Bayside Local Environmental Plan 2021 with relation to floor space ratio (a further increase from 3.92:1 as approved to 4.0:1, a 33.3% variation to the maximum 3:1 permitted FSR)

The modification application was referred to Council's Design Review Panel which confirmed that it satisfied the Design Excellence provisions in the Botany Bay Local Environmental Plan 2021. The proposed modified scheme was amended to retain a significant tree on the Coward Street frontage, increase the deep soil provision from 15% to 19% and to reinstate a double height ground floor element on the corner of Coward Street and Kent Road.

Referrals from external agencies were undertaken, with the following below being satisfied:

1. Section 4.47 of the Environmental Planning and Assessment Act in relation General Terms of Approval from Water NSW no longer being required as there is no significant excavation that will impact on the ground water.
2. Section 2.119 of the Transport and Infrastructure SEPP with relation to development with frontage to a classified road (Coward Street), with no recommended amendments to the concurrence issued under the DA approval.

The application was placed on public exhibition from 11 to 31 January 2023, with no submissions being received. Upon the lodgement of amended plans, the application was placed on re-exhibition from 27 June to 11 July 2023, with no submissions being received.

The original application was referred to the Sydney Eastern City Planning Panel for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal was \$55,819,024. This modification application is referred to the Sydney Eastern City Planning Panel ('the Panel') pursuant to the 'Instruction on functions exercisable by Council on Behalf of Sydney District or Regional Planning Panels – Applications to Modify Development Consent' (dated 1 August 2020) as the original proposal was approved by the Panel and the current modification includes a departure from the FSR development standard that exceeds 10%.

A briefing was held with the Regional Panel on 14 March 2023 where key issues were discussed, including more detail on how design excellence issues raised by the DRP are to be resolved, by way of a workshop.

A second briefing was held with the Regional Panel on 11 May 2023, where it noted that the amended plans presented to the DRP in the workshop now satisfied design excellence, and noted that further assessment was still to be undertaken once the matters raised in the request for information (RFI) letter had been lodged by the applicant.

The key issues associated with the proposal included:

- Deletion of the approved one level of basement and relocation of car parking and services above ground level;
- Retention of significant tree on Coward Street elevation;

- Changes to approved setbacks; and
- Increase in the approved gross floor area (GFA).

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State Environmental Planning Policies, the Bayside LEP and the Botany Bay DCP, the proposed amendments subject to this modification application can be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, MDA-2022/216 is recommended for approval subject to the modified conditions contained at Attachment A of this report.

THE SITE AND LOCALITY

The Site

The subject site is located at 253 Coward Street, Mascot (Lot 24 in DP 515070 and Pt 1 in DP 515070). The proposed development site has a frontage of 55.1 metres to Kent Road, a southern boundary of 73.3 metres (including a 21 metres frontage to Chalmers Crescent) and an eastern boundary of 55.1 metres, with a total area of 4,047m². The subject site currently contains consists of a number of buildings on site and also a large hardstand area. It is currently being used a vehicle sales and hire premises (Adtrans Hino). The site is relatively level with a cross fall of 700mm from east to west at the front of the site, 200mm from east to west at the rear of the site, and 600mm from the north-eastern corner to the south western corner.

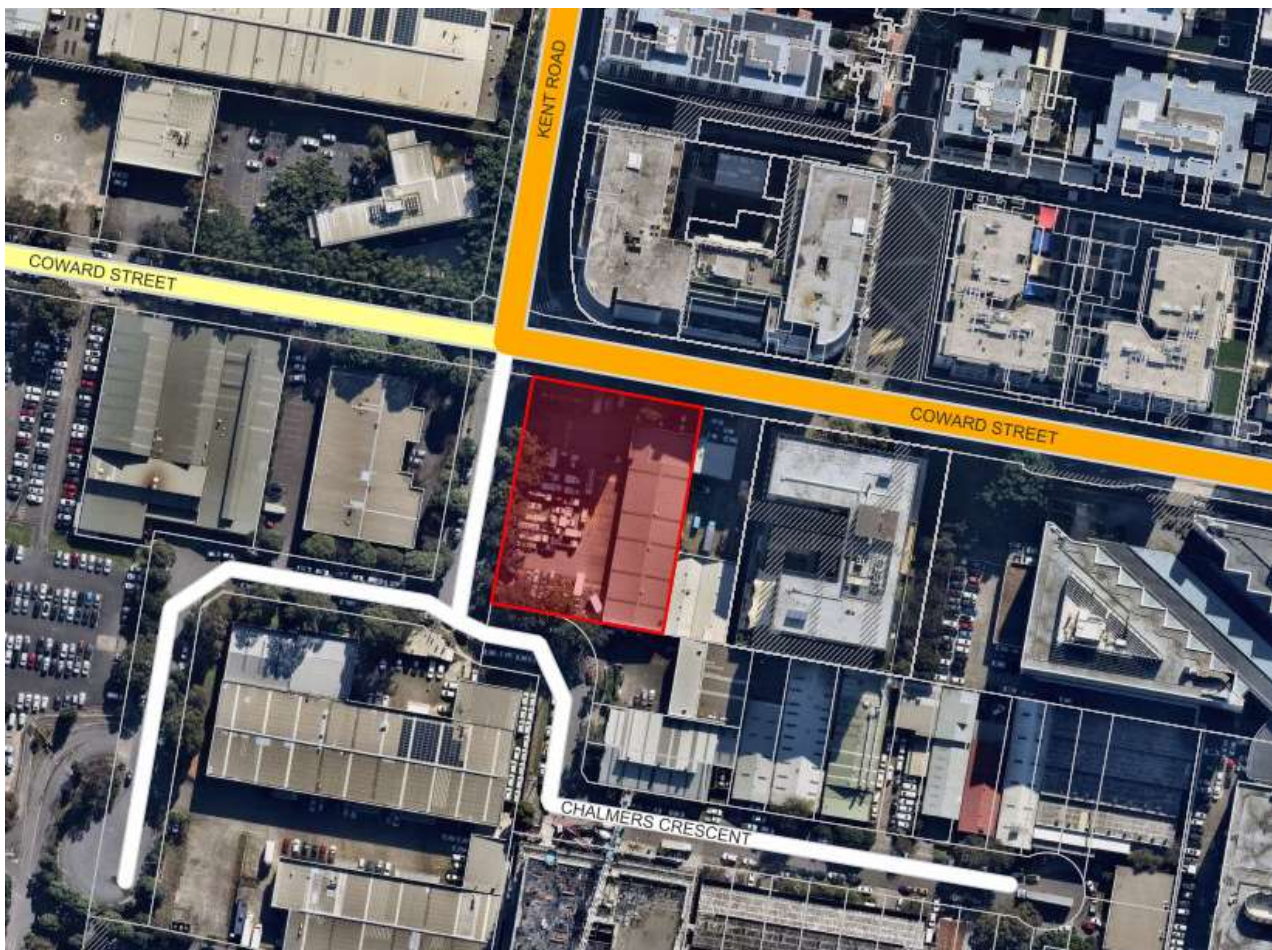


Figure 1: Aerial showing subject sites, marked in red (Source: Nearmap 2 August 2022)



Figure 2: Subject site as viewed from the corner of Coward Street and Kent Road



Figure 3: Subject site, looking west down Coward Street



Figure 4: Subject site on right, looking north up Kent Road from Chalmers Crescent



Figure 5: Subject site looking west down Chalmers Crescent at Kent Road



Figure 6: Subject site looking north up Chalmers Crescent

The Locality

The subject site is located in the north-western corner of the Mascot Business Development Precinct, on the southern side of Coward Street, eastern side of Kent Road and northern side of Chalmers Crescent. The subject site is surrounded by a number of land uses with (in a clockwise direction) mixed use developments on the northern side of Coward Street (39 Kent Road and 280 Coward Street), a commercial building to the east (251 Coward Street), a warehouse building to the south at 55 Kent Road, and a commercial building to the west at 60 Kent Road. A recently approved office building is currently under construction on the adjoining site to the rear at No.2 Chalmers Crescent and construction of a similar scale office building is nearing completion at No.1-5 Chalmers Crescent. There are other similar scale office / commercial buildings approved on properties nearby the subject site. The subject site is located approximately 400 metres to the south-west of the main entry to Mascot railway station.

THE PROPOSAL AND BACKGROUND

The Proposal

The applicant seeks the following amendments:

- Removal of the basement level;
- Reconfiguration of the ground floor layout;
- Changes to building setbacks;
- Replacement of the approved commercial ground floor on level 1 with the extension of the car parking area;
- Reconfiguration of floor layouts, resulting in six (6) levels of office space; and
- Refinement to the facades with removal of the grid expression and replaced with a more curvilinear design.
- Retention of Tree 5 (originally proposed for removal).



Figure 7: Photo montage, as seen from the corner of Coward Street and Kent Road (supplied by applicant)



Figure 8: Photo montage, as seen from the corner of Kent Road and Chalmers Crescent (supplied by applicant)

The specific amendments are provided in further detail below:

Tree Retention

- Retention of one additional site tree within the Coward Street frontage of the site (Tree 5), resulting in retention of both Tree 4 & Tree 5 within the Coward Street frontage.

Basement

- Deletion of the approved basement level, which contained car parking and services.

Building footprint

- Changes to building setbacks along Coward Street, eastern boundary, Chalmers Crescent and Kent Road; including deletion of the nil eastern side setback for the lower levels and provision of a 3m eastern side setback for all levels;
- Changes to the building appearance with curvilinear edges and additional planting.

Ground floor

Reconfiguration of the ground floor layout, with the following:

- Splitting of the approved commercial tenancy addressing the Coward Street into two separate tenancies;
- Lobby design re-configured to have dual entry points with new entry addressing Coward Street;
- Relocation of end of trip facilities from basement to eastern edge;
- Relocation of waste room further south to the loading dock;
- Reconfiguration of the loading area; and
- Increase in setback on eastern elevation from zero to 3 metres;

Level 1

- Deletion of commercial area in the northern half (697m²); and
- Increase in the car parking area

Level 2

- Reconfiguration of internal car parking layout

Level 3

- Reconfiguration of internal car parking layout

Levels 4 to 9

- Reconfiguration of internal layout, with removal of atrium area and inclusion of two external terrace areas, one on the Coward Street elevation and one on the Kent Road elevation. Proposal retains

Level 10

- Reconfiguration of the layout, with the inclusion of an outdoor area on the Kent Road elevation

Roof plan

- Reconfiguration of layout

Materials

- A variety of aluminum materials as well as brick.

The table below is a summary of key development data:

Control	Approved	Proposed
Site area	4,047m ²	4,047m ²
Gross Floor Area (GFA)	15,865m ²	16,188m ²
Floor Space Ratio (FSR) = 3.2:1 (max)	3.92:1	4.0:1
Maximum Height = 44m (max).	44m	43.55m
Clause 4.6 Requests	Height of building – supported	N/A as it is a s4.55 modification
Landscaped area	931m ² (24% coverage)	1,036m ² (26% coverage)
Car parking spaces	253	209

Background

The development application was lodged on 19 December 2022. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Date	Event
19 December 2022	The MDA was lodged with Council.
4 January 2023	A site inspection was carried out.
11 January 2023	The start of the notification period with the closing date being 31 January 2023. No submissions were received.
2 March 2023	Reported to the Bayside Design Review Panel (DRP), with the recommendation in the minutes that further amendments were to be made for further consideration at a future date.
14 March 2023	Kick off briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration: <ul style="list-style-type: none">• Design Review Panel (DRP) and Panel not fully satisfied, so further meetings with DRP are needed to address multiple design issues that need to be fully addressed in final assessment report.• Council and applicant's architects should workshop design issues.• The matter should return to the same members on the DRP as far as possible.• Design can't be approved in its current form.• An external architect peer review may be needed to advise the Panel.
4 April 2023	A request for information (RFI) letter was issued to the applicant, requesting additional information on the following: <ul style="list-style-type: none">• Addressing matters in the kick off briefing minutes• Addressing matters in the DRP minutes

	<ul style="list-style-type: none"> • Gross Floor Area • Car parking • Stormwater management • Corner splay • Signage • Landscaping
21 April 2023	DRP “workshop” with an amended scheme presented. The recommendation in the minutes that it was supported subject to changes described within the minutes, and that it also achieves Design Excellence in accordance with the Bayside LEP.
11 May 2023	<p>Follow-up briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration:</p> <ul style="list-style-type: none"> • Ten storey office building modification sought (remove atrium, move parking, introduce balconies, reduce setbacks etc.) • DRP meeting and a design workshop was held, therefore DRP now satisfied • Car parking, stormwater, landscaping will be addressed in an RFI to be returned in next few weeks • No significant council issues
29 May 2023	<p>Response to the RFI letter provided. This included amended plans, which addressed the following:</p> <ul style="list-style-type: none"> • The Coward Street lobby entry has been relocated toward the street to mitigate CPTED concerns with the lobby slightly increased in size as a result • The lobby and area north of the loading dock has been revised to conceal columns to the south • The western retail tenancy has been divided into two separate tenancies and a shared retail WC provided • A double height space has been introduced for the western retail tenancy and feature awning has been provided to the northern elevation • The End of Trip area has been reconfigured including the introduction of a high-level window on the east elevation for increased natural light • The southern landscape strip has been increased to 3 metres in depth as per original DA which has increased deep soil from 772 square metres to 784 square metres. • The service rooms in the dock have been reconfigured and a rainwater tank has been provided below ground • The redgum tree on the Coward Street frontage has been retained • The 16 bicycle visitor spaces which were located in the southern setback have been relocated to northern corners of the site and to the south • The corner splays required by conditions 19 and 111 have been correctly drawn on the proposed architectural plans. • The car parking layout has been reconfiguration as a result of amended column grid • The car parking area on Level 1 has been reduced as result of introducing double height space at the western retail

	<ul style="list-style-type: none"> • The floorplate design has revised to introduce an indentation along the northern façade which reflects the retained Redgum tree, to consolidate and relocate the balcony space to the western elevation, and to square off the corners (except the north-western corner) and associated façade changes. • The core design has been updated • The bathrooms have been reconfigured to mitigate risk of sight lines into the space • The column grid has been revised to reduce columns to east of core • The rooftop terrace extent has been reduced to allow for more intimate use • The plantroom height has increased slightly to allow for appropriate roof fall
27 June 2023	The start of the re-notification period with the closing date being 11 July 2023. No submissions were received.
14 July 2023	Request for clarification of matters
19 July 2023	Final amended plans submitted.

Site History

DA-2019/281

This was approved on 28 May 2020 by the Sydney Eastern City Planning Panel for the following:

- Integrated Development - Demolition of existing buildings, construction of an eleven (11) storey commercial building comprising one (1) basement level car park, ground floor retail / commercial tenancies, commercial and parking on level one (1), parking on levels two (2) and three (3), and seven (7) levels of office use above.

MDA-2022/190

This was approved on 18 July 2023 under delegated authority for the following:

- Modifications to DA-2019/281 to enable staged construction

STATUTORY CONSIDERATIONS

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application.

Section 91 – Water Management Act 2000

General Terms of Approval (GTAs) were issued under DA-2019/281, and prescribed in Condition 7 of the Notice of Determination.

This was triggered by below ground works for the approved basement intercepting groundwater,

hence it was Integrated Development and GTAs were issued by Water NSW on 16 January 2020.

Given that the modified proposed development has removed the basement level, it has substantially reduced the amount of building works below ground. On that basis, a referral was sent to Water NSW.

On 30 June 2023, the following advice was provided by Water NSW:

If there is no basement / dewatering being undertaken, then an approval under the Water Management Act and our General Terms of Approval are not required.

If during construction it is found there is a need to dewater (even minor amounts), the applicant will need to gain an approval prior to any dewatering being undertaken.

Based on the above advice, Condition 7 is recommended to be deleted.

S4.55(2) – Other modifications

The Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The modified proposal will involve the following changes:

- Deletion of the basement;
- Re-configuration of the internal layout, including a minor increase in the approved gross floor area;
- Material changes to the façade, in particular to the Coward Street and Kent Road frontages;
- Changes in the approved building setbacks;
- Minor reduction in the approved building height;
- Reduction in the approved number of car parking spaces; and,
- Retention of an additional site tree (Tree 5).

The original application granted consent to an eleven (11) storey commercial building with ground floor retail / commercial, basement and above ground car parking and seven (7) levels of office space. The proposal as to be amended is for an eleven (11) storey commercial building with ground floor retail, above ground parking and seven (7) levels of office space. The increases in the FSR development standard will result in an encroachment above the LEP development standards but will not result in any significant change from that approved. In addition, minimal changes to amenity impacts will result given changes proposed, its location and neighbouring land uses. The footprint of the buildings has not substantially changed, with the exception of a deletion of the basement level, and some minor changes to building setbacks. Whilst the modified proposal incorporates significant changes to the façade design and appearance, the proposal is qualitatively and quantitatively similar to the approved scheme.

As such, the development to which the consent as modified relates is substantially the same development as that for which consent was originally granted.

- a) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: Consultation was not required.

- b) *It has notified the application in accordance with:*
(i) *the regulations, if the regulations so require, or*
(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: In accordance with Part 2 of the Botany Bay Development Control Plan 2013, this application was notified on two occasions.

- c) *It has considered any submission made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: No submissions have been received.

S4.55(3) of the *Environmental Planning and Assessment Act, 1979*

S4.55(3) of the *Environmental Planning and Assessment Act 1979* states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The original application was approved on 28 May 2020 with the following reasons:

- The Sydney Eastern City Planning Panel endorses the officer's report and reasons contained therein.
- The Panel is satisfied the development will provide an appropriate fit within the streetscape and in the context of surrounding development and is well designed.

The proposed modification subject to this application does not impact on the reasons for this decision as it still considered to be an appropriate fit within the streetscape and in the context of the surrounding development, and satisfies design excellence and is hence well designed.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments (EPI) are relevant to this application:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- Bayside Local Environmental Plan 2021

A summary of the key matters for consideration arising from these State Environmental Planning Policies are considered in more detail below.

EPI	Matters for Consideration	Complies
State Environmental Planning Policy (Planning Systems) 2021	Clause 3.10, which declares the proposal as regionally significant development pursuant to Clause 2 of Schedule 6.	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 4, which relates to remediation of land	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 2, which relates to protecting the biodiversity values of trees and other vegetation in non-rural areas	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Clause 2.118, which relates to development with frontage to classified road	Yes
Bayside Local Environmental Plan 2021	<ul style="list-style-type: none"> • Clause 2.3 – Zone E3 Productivity Support • Clause 2.7 – Demolition • Clause 4.3 – Height of Buildings • Clause 4.4 – Floor Space Ratio • Clause 5.1 – Relevant acquisition authority • Clause 6.1 – Acid Sulfate Soils • Clause 6.2 – Earthworks • Clause 6.3 – Development in Areas subject to Aircraft Noise • Clause 6.4 – Airspace Operations • Clause 6.7 – Stormwater • Clause 6.9 – Active Street Frontage • Clause 6.10 – Design Excellence • Clause 6.11 – Essential services 	Refer to assessment of BLEP 2021 below.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

The approved development included the removal of Tree 5 being a large grey gum along the Coward Street frontage, with the trunk approximately 15 metres to the east of the Kent Road intersection.



Figure 9: Tree 5 - Grey gum within Coward Street frontage of the site (Source: Arboricultural Impact Assessment prepared by Redgum Horticultural)

Based on advice from the Design Review Panel, the modified proposed development has been amended to accommodate the above tree.

An amended arboricultural impact assessment was prepared by Redgum Horticultural, dated 16 May 2023. It observed that this tree is considered significant for its contribution as a landscape element to the property and the retention of this tree allows it as a component of the current curtilage to be transferred to the new proposal, maintaining an element of a continuous landscape, providing a more harmonious integration and transition of the use of the land. It has provided a series of recommendations with relation to construction methods to ensure its retention.

This modification application was referred to Council's Tree Management Officer for assessment. They remain in supportive of the removal of the following trees that were approved for removal in the original application (as referenced in the arborist report lodged with DA-2019/281):

- Trees 1, 2 & 3, *Banksia interifolia* (Coast Banksia). Street trees lopped for wire clearance. Low retention value. Medium Tule 2.
- Tree 5 *Eucalyptus punctata* (Grey Gum). Medium Tule 2.
- Tree 6, *Corymbia maculata* (Spotted Gum). Short Tule 3.
- Tree 7, *Eucalyptus punctata* (Grey Gum). Short Tule 3.
- Tree 8, *Eucalyptus robusta* (Swamp Mahogany). Medium Tule 2.
- Tree 16, *Eucalyptus scoparia* (Wallengara White Gum). Medium Tule 2.
- Tree 17, *Eucalyptus microcorys* (Tallowwood). Medium Tule 2.
- Trees 18,19 & 20, *Casuarina glauca* (Swamp Oak). Street trees suppressed to the south. Medium Tule 2.

Apart from the retained tree on Coward Street, all other trees listed above will be removed to accommodate the proposed development.

It is noted that the most recent amended Landscape Plans received by Council on 19 July 2023 show Tree 11 being removed, however this has not been formally requested and there has been no time to assess this. Therefore a condition requires that final Landscape Plan be amended prior

to issue of the Construction Certificate to retain Tree 11.

The proposal has provided sufficient information and therefore is satisfactory with regards to satisfying this Chapter, subject to modified conditions.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48 – Development likely to affect an electricity transmission or distribution network

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 2.118 – Development with frontage to a classified road

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 – Advertising and signage

The approved development included a single rooftop sign. The amended scheme does not include any signage for the building. Signage cannot be erected on the building without the benefit of development consent and it is acknowledged that a separate development application will be required for future signage.

Bayside Local Environmental Plan 2021

The provisions of the Bayside Local Environmental Plan have been considered in the assessment of the development application as per the table below.

Clause 2.3 – Zone E3 Productivity Support

The subject site is zoned E3 Productivity Support. The approved development (as modified) remains as a commercial offices, food/drink premises and car park and also remains consistent with the relevant objectives of the zone.

Section 2.7 – Demolition

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 4.3 – Height of Buildings

A maximum height standard of 44 metres applies to the subject site.

The approved maximum height was 44 metres.

The proposed modification subject to this application will decrease the height by 0.95 metres to 43.05 metres.

Section 4.4 – Floor Space Ratio

A maximum floor space ratio (FSR) standard of 3:1 (gross floor area (GFA) of 12,141m²) applies to the subject site.

The approved FSR was 3.92:1 (gross floor area of 15,865m²), and was subject to a Section 4.6 variation to a development standard assessment.

The proposed modification subject to this application will further increase the gross floor area by 323m² to 16,188m² (FSR of 4.0:1).

As a summary, the changes are described further below:

- Reduction in the size of the gross floor area at ground level;
- Deletion of approved gross floor area on Level 1 to accommodate the relocated car parking;
- Increase in the size of the floor size from Levels 4 to 9; and
- The inclusion of a toilet adjacent to the outdoor recreation area on the roof.

As this is a Section 4.55 application, the provisions of Clause 4.6 to vary a development standard do not apply.

Notwithstanding this, the applicant has still provided an assessment against the objectives of this Clause, and is provided below:

Whilst the proposal increases the approved FSR from 3.92:1 to 4.0:1, the proposed further variation to the 3:1 FSR control is considered reasonable in this instance for the following reasons:

- *The proposed amendment only actually increases the overall Gross Floor Area by 415 square metres which is relatively minor and does not represent any meaningful change to the approved density of the overall development.*
- *A significant component of the increase does not result from additional office floor space and in fact arises from the relocation of the end-of-trip facilities and bicycle parking from the basement up to ground floor, which is a far superior location.*
- *The amended proposal results in a considerable improvement to the amenity within the development. The minor increase in floor space is simply the result of a reconfigured floorplate on the typical levels which have actually now provided a number of outdoor terraces on every level. In other words, the proposal has not sought to expand the floorplate or remove the internal atrium simply to add floor space, rather, the changes to the floorplate have actually significantly enhanced outdoor amenity.*
- *The increase in the FSR is so minor that it does not result in any meaningful change to the overall approved building envelope or bulk and scale of the development.*
- *The amended proposal provides an improved response to the opportunities and constraints of the site and is considered to achieve an appropriated design outcome.*
- *Finally, 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 amended development remains compliant with the 44 metre height limit under the BLEP 2021.*
- *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 increase in floor space is minor and does not result in any additional traffic impacts, noting that the car parking provision has actually been reduced from 253 spaces to 209 spaces.*
- *The increase in overall density of 415 square metres does not give rise to any unreasonable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.*
- *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 amended development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.*

Council Assessment

- The proposal has maintained an appropriate visual character in that the bulk and scale of the proposal will complement the adjoining approved developments to the south at 4 Chalmers Crescent and also at 1-5 Chalmers Crescent. This provides a uniform streetscape presentation, providing an appropriate visual interface between new development and adjoining approved development.
- The proposal is not considered to generate adverse impacts to the use of adjoining properties and the public domain.
- The intensity and density of the development is of a form that would be reasonably contemplated for the site. Whilst the proposed FSR is noncompliant, there are other sites within the Mascot Business Development Precinct that have been approved at a similar or higher FSR, including 4.41:1 adjacent to the subject site at 256-280 Coward Street (combined prior to subdivision). The FSR, whilst beyond that prescribed in the development standard generates a bulk and scale that is in keeping with the desired future character of the area. The site is also located within close proximity of Mascot railway station.
- The site is a large site with three street frontages that is capable of accommodating an increase in density without generating adverse impact. The density is considered to be similar to that of adjoining approved development in the precinct.
- The proposed development as modified complies with the building setbacks as prescribed in the Botany Bay DCP 2013 and the recently adopted Bayside DCP 2022.
- The proposed development as modified complies with the maximum permitted height, including for services at roof top level. The modification reduces the overall height of the building.
- Council's Design Review Panel confirmed that the proposal achieves design excellence notwithstanding the variation to FSR. Specifically the Panel noted that *"the increase in FSR is*

supported on the basis of improvements to the landscape, including an increase in deep soil from 15% to 19%.”

- The proposal shall contribute to the economic growth of the Mascot area via the provision of new employment opportunities within proximity to public transport services and within the Mascot Station Precinct.
- The additional floor space does not result in unacceptable adverse impacts to adjoining properties in terms of traffic, bulk and scale, streetscape impact, visual impact or overshadowing.
- The FSR does not set an undesirable precedent for future development within the precinct.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Section 6.1 – Acid Sulfate Soils

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 6.2 – Earthworks

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 6.3 – Stormwater and WSUD

Amended stormwater plans were submitted as part of this application.

After liaising with the applicant on the stormwater management system, it was agreed to defer the finalisation of this until the Construction Certificate stage.

The removal of the basement has the opportunity to allow for an on-site infiltration system to be provided for the development within the footprint of the loading dock. An on-site infiltration system is the preferred method of stormwater management.

Appropriate conditions have been imposed in the attached Draft Schedule of Modified Conditions.

Section 6.7 – Airspace Operations

The modified proposal seeks approval for a maximum overall building height of 43.05 metres (AHD), which is a decrease of 0.95 metres.

Given that the height is decreasing, there was no requirement to refer it to Sydney Airport, and hence Condition 5 in the attached draft schedule of modified conditions will remain unchanged.

Section 6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 25-30 ANEF contour.

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 6.11 – Essential Services

The modified proposed development will not change any conclusions made in the DA assessment (as approved by the Sydney Eastern City Planning Panel).

Section 6.10 – Design Excellence

The subject site is mapped under design excellence in the LEP.

The application was referred to the Design Review Panel on two separate occasions, that being 2 March 2023 and then on 21 April 2023 by way of a workshop at the direction of the Sydney Eastern City Planning Panel.

At the second meeting, it supported the application concluding that the proposal achieved 'Design Excellence'. The following comments were made:

Context and Neighborhood Character

- Retention of large tree along Coward Street frontage with the built form amended accordingly;
- Improvements to setbacks and street frontages (including a reinstatement of the previously approved 3m landscape zone along the southern boundary);
- Combination of the balcony terraces into two more generously sized (north and west-facing) elements in response to adjacent trees all of which are enthusiastically supported;
- The deletion of the basement car parking and the rationale for re-locating the balance to levels 1, 2 and 3 is understood and accepted.

Council assessment

- The retention of the large street tree on Coward Street further enhances the design and also the public domain;
- Setbacks are assessed later in this report under the DCP section;
- The provision of balcony terraces will positively contribute to the amenity of workers; and
- The configuration of the car parking across Levels 1 to 3 is supported and the facades have been appropriately designed.

Built Form and Scale

- Retention of existing mature trees;
- Improvements to the north-western corner address to the street including the provision of a double-height ground-level space and opening up the ground plane to encourage more activation toward the street;
- Improvements to office space east of the core;
- Improvements to end of trip facilities;
- Reduction in car parking;
- Greater amenity benefits resulting from bigger balconies; and
- A more definitive design response between exterior break-out spaces and internal office space.

Council assessment

- The retention of the large street tree on Coward Street further enhances the design and also the public domain;
- A section of double height colonnade at ground level has been retained;
- Improvements to the space east of the core is supported, with additional detail provided as

- without how the external terrace areas will interact with the proposed tenancy use;
- Improvements to the end of trip facilities are noted; and
- A further assessment on car parking will be made in the DCP section of this report.

Upon the finalisation of the assessment of the amended architectural plans received on 29 May 2023, the following request was made to the applicant in order to finalise our assessment:

- The 3D image quality on the amended plans be improved to provide a complete understanding of the proposal, and full details of materials and finishes to be provided.

This has been provided and has been included in the submission package to the Sydney Eastern City Planning Panel accompanying this report.

Density

- The increase in FSR is supported on the basis of improvements to the landscape, including an increase in deep soil from 15% to 19%.

Council assessment

Noted, refer to FSR assessment earlier in this section of the report.

Sustainability

- Retention of existing large trees around the street frontage;
- A sufficiently high floor-to-floor height for Level 3 carparking so as to allow future change-of-use and adaptability.

Council assessment

Noted. This is complement the sustainability measures that were incorporated within the approved application.

Landscape

- Retention of large tree on Coward Street;
- End-of-trip facilities to the ground floor have a defined entry experience and the general treatment to the ground floor level;
- The expression and format of the built form in relation to the public domain now has a greater synergy, dynamic response to existing conditions and has resolved the issue of safety concerns in terms of depth to entries;
- Improved landscape treatment throughout upper levels and the rooftop;

The following is to be considered further:

- Landscape effect lighting opportunities are also encouraged to be integrated as part of the landscape design response within the public domain, noting this is an important consideration for not only AS standard lighting requirements but for the presentation of the space when viewed from the street;
- Council should ensure planter depth detailing for minimum soil depths are as a minimum to ADG recommendations to ensure podium planting viability.

Council assessment

- The retention of the large street tree on Coward Street further enhances the design and also the public domain;
- The end of trip facilities are appropriately located;
- The relationship of the built form with the public domain is appropriately resolved;
- The proposed modified development is appropriately landscaped; and
- A condition will be imposed with relation to lighting the retained large tree along Coward Street.

Amenity

- Concerns raised previously have been addressed. The building's overall amenity has generally been improved as a result.

The following is to be considered further:

The Panel would encourage further design development of the semi-internalised (potentially double height) spaces adjacent to the balconies to open up more opportunities for spatial and social interaction and potentially more interactive level of control of the façade (blurring the interior-exterior nature of these spaces and giving enhanced control over natural ventilation).

Consideration should be given to the stairs being an add-on - rather than in-fill - into these important break-out spaces.

Council assessment

- Further detail has been provided with relation to the terrace areas and how they developed in collaboration with future tenancies. The level of detail provided is deemed acceptable;
- A condition will be imposed in the attached draft schedule of conditions relating to slab construction to allow break-throughs in future for stair / open construction.

Upon the finalisation of the assessment of the amended architectural plans received on 29 May 2023, the following request was made to the applicant in order to finalise our assessment:

- The proposed development has 209 car parking spaces over levels 1, 2 and 3 which is an excess of 8 car parking spaces. The level 1 car park also has a layout that results in an unnecessary amount of vehicular manoeuvring area in the north-western corner of level 1. By deleting 8 car parking spaces and with the associated manoeuvring area from the level 1 car park (along with some minor rearrangements to parking) the extent of level 1 floor plate could be cut back which will increase the floor to ceiling height on ground floor level to provide an improved two storey outcome commensurate with the approved scheme.

The additional detail has been provided in relation to the entry arrangement and internal wall of the car park (in Drawing 3002).

Safety

The Panel is satisfied that the above comments have been resolved in the current proposal.

Council assessment

Noted.

Aesthetics

The Panel supports the design changes and is satisfied that the concerns raised previously have been given due consideration.

Whilst the Panel would welcome the opportunity to have further involvement over detailed design considerations it does not believe that it is necessary.

Council assessment

Upon the finalisation of the assessment of the amended architectural plans received on 29 May 2023, the following request was made to the applicant in order to finalise our assessment.

- The materials and finishes plans are unclear as to what is proposed. The plans should be clear as to what materials and finishes are proposed.

A detailed digital materials board (drawing number 9000 in the architectural package) has been provided and this is considered to be acceptable.

Design Excellence

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,

Main finishes consist primarily of a variety of aluminum materials as well as brick, and a contrast is achieved through different paint colours that highlight the architectural expression of the upper floor terrace areas and the supporting built form. The proposal achieves design excellence.

(b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,

The modifications to the external elevations improves the amenity of the proposal to gain design excellence.

(c) whether the development detrimentally impacts on view corridors,

It will not detrimentally impact on view corridors.

(d) the requirements of any development control plan made by the Council and as in force at the commencement of this clause,

Refer to DCP assessment later in this report.

(e) how the development addresses the following matters:

(i) the suitability of the land for development,

The suitability of the land has been satisfactorily addressed.

(ii) existing and proposed uses and use mix,

The existing and proposed uses and use mix has been satisfactorily addressed.

(iii) heritage issues and streetscape constraints,

There are no heritage items that may be impacted by the proposal. The streetscape interface including awnings, planters and other elements have been designed in an acceptable manner.

(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Deemed satisfactory.

(i) bulk, massing and modulation of buildings,

The modulation, bulk and massing of the building provides an appropriate response to the existing and future desired character.

(vi) street frontage heights,

Street frontage heights are satisfactory, as well as the resolution of built form.

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

The proposed modifications retain and enhance sustainable design, retains a similar footprint and height to that approved and thus does not change any overshadowing impacts to neighbouring properties and does not give rise to unacceptable levels of reflectivity.

(viii) the achievement of the principles of ecologically sustainable development,

The proposed modifications appropriately achieve the principles of ecologically sustainable development, as assessed throughout this report.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

The proposal includes adequate bicycle parking and end of trip facilities have been relocated to ground floor level and are provided with direct access from the street and natural ventilation. Council's Engineers have reviewed the proposal and found it to be acceptable with regards to access and circulation. Relevant conditions have been imposed in the consent.

(x) the impact on, and any proposed improvements to, the public domain,

The streetscape interface has resulted in a high quality outcome. The application was amended to provide a double-height ground floor at the corner and entrance to the building and to retain a significant existing site tree which will improve the appearance of the development in the public domain.

(xi) achieving appropriate interfaces at ground level between the building and the public domain,

The streetscape interface has resulted in a satisfactory outcome. The applicant has retained an additional existing significant site tree (Tree 5) and has provided a double-height ground floor level to address the corner of Kent Road and Coward Street. Proposed landscape design, material

choices, ground floor layout and design will result in a positive interface with the public domain.

(xii) excellence and integration of landscape design.

The streetscape landscape and relevant interfaces have resulted in a high quality landscape outcome.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

There are no draft Environmental Planning Instruments that relate to the assessment of this application.

Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

The application was lodged when the Botany Bay Development Control Plan 2013 was in force. The Bayside DCP 2022 has now been adopted however consideration is to be made against the DCP 2022. It generally complies with the controls in this DCP. One matter is that side setback requirements have increased from 2m to 3m in the new DCP and the proposal complies with this new requirement.

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking and Access

A total of 253 car parking spaces were approved.

The modified proposal provides a total of 205 spaces, distributed in Levels 1 to 3, being a reduction of 48 car parking spaces.

The BBDCP 2013 requires parking at a rate of 1 space per 40m² and the proposal does not comply. The proposal would be required to provide 405 car parking spaces.

The revised number of 205 spaces provides a rate of around 1 space per 80m² of GFA, this has been commonly applied to other sites within proximity of the subject site. This is also consistent with the Mascot TMAP which adopts a similar rate in this area.

The provision of 1 space per 80m² has also been included in the recently adopted Bayside DCP 2022 for all sites located within 800m of Mascot Station.

The proposal is located within 400 metres from the train station and would comply with the new Bayside DCP 2022 requirements. The proposal's proximity to the train station also results in large parking numbers being unwarranted. Less parking encourages a modal shift towards different methods of public transport, encourages sustainable transport methods and will result in less traffic generation within the area.

The applicant has also provided flexibility to allow one of their parking levels (Level 3) to be capable of conversion to office space in the future should this be appropriate in the circumstances at a later time.

On this basis, it is recommended that this rate is supported by the Sydney Eastern City Planning Panel.

The proposed modification retains the approved loading spaces within the same area in the southern section of the site as well as bicycle parking within the end of trip facility also located on the ground floor.

Part 3C – Access and Mobility

The applicant has provided an addendum letter prepared by Jensen Hughes, dated 14 December 2022 which advised that the amended plans will not change the basis of the assessment and recommendations made under the Access Assessment Report that they had prepared for the DA, dated 29 July 2019.

On that basis, it is considered acceptable, with the addendum letter to be added to the approved documentation table in Condition 1 of the attached draft schedule of modified conditions.

Part 3E.5 Connectivity and Future Development Potential

Potential site isolation with the neighbouring site to the east at 251 Coward Street had been addressed in the DA assessment for the original proposal, with the conclusion being that it is not constrained by the proposed development and can be successfully re-developed.

Part 3G – Stormwater Management

Refer to the LEP section earlier in this report.

Part 3I – Crime Prevention, Safety and Security

The assessment report for DA-2019/281 addressed this part as follows:

The proposed development provides opportunities for natural surveillance to all surrounding streets. The applicant has stated that the entries to the development will be appropriately lit at night to enhance safety, visibility and legibility. Additionally, effective access control has been proposed though the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development have been designed well to allow for passive surveillance through its frequent usage.

The application was referred to NSW Police who provided advisory conditions relating to surveillance and fencing. The proposal is considered to satisfy the provisions of the DCP.

The proposed modifications present similar elements, therefore this part is satisfied, and will be reinforced by Condition 9 of the approved conditions which have been prescribed by the NSW Police.

Part 3J – Aircraft Noise and OLS

Refer to the LEP section earlier in this report.

Part 3K – Contamination

Refer to the SEPP assessment earlier in this report.

Part 3L – Landscaping and Tree Management

An amended set of landscape plans, prepared by FJC Studio, was lodged with the MDA, which

included the following information:

- Existing Trees Plan
- Landscape Plan for ground floor and level 10
- Landscape Sections
- Landscape Details for hardscape and softscape
- Landscape deep soil diagram
- Landscaped area diagrams

This has been reviewed by Council's Landscape Architect and considered acceptable, subject to modified conditions in the attached Draft Schedule of Modified Conditions.

Part 3N – Waste Minimisation and Management

A Waste Management Plan was lodged with the MDA, and is considered to be satisfactory.

Part 6.2.4 – Mascot Business Development Precinct

The site is located within 800 metres of Mascot Train Station which is to the north-east of the site. The proposed modified development has retained ample bicycle parking spaces, which have been relocated to the ground floor, which will continue to promote higher public transport. In addition to the above, a Workplace Travel Plan was imposed as a condition under DA-2019/281 to be provided with regards to the approved development (Condition 117).

The modified proposal has been designed as a modern contemporary office/commercial building with high level of architectural merit and the incorporation of a variety of materials that will positively contribute to the character of the Mascot Business Development Precinct.

Part 6.3.2 Building and Site Layout

- A detailed site analysis has been provided within the architectural package;
- Non-industrial aspects of the development are prominent on both the Coward Street and Kent Road frontages;
- Floor space is adequately distributed throughout the site;
- The setbacks are deep soil zones;
- Large trees have been retained along Coward Street;
- Internal spaces are adequately designed;
- Adequate waste removal handling and minimization facilities have been provided;
- Loading areas are provided at the rear of the site (adjacent to Chalmers Crescent frontage);
- An outdoor terraced area is provided on Level 10, with a westerly outlook towards Kent Road; and
- Building entries at ground level are clearly identified;

6.3.4 Building Design and Appearance

- A schedule of finishes and a detailed colour scheme for all external walls has been provided;
- Constructed of face brickwork or other decorative facade treatment to Council's satisfaction;
- The proposed modified development demonstrates a contemporary and innovative design;
- The building height, mass, and scale should complement and be in keeping with the character of surrounding and adjacent development;
- The front entry addresses both the Coward Street and Kent Road frontages;
- Windows on the upper floors of a building must, overlooks the public domain;
- Sufficient modulation is demonstrated;

- Addresses both street frontages in terms of facade treatment and articulation of elevations; and
- Service areas including waste, recycling areas and external storage areas continue to be located away from principal street frontages and screened from view.

6.3.5 Setbacks

The proposed modified development has the following changes to the approved setbacks:

- From 7.5 metres to 7 metres on the Coward Street frontage;
- From 6.75 metres to 5.3 metres on the Kent Road frontage;
- From 5.4 metres to 4.7 metres on the Chalmers Crescent / southern property boundary; and
- From 0 metres to 3 metres on the eastern property boundary.

Compliant landscape setbacks have been provided along the Coward Street, Kent Road and Chalmers Crescent frontages.

Each of the four setback areas contain deep soil areas.

6.3.6 Parking and Vehicular Access

- All vehicles (including deliveries) will continue to enter and leave the site in a forward direction;
- The service areas are separated from car parking areas; and
- Loading and unloading operations will remain in the same location as approved

6.3.9 Landscape

- A total of 18.6% of the site is landscaped; and
- Landscaped setbacks provides an effective, purposeful and site responsive planting design to enhance the visual amenity of the development.

Section 7.11 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A revised total of \$5,416,111.09 has been calculated. This payment will be imposed as a condition in the attached schedule.

S4.15(1)(a)(iia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no proposed or existing planning agreements that relate to this proposed development.

S4.15(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation 2021.

S4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural

and built environments, and social and economic impacts in the locality have been considered in response to SEPPs, LEP and DCP controls outlined above. Where relevant, conditions have been imposed in the consent to minimise adverse impacts.

S4.15(1)(c) - Suitability of the site

The site is considered suitable for the proposed commercial development, which is permissible in the E3 Productivity Support zone. The site is located within the Mascot West Business Development Precinct, which is strategically earmarked for revitalisation and redevelopment.

Whilst there are a series of non-compliances as discussed earlier in this report, on balance it is considered suitable in its current form.

S4.15(1)(d) - Public Submissions

The development has been notified in accordance with Part 2 of the Botany Bay DCP 2013 between 11 and 31 January 2023 and no submissions were received.

Following the submission of the amended scheme, the proposal was re-notified between 27 June and 11 July 2023 and no submissions were received.

S4.15(1)(e) - Public interest

Granting approval to the proposed development is in the public interest as it will not have an adverse impact upon the locality in terms of traffic impact, bulk, scale, visual impact and streetscape presentation or overshadowing. Furthermore, the proposal achieves 'design excellence' and retains an additional significant site tree which are both matters in the public interest.

REFERRALS AND SUBMISSIONS

Agency Referrals and Concurrence

The development application has been referred to various agencies for comment / concurrence / referral as required by the EP&A Act and outlined below:

Agency	Concurrence / referral trigger	Comments (Issue, resolution, conditions)	Resolved
<i>Concurrence Requirements (s4.13 of EP&A Act)</i>			
Transport for NSW	Section 2.119 of Transport and Infrastructure SEPP 2021 – Development with frontage to a classified road	No objections	Yes
<i>Referral/Consultation Agencies</i>			
Design Review Panel	Section 6.10 (Design Excellence) – Bayside LEP 2021	The advice of the DRP has been considered in the proposal and is further discussed in the LEP section of the report	Yes
<i>Integrated Development (S 4.46 of the EP&A Act)</i>			
Water NSW	Environmental Planning and Assessment Act 1979 – Section 4.47 Integrated Development	Advice stating that General Terms of Approval (GTAs) are not required.	Yes

Council Referrals

The development application has been referred to various Council officers for technical review as outlined below:

Officer	Comments	Resolved
Engineering	Assessment of car parking, stormwater management, and public domain. Supported subject to modified conditions. Detailed assessment earlier in this report.	Yes
Landscape	Assessment of modified landscape plans. Supported subject to modified conditions. Detailed assessment earlier in this report.	Yes
Trees	Assessment of tree removal on site. Supported, detailed assessment earlier in this report.	Yes
Contributions	Revised and indexed contributions provided, subject to modified conditions. Detailed assessment earlier in this report.	Yes

Section 7.11 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A revised total of \$5, has been calculated. This payment will be imposed as a condition in the attached schedule.

CONCLUSION

In accordance with Clause 2, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed modified development is permissible in the E3 Productivity Support Zone. A number of variations to the Bayside LEP and Botany Bay DCP 2013 have been assessed and considered acceptable.

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

On balance, the proposed development in its current form is appropriate for the site and it is recommended that the Panel approve MDA-2022/216 for the reasons outlined in this report.

RECOMMENDATION

1. That modification application MDA-2022/216 for Modification to DA-2019/281 including deletion of basement level, internal and external changes, amendment of materials and finishes and changes to landscaping at 253 Coward Street, Mascot be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*. The proposal is modified in the following manner:

- (a) Amend the proposal description to read as follows:

Demolition of existing buildings, construction of an eleven (11) storey commercial building comprising ground floor retail / commercial tenancies, car parking on Levels 1-

3, six (6) levels of office use above, and outdoor landscaped terrace and plant at Level 10.

- (b) The following conditions being modified: 1,7, 11, 13, 14, 19, 20, 23,28, 29, 33, 39, 41, 42, 43, 102, 106, 110, 116 and 126.
- (c) The following conditions to be deleted: 21, 22, 24, 26, 27, 51, 77, 84,101, 120 and 127.
- (d) The following conditions to be added: 27A, 43A, 46A, 46B, 46C, 46D, 46E, 77A, 120A, 142 and 143.