**SYDNEY EASTERN CITY PLANNING PANEL**

**PANEL DETERMINATION MEETING**

|  |  |
| --- | --- |
| SECPP No | PPSSEC-28 |
| DA Number | DA-2019/281 |
| Local Government Area | Bayside Council |
| Proposed Development | Demolition of existing buildings, construction of a ten (10) storey commercial building with an additional plant level, 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 six (6) levels of office use above |
| Street Address | 253 Coward Street, Mascot |
| Applicant | Sutherland and Associates Planning Pty Ltd |
| Owner | Skylife Coward Pty Ltd |
| Number of Submissions | Two (2) |
| Regional Development Criteria (Schedule 7 of the SEPP) | Development with a CIV of $51,819,024.00 |
| List of All Relevant s4.15(1)(a) Matters | * Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils * Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications * State Environmental Planning Policy (Infrastructure) 2007 * State Environmental Planning Policy No. 55 – Remediation of Land * State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 * State Environmental Planning Policy No. 64 - Advertising and Signage * Botany Bay Local Environmental Plan 2013 * Botany Development Control Plan 2013 |
| List all documents submitted with this report for the panel’s consideration | * Architectural plans – Bates Smart * Statement of Environmental Effects and Clause 4.6 variation – Sutherland and Associates Planning Pty Ltd * Landscape Design Report – Site Image * Traffic and Parking Assessment Report - McLaren * Acoustic Report – Acoustic Logic * Acid Sulphate Soils Mgnt Plan - Aargus, * Wind - Windtech * Arboricultural Impact Report – Landscape Matrix * Access Report – BCA Logic * Architectural Design Report – Bates Smart * BCA Assessment Report – BCA Logic * Envelope Study – Bates Samrt * Site Investigation Report - Aargus |
| Report by | Adam Iskander – Senior Development Assessment Planner |

**RECOMMENDATION**

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), exercising its function on behalf of Council as the consent authority, resolve to:

1. Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.86:1 (15,630sqm) for the development at 253 Coward Street Mascot; and
2. Grant approval of Development Application No. 2019/281 for the Demolition of existing buildings, construction of a ten (10) storey commercial building with an additional plant level, 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 six (6) levels of office use above at 253 Coward Street Mascot, subject to the conditions of consent in the attached Schedule.

The reasons for approval are as follows:

1. The proposal is consistent and conforms with the objectives of the B5 Business Development zone and conforms with the desired future character of the precinct;
2. The proposal will provide for an increase employment density on the site within the Mascot Business Development Precinct; and
3. The proposal provides a considered built form response that will deliver a positive urban design outcome.
4. The proposal demonstrates Design Excellence under the provisions of clause 6.16 of Botany Bay Local Environmental Plan 2013.

**EXECUTIVE SUMMARY**

Council received Development Application No. 2019/281 on 14 August 2019 for the Demolition of existing buildings, construction of a ten (10) storey commercial building with an additional plant level, 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 six (6) levels of office use above at 253 Coward Street, Mascot.

The Development Application is required to be referred to the Sydney Eastern City Planning Panel (SECPP) pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the Capital Investment Value of the proposal is greater than $30,000,000.

The Development Application was advertised for a period of fourteen (14) days between 29 August 2019 and 30 September 2019. Two (2) submissions were received during the notification period and raised concerns relating to non-compliance with FSR, height non-compliance with parking, traffic generation and overshadowing.

The key issues in the assessment of the development application include FSR, car parking and building setbacks. Building height has been reduced to comply.

The proposed GFA at 253 Coward Street, Mascot is 15,630sqm, which equates to 3.86:1 FSR. This does not comply with the maximum FSR of 3:1 applicable to the site. The applicant has provided a Clause 4.6 variation. Council is of the opinion that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported.

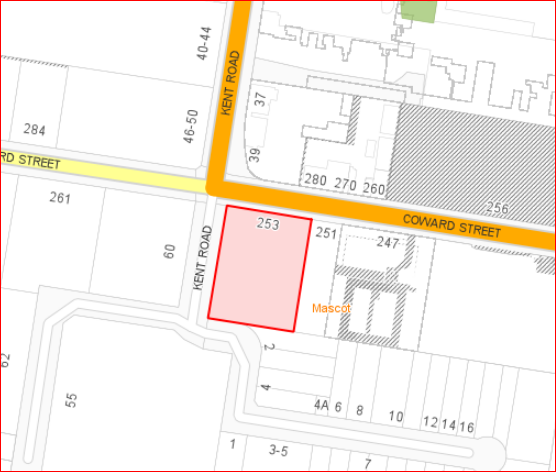
The development has a car parking deficiencies. The development generates a total of 253 parking spaces and seven loading spaces. The car parking is acceptable in that the proposal is located within 800 metres from the station, encourages different methods of public transport and will result in less traffic generation within the area. This is further supported by Council’s Development Engineer.

With regard to the building setback, the development requires a front building setback of 9 metres. The proposal provides a varied setback between 5.4 meters along Chalmers Crescent, 6.5-11m along Kent Road and 7.5m along Coward Street. The non-compliance are consistent with the setbacks of the buildings along Coward Street and Kent Road and the setback from Chalmers Crescent is more generous that the adjoining property at 251 Coward Street to the east.

In summary, the proposed development application has been assessed against the relevant controls, and on balance, Council is generally supportive of the proposal. It is recommended that the application be issued with an approval, subject to the conditions of consent as attached in Schedule 1.

**SITE DESCRIPTION**

The site comprises one allotment and is legally described as Lot 1 in DP 104795 and is known as 253 Coward Street, Mascot. The site is generally rectangular in shape and has an area of 4,047 square metres. The site has a frontage of 73.3 metres to Coward Street, a frontage of 55.1 metres to Kent Street, a southern boundary of 73.3 metres, and an eastern boundary of 51.1 metres. 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. Locality Plan**



**Figure 2. Aerial Map of subject site (bordered in red)**

The site is currently occupied by a part one part two storey industrial building which is aligned to the eastern side of the site, whilst the majority of the remainder of the site is occupied by hardstand area for vehicle parking and manoeuvring. The front of the building contains an office for Hino, while the rear of the building is a service area for their trucks. The site is currently serviced by three vehicle crossings, with one from Coward Street and two from Kent Street. The perimeter of site along Coward and Kent Street comprises garden beds which contain a variety of vegetation and there are 24 trees within the site and adjacent Council verge.

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 3. Subject Site Cnr Coward and Kent Road**



**Figure 4. Subject Site along Kent Road**



**Figure 5. Subject Site along Chalmers Crescent**

The site is located within 800 metres of Mascot Train Station. Additionally the site is located within the 25-30 ANEF Contour and is not flood affected.

**SURROUNDING LOCALITY**

To the south, the site adjoins 2 Chalmers Crescent which is currently improved by 2 storey industrial and commercial building with a large hardstand area within the front setback. There is currently a development application (no.2019/463) for this site that is under assessment for a 13 storey commercial development.

To the east of the site is 229 Coward Street which contains a Bridgestone tyre and auto business. The site contains a 2 storey office building at the front of the property, a single storey workshop aligned to the rear boundary, and the remainder of the site contains hard stand area. Further to the east is 247-249 Coward Street which contains a 9 storey office building configured with a U-shape design with an internal courtyard along its southern side.

To the north the site, on the opposite side of Coward Street is the recently constructed East Square mixed use development at 39 Kent Road which is 15 storeys in height.

To the north-west of the site, diagonally opposite is 46-50 Kent Road which contains the Axis Corporate Centre which is a 4 storey office development. To the west of the site across Kent Road is 60 Kent Road which contains a 2 storey office building.

The site is located within 2 kilometers of Sydney Kingsford Smith Airport and is located to the south of the Mascot Train Station Precinct.

**BACKGROUND**

Site History

* **DA-1998/10567** - Use the premises as new and used truck sales, maintenance and spare parts and landscaping was approved 18 August 1998.
* **DA-19998/10567/A** - Amend the description of development and Condition 31 (b) and 35 was approved 4 September 2003.
* **DA-1998/10567/B** - Amend the description of development and Condition 31 (b) and 35 was withdrawn 26 May 2004
* **DA-1998/10567/C** - Amend approved development for use of the property for truck maintenance, used truck and part sales by increasing the area of the site devoted to truck display, provision of a screened garbage storage area and installation of a temporary office building was refused 11 January 2005;
* **DA-2000/10514** – New illuminated monolith signs, two directional signs and a fascia sign was approved 12 April 2000;
* **DA-2001/10356** - Enlargement of current spare parts office and construction of mezzanine storage area was approved 4 April 2001;
* **DA-2007/10280**- Rebuild low landscape walls and soft landscaping works and rainwater tanks was approved 6 June 2007; and
* **DA**-**2017/11132** – Replacement of business identification signage was approved 23 October 2017.

Development Application History

The development application has been assessed as follows:

* 14 August 2019 – Development Application was lodged with Council;
* 29 August and 30 September 2019 – Development Application was placed on public notification. Two (2) submissions were received;
* 7 November 2019 – The application was put forward to the Design Review Panel

* 20 November 2019 – A Request for Further Information letter was sent to the applicant requiring amendments to height, FSR, landscaping, storm water, traffic and a new site investigation report.
* 27 February 2020 – Briefing report was presented to the Sydney Eastern City Planning Panel for consideration. Minutes were received 4 March 2020.
* 20 March 2020 – Amended plans were received addressing all concerns raised in the RFI letter. Importantly, the amendments presented a decrease in building height from 44.7m to a compliant 44m and a reduced gross floor area from 18,211sqm to 15,865sqm (FSR of 4.5:1 reduced to 3.92:1)
* 23 March – 21 April 2020 – Council had been in conversation with the applicant to further increase setbacks which will in turn further reduce the overall FSR on the site;
* 22 April 2020 – Applicant has submitted amended plans showing an increase in setback along the eastern side boundary. The amendments were accompanied with an amended GFA calculation plan and an amended Clause 4.6 Statement. The new FSR as a result of the increased setbacks is 3.86:1 or a GFA of 15,630sqm.

**DESCRIPTION OF PROPOSED DEVELOPMENT**

The proposed development, as amended, is for the demolition of existing buildings, construction of a ten (10) storey commercial building with an additional plant level above, 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 six (6) levels of office use above. A total of 253 parking spaces are provided.

An atrium runs through the entire building from basement to the tenth floor along with four service shaft vents. The proposal is further broken down as follows.

Basement:

* Seventy-six (76) parking spaces

Ground Floor:

* Two storey Café premises measuring 110sqm;
* Two storey lobby area measuring 190sqm
* Two storey commercial/retail area measuring 758sqm
* Entry and exit ramp leading to basement and also leads to a mezzanine level car park accommodating thirty-one (31) parking spaces
* Loading dock with four (4) loading bays;
* Garbage room and W/C facilities

Level two and three

* Seventy six (76) parking spaces on level two and seventy-eight (78) parking spaces on level three;
* Both levels designed to be adaptive reuse

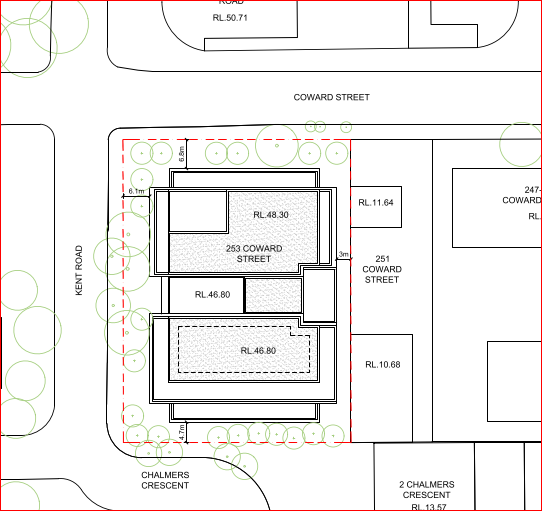
Levels four to nine:

* Level four contains commercial space measuring 2,510sqm
* Levels five to nine contain commercial space measuring 2,426sqm
* All levels contain male and female W/C

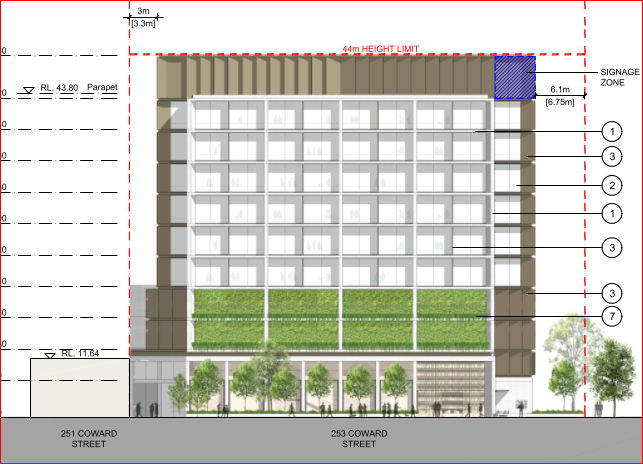
Plant room

* Located on the roof with a 5.1m floor to ceiling height

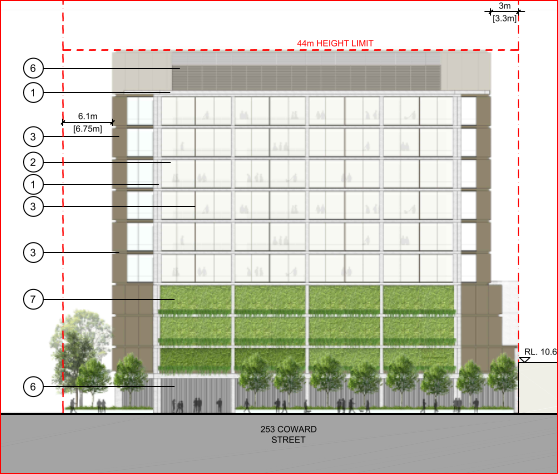
The below figures demonstrate the proposed development:



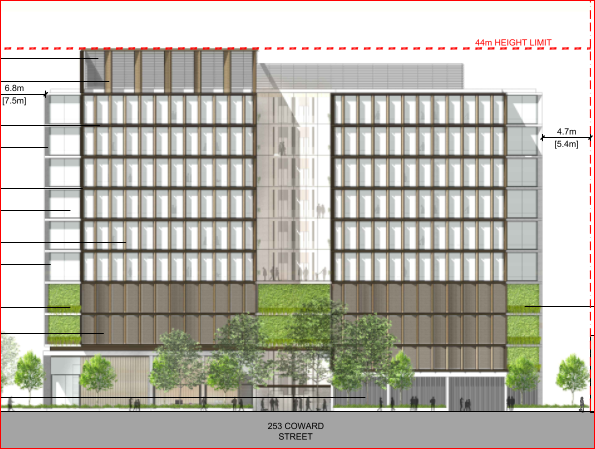
**Figure 6: Proposed Site Plan**



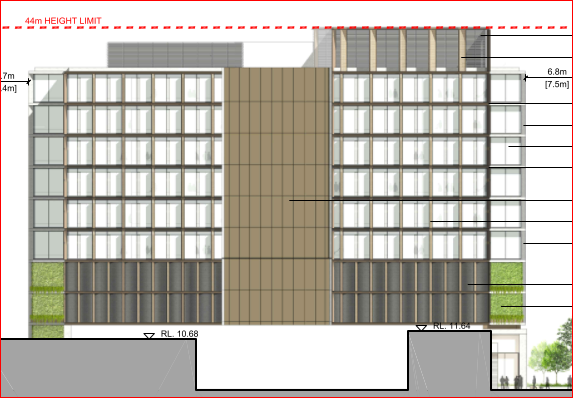
**Figure 7. Proposed Northern Elevation facing Coward Street**



**Figure 8. Proposed Southern Elevation facing Chalmers Crescent**



**Figure 9. Proposed Western Elevation facing Kent Road**



**Figure 10. Proposed Eastern Elevation facing 251 Coward Street**



**Figure 11. Proposed Photomontage of Front Elevation facing Kent Road**



**Figure 12. Proposed Photomontage of elevation facing the corner of Coward and Kent Road**

**SECTION 4.15 CONSIDERATIONS**

In considering the Development Application, the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

**S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development involves excavation for a basement car park. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant provided a Detailed Site Investigation (DSI) Report which made the following comments:

*“The site was used for commercial purposes (mostly truck mechanics/services) since 1970s, with oil staining observed on the concrete slab. The SafeWork NSW Dangerous Goods search did not identify records of underground storage tanks (UST). However, a number of waste oil and combustible liquid tanks were noted in a concrete paved pit in the centre of the truck servicing workshop.*

*Laboratory results for soil samples did not exceed the relevant EIL/ESL and HIL D, with the exception of zinc at BH12 (683mg/kg) exceeding the EIL (discussed in report Rev0 but not discussed in this report Rev1). Laboratory results for groundwater samples did not exceed the relevant ANZECC (2000) guidelines for protection of fresh water ecosystems, with the exception of zinc in a duplicate groundwater sample (GWD1, duplicate of GW3). The Report concluded that the zinc exceedance in the duplicate sample was attributed to background levels in the area. I generally concur with the above findings.*

*Nevertheless, the DSI concluded that the risks to human health and the environment associated with the soil and groundwater contamination at the site are negligible. The DSI further concluded that the site is therefore suitable for the proposed commercial use”*

Council’s Environmental Scientist has raised no objections to the proposal, subject to the imposition of appropriate conditions of consent. Therefore the site could be made suitable for the proposed development and the proposal satisfies SEPP No. 55.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle, metropolitan areas. The aims of the policy are (A) to protect the biodiversity values of trees and other vegetation in non-rules of the State and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument – Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP).

The application was reviewed by Council’s Tree Preservation Officer as well as Landscape Architect who have imposed appropriate conditions of consent in the attached Schedule relating to protection of trees and preservation bond. The following trees have received approval from Council’s Tree Officer for their removal:

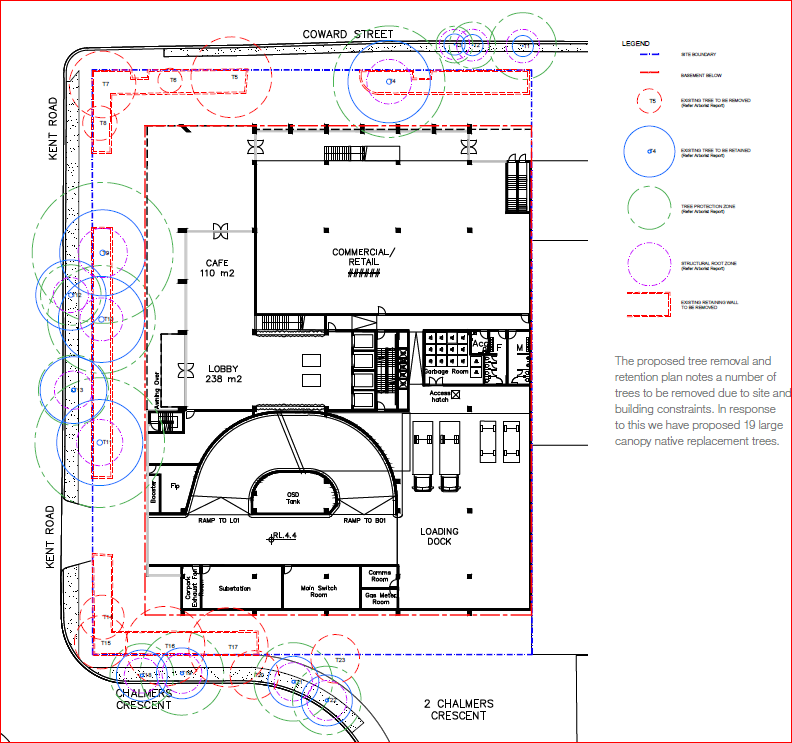
* Trees 1, 2 & 3. *Banksia integrifolia* located in the public domain have all been pruned by Ausgrid for line clearance and should be removed and replaced.
* Tree 5. *Eucalyptus punctata*
* Tree 6. *Corymbia maculata*
* Tree 7. *Eucalyptus punctata*
* Tree 8. *Eucalyptus robusta*
* Tree 14. *Eucalyptus haemastoma*
* Tree 15. *Corymbia maculata*
* Tree 16. *Eucalyptus scoparia*
* Tree 17*. Eucalyptus microcorys*
* Trees 18, 19, 20, 21 & 22. *Casuarina glauca* located in the public domain, each tree in this group have either significant defects, diseased or are suppressed and are be removed and replaced.
* Tree 23*. Robinia pseudoacacia*

Eight (8) if the trees mentioned above are located within the Public Domain. These trees will be replace with eight (8) *Corymbia maculata* (Spotted Gum) specimens, located within the public domain along the three (3) street frontages.

The following trees are to be retained and protected:

* Tree 4. *Corymbia citriodora*
* Tree 9. *Eucalyptus microcorys*
* Tree 10. *Eucalyptus punctata*
* Tree 11. *Corymbia citriodora*
* Tree 12. *Corymbia maculata*
* Tree 13. *Corymbia maculata*
* Tree 24. *Corymbia eximia*

Subject to conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Part 3L of the BBDCP 2013.



**Figure 13. Plan of trees located on site and on public domain that will be removed/retained.**

State Environmental Planning Policy (Infrastructure) 2007

The site fronts Coward Street, a classified road. Consequently, the provisions of Clause 101 of the Infrastructure SEPP apply. The proposal does not provide vehicular access to Coward Street, instead providing it off Kent Street and well removed from the Coward Street intersection. The proposal satisfies the relevant provisions of Clause 101 of the Infrastructure SEPP.

The proposal is identified as a traffic generating development under Schedule 3 - Traffic generating development and is to be referred to RMS as the development exceeds 4,000sqm in commercial area. The development proposes a total of 15,630sqm of commercial and retail area and provides 253 car parking spaces. The application was referred to RMS for comments and conditions. On 10 September 2019, RMS provided comments and raised no objection to the proposal subject to the appropriate conditions imposed within the consent in attached Schedule 1.

Clause 45 which relates to development likely to affect an electricity transmission or distribution applies to the development application. The application was referred to Ausgrid and on 19 October 2019 Ausgrid had responded raising no objections to the development subject to conditions of consent. Additionally, in accordance with Part 6 of the DCP 2013, it is required that an above-ground powerline is undergrounded therefore conditions have been imposed in the consent regarding this. The relevant clauses of the Infrastructure SEPP have been satisfied.

State Environmental Planning Policy No 64—Advertising and Signage

This policy applies to all signage that is visible from a public place or public reserve except for a signage that is exempt development. Clause 8 of SEPP 64 requires the following:   
  
*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:*

*(a) that the signage is consistent with the objectives of this Police as set out In Clause 3(1) (a), and  
(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

Accordingly, the application is considered against Schedule 1 of SEPP 64 - Advertising and Signage

|  |  |  |  |
| --- | --- | --- | --- |
| Assessment Criteria | | Comment | Compliance |
|  | |  |  |
| 1) Character of the area | Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? | The site is located within a B5 Business Development zone and the sign within the signage zone will be directly associated with the future use of the building and will serve to provide either business or building identification and public wayfinding. The application only seeks approval for one signage zone which is appropriate given a sign is required for the business. The proposed size and location of the sign is appropriate having regard to the context of the site and is consistent with character of development in the vicinity of the site. | Yes |
|  | Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? | Yes | Yes |
| 2) Special areas | Does the proposal detract from the amenity or visual quality of any environmentally sensitive area,s heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? | The proposed sign will provide information and direction for the public and is consistent with the character expected within a business zoned area. The proposed sign will not unreasonably detract from the amenity  or visual quality of any environmentally sensitive areas, open space areas, waterways, rural landscapes  or residential areas. | Yes |
| 3) Views and Vistas | Does the proposal obscure or compromise important views? | The scale and location of the signage has been designed to integrate with the architecture of the building.  The proposed sign will have no impact upon views or vistas in the vicinity of the site. The proposed sign will have no unreasonable impacts in terms of obstructing sightlines to other advertisements. | Yes |
|  | Does the proposal dominate the skyline and reduce the quality of vistas? | No | Yes |
|  | Does the proposal respect the viewing rights of other advertisers? | Yes | Yes |
| 4) Streetscape setting or landscape | Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? | Future sign within the signage zone will not disrupt the architectural integrity of the building. The proposed business or building identification signage is considered an acceptable addition to the streetscape, setting and landscape given the site’s location in a local centre. | Yes |
|  | Does the proposal contribute to the visual interest of the streetscape, setting or landscape? | Yes | Yes |
|  | Does the proposal reduce clutter by rationalising and simplifying existing advertising? | Yes | Yes |
|  | Does the proposal screen unsightliness? | N/a | N/a |
|  | Does the proposal protrude above buildings, structures or tree canopies in the area or locality? | The sign is located on the façade along the top floor and sits above tree canopies. However, does not detract from the character for the area or contribute to visual clutter | Yes |
|  | Does the proposal require ongoing vegetation management? | No | Yes |
| 5) Site and building | Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? | The proposed signage zone is appropriately integrated with the design of the building and the size of the signage zone is appropriate with respect to the scale of the building. The colour and content of the sign will relate to the branding of the business or the building and will not result in an adverse impact on the locality. | Yes |
|  | Does the proposal respect important features of the site or building, or both? | Yes | Yes |
|  | Does the proposal show innovation and imagination in its relationship to the site or building, or both? | Yes | Yes |
| 6) Associated devices and logos with advertisements and advertising structures | Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? | No | Yes |
| 7) Illumination | Would illumination result in unacceptable glare? | No. The plans do not indicate that the sign will be illuminated | Yes |
|  | Would illumination affect safety for pedestrians, vehicles or aircraft? | No | Yes |
|  | Would illumination detract from the amenity of any residence or other form of accommodation? | No | Yes |
|  | Can the intensity of the illumination be adjusted, if necessary? | No | Yes |
|  | Is the illuminated subject to a curfew? | N/a | N/a |
| 8) Safety | Would the proposal reduce safety for any public road? | The proposed sign will assist in public safety by clearly identifying the site. The proposed sign will not reduce safety for vehicles, pedestrians or bicyclists and does not obscure views along the road, footpath  or to any public area or safety zone. | Yes |
|  | Would the proposal reduce the safety for pedestrians or cyclists? | No | Yes |
|  | Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? | No | Yes |

The provisions of the SEPP have been satisfied. The proposed signage is considered acceptable

Botany Bay Local Environmental Plan 2013 (BBLEP)

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

| **Principal Provisions of BBLEP 2013** | **Complies**  **Yes/No** | **Comment** |
| --- | --- | --- |
| Land use Zone | - | The site is zoned B5 Business Development zone under the BBLEP 2013. |
| Is the proposed use/works permitted with development consent? | Yes | The proposed commercial offices, food/drink premises and car park are permissible within the B5 Business Development zone under the BBLEP 2013. |
| Does the proposed use/works meet the objectives of the zone? | Yes | The proposed development is consistent with the following objectives of the B5 zone:   * To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centers. |
| Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site? | N/A | Clause 2.5 does not apply to the subject site. |
| What is the height of the building? | Yes – **Refer to Note 1 below** | The maximum height allowed on the site is 44 metres.  The proposed height is 44 metres.  The proposed development complies with the requirements of the BBLEP 2013.  A 5.1m high plant room is located on the roof and contributes to the height. The applicant has provided a response justifying the need for the large plant room. See note 2 below |
| What is the proposed FSR? | **No – Refer to Note 2 below** | The proposed GFA as amended is calculated at 15,630sqm over a site area of 4,047sqm  FSR proposed = 3.86:1  Maximum FSR permissible is 3:1  The applicant has provided a Clause 4.6 variation on the calculable FSR on the site. This is discussed in greater detail in Note 1 below. |
| Is the site within land marked “Area 3” on the FSR Map | N/A | The subject site is not identified as being within “Area 3” on the FSR map. |
| Is the land affected by road widening? | Yes | The site is not impacted by road widening |
| Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? | Yes | The site is not a heritage item, it not located within a heritage conservation area and is not in close proximity to other heritage items. |
| The following provisions in Part 6 of the LEP apply to the development:  6.1 – Acid sulfate soils (ASS)  6.2 – Earthworks  6.3 – Stormwater management  6.8 – Airspace Operations  6.9 – Development in areas subject to aircraft noise  6.16 – Design Excellence | Yes  Yes  Yes  Yes  Yes  Yes – **Please See note 3** | The site is identified as being affected by Class 2 ASS. The development proposes a basement. An ASS Report was submitted and assessed by Council’s Environmental Scientist Officer. Council’s Environmental Scientist has recommended several conditions relating to the Acid Sulphate Management Plan and is generally satisfied with the proposed development subject to these conditions.  The proposal seeks to excavate for the basement level proposed. It is unlikely the development will disrupt or negatively impact the neighbouring properties or the groundwater as NSW Water have raised no concerns subject to conditions of consent.  An on-site stormwater detention system is proposed and is demonstrated in detailed stormwater management and drainage plans. The application was reviewed by Council’s Development Engineer who had no objections to the proposal subject to conditions of consent.  The site is subject to a maximum height of 51 metres AHD. The proposal provides a maximum OLS height of RL 47.750 which is below the provision. The application was referred to SACL who have raised no concerns subject to conditions of consent.  The subject site lies within the 25-30 ANEF contour. An Acoustic Report, prepared by Acoustic Logic, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.  The application was referred to the Design Review Panel who overall supported the development and considers the development to exhibit design excellence. |

**Note 1 – Justification for the plant room**

Council raised concerns relating to the plant room on the top floor which spans the entire floor plate with a floor to ceiling height of 5.1m. The applicant justified the plant room with the following statement by CSA Construction Services & Infrastructure:

*In responding to Councils request, it is important to note that this project seeks to incorporate high performance environmental design and sustainability objectives to ensure the best outcomes can be achieved in terms of energy consumption and building performance.*

*As such the services design for this project is targeting an energy efficient water-cooled air-conditioning system, which will require the building to be served by large water-cooled chillers and cooling towers located in the plant room on the roof.*

*Typically, the tallest plant to be installed on the roof plantroom are the cooling towers which are between approx. 3.8m – 4m in height with and require a 1m raised concrete plinth beneath to allow for pipework connections and to maintain sufficient pressure head on their associated water pumps. The water-cooled chillers and cooling towers also require clearance above each unit for access panels/openings for maintenance purposes, therefore requiring a minimum 5.1m floor to ceiling height to comply with the relevant statutory requirements.*

*Additional to the large water cooled chillers and cooling towers, other central plant and mechanical works systems are located on the rooftop plant room including hot water plant, condenser water plant heat exchangers, supply & exhaust fans, lift motor rooms and the emergency generator power supply, all which occupy a significant area and are required to be located on the roof to achieve the compliant ventilation and clearance requirements.*

*CSI have reviewed the design of the building extensively and standby the recommendation to maintain a minimum 5.1m clear floor to ceiling height for the provision of the necessary mechanical plant and equipment located on the rooftop to ensure the most efficient operation of the mechanical and cooling systems to deliver a high performing and sustainable building.*

Taking the above into consideration along with the compliant building height, the proposed plant room is considered reasonable in the circumstance.

**Note 2 – Variation to the Floor Space Ratio development standard**

Clause 4.4 of the BBLEP 2013 requires the development to have a maximum FSR of 3:1.

The site has an overall GFA of 15,630sqm resulting in an FSR of 3.86:1.   
The proposed FSR does not meet the maximum Floor Space Ratio Standard.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

*(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*

*(3) 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 circumstances of the case, and*

*(b) That there are sufficient environmental planning grounds to justify contravening the development standard.*

The Applicant has provided a Clause 4.6 variation to justify contravening the FSR standard. Their justification is provided below:

***Extent of Variation to the Development Standard***

*Gross floor area of 15,630 square metres is proposed which equates to a floor space ratio of 3.86:1. The proposal therefore seeks to vary the floor space ratio development standard by 3,489 square metres or 28.6%.*

***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.*

*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 setback being consistent with the established pattern of the development to the east and the north*

*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.*

***(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. However, there are recent approvals for similar scaled development on nearby sites at 1-5 Chalmers Crescent and also 7-9, 14-18, and 19-21 Chalmers Crescent. The proposal will provide an appropriate visual relationship for existing development, but also provides an appropriate response to the emerging character of the area.*

*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 fully compliant with the maximum 44 metre height control. The proposed development 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 Coward Street and Kent Road by introducing an active frontage and landscaped character to the site that will significantly increase vegetation within the front building line to both streets. 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 given that the proposal complies with the height control 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 and 1-5 Chalmers Crescent. 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 are 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 with the established pattern of development surrounding the site. 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.*

***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. 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.*
* Council’s Design Review Panel specifically support the FSR variation as follows:

*The proposal is for a building which significantly exceeds the FSR. Variance from the control are supported for the following reasons:*

*• Triple-frontage provides for density with amenity*

*• Prominent location calls for a prominent building*

*• Desirable land use in an important business development precinct*

*• Proximity to public transport*

*• Apparent market demand for building of scale (plate size and gross area) close to Airport*

* *Design measures mitigate density: atrium amenity; lobbies and arrival sequence; flexiblefloor configurations.*

***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*

*The 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 3,724 square metres could correlate with GFA on the majority of the 1.5 floors*

*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 3,724 square metres is particularly useful in considering the environmental planning grounds associated with the proposed variation. The office tower is fully compliant in relation to height and the street setbacks match the established pattern of setbacks to the east and north of the site. The removal of floor space by taking 1.5 floors from the top of the building 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 of the tower 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 253 car parking 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.*
* *Council’s Design Review Panel specifically support the FSR variation as follows:*
  + *The proposal is for a building which significantly exceeds the FSR. Variance from the control are supported for the following reasons:*
  + *Triple-frontage provides for density with amenity*
  + *Prominent location calls for a prominent building*
  + *Desirable land use in an important business development precinct*
  + *Proximity to public transport*
  + *Apparent market demand for building of scale (plate size and gross area) close to Airport*
  + *Design measures mitigate density: atrium amenity; lobbies and arrival sequence; flexible floor configurations.*

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

*‘to encourage:*

1. *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,*
2. *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).”*

Council Officers’ Comment:

The Clause 4.6 variation to the floor space ratio development standard has been assessed in accordance with the BBLEP 2013.

The reasons given in the accompanying request for variation are considered well founded. The applicant has satisfied at least one of the tests outlined within *Wehbe v Pittwater Council* in that it is considered that the non-compliance has achieved the objectives of the standard therefore compliance is unnecessary. The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard.

It is supported that the proposal will successfully achieve the objectives of the clause and zone and provide a considered built form response that will deliver a positive urban design outcome. Further, the proposal, as assessed by the Design Review Panel, demonstrates Design Excellence under the provisions of clause 6.16 of BBLEP 2013.

Additionally, the varied architectural language generates a high level of visual interest and will positively influence the ground floor plane to both Kent Road and Coward Street by introducing an active frontage and landscaped character to the site that will significantly increase vegetation within the front building line. The argument that the proposal will provide for an increase employment density on the site is valid particularly as the objective of the zone requires any future development to allow for a mix of business and warehouses uses in locations that are close to, and that support the viability of centers. 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.

Regarding whether the standard has been virtually abandoned or destroyed, Council maintains that the standard has not been abandoned or destroyed within the area. It could be argued that the standard has been abandoned within the neighboring Mascot Station Precinct, particularly in relation to floor space ratio, however the subject site does not fall within this catchment. There is one recently approved commercial building in close proximity to the subject site at 1-5 Chalmers (DA-2019/41 or SECPP NO. 2019EC1012 approved on 30 July 2019) was approved with a varied FSR of 3.495:1 which is a departure of 16% from the standard. It can be argued however, that contextually, the development is relatively consistent with the developments in close proximity. The following is a breakdown of the FSR with the adjoining properties located within the Mascot Station Precinct:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Address** | **DA Number** | **FSR Standard** | **Approved FAR** | **Variation %** |
| 40 Ricketty Street , Mascot | DA-2017/1253 | 3:1 | 3.78:1 | 26% |
| 19-33 Kent Road, Mascot | DA-2013/227 | 3.2:1 | 3.72:1 | 16% |
| 256 Coward Street Mascot | DA-2018/1187 | 3.2:1 | 3.71:1 | 16% |
| 1-5 Kent Road, Mascot | DA-2015/216 | 3.2:1 | 3.27:1 | 2% |
| 42 Church Avenue, Mascot | DA-2016/150 | 3.2:1 | 3.32:1 | 4% |
| 7-9 Kent Road, Mascot | DA-2014/87 | 3.2:1 | 3.78:1 | 18% |
| 256-280 Coward Street, Mascot | DA-2014/146-03 | 3.2:1 | 4.41:1 | 38% |

Taking the above table into consideration, the proposed commercial development seeks a floor space ratio of 3.86:1with a variation of 28.6% which will fit between 7-9 Kent Road and 256-280 Coward Street. It should be noted, that 256-280 Coward is located immediately across from the subject site.

It is considered that both the LEP and DCP controls set the standard building envelope for the site. The proposal requires a maximum height of 44 metres and setbacks of 9 metres for the front setback, 2 metres for the side setbacks and a nil to 3 metre setback at the rear. The proposal is compliant in height, provides reasonable side setbacks that are consistent with the adjoining buildings and a compliant rear setback. The FSR control does not speak to the remaining controls with regard to the building form and general modelling of building envelopes for a site with an area greater than 3,000sqm results in a higher FSR and yield provided than if the site required setbacks greater than 6 metres and a lower height.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in the circumstance. The development is not perceived to create unreasonable levels of impacts to adjoining properties and is considered to set a bench mark for similar development within the future. For this reason, the applicant has successfully demonstrated that strict compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the contravening the development standard. It is considered that the Clause 4.6 variation is well founded and has addressed the matters that are stated within Clause 4.6(3) and should be supported.

**Note 3 – Design Excellence**

The application was referred to the Design Review Panel on 7 November 2019, who made the following comments:

***Context and Neighborhood Character***

*Coward Street is the threshold in Mascot between residential apartments to the north and commercial uses to the south.*

*The proposal provides an appropriate response to the desired future character of the area. It presents unambiguously as a modern commercial office building.*

*The primary, northwestern corner of the site is an important arrival point in the precinct. The design proposes a double-height colonnade to the corner with a large commercial retail and café. Greater height is also proposed at the corner. These design moves are well-considered appropriate.*

***Built Form and Scale***

*The envelope is largely within the envelope anticipated by the development controls. It is a street-wall building occupying a flat site.*

*Building heights are slightly greater than stipulated by the development controls. The additional height may impact views southward from the uppermost levels of the apartments at 39 Kent Road. Given that these apartments are more than 20 metres away, the high-density context and, the desirability of employment uses in the precinct, this impact is not considered unreasonable.*

*The site to the immediate east of the proposal is relatively narrow. It will be difficult infill site with limited outlook and daylight. The DCP calls for a 2m side setback and a zero to 3 metre rear setback. Side or rear conditions exist on the east and on the south east.*

*Generally, the proposal is for setbacks that are appropriate, however, given the commercial nature of the precinct. The proposal is considered to be in keeping with expectations and the surrounds*

***Density***

*The proposal is for a building which significantly exceeds the FSR. Variance from the control are supported for the following reasons:*

* *Triple-frontage provides for density with amenity*
* *Prominent location calls for a prominent building*
* *Desirable land use in an important business development precinct*
* *Proximity to public transport*
* *Apparent market demand for building of scale (plate size and gross area) close to Airport*
* *Design measures mitigate density: atrium amenity; lobbies and arrival sequence; flexible floor configurations.*

***Sustainability***

*The panel notes that the proposal is for fewer car spaces than identified in the DCP. However, given its proximity to the train station and the changing character of transport (sustainable transport) this is considered reasonable.*

*The proposal is for 2 ½ levels of car parking above ground. Given the issues of ground conditions, this is considered reasonable, however, the floor-to-floor heights in these levels should be increased so that they are capable of adaptive re-use for a commercial or other non-car parking use. A further relaxation of the height control may be accepted in order to achieve this important sustainability outcome.*

*The Panel notes that there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as rainwater harvesting, shading to northern windows etc.*

***Landscape***

*The proposal retains a number of large trees on the western and northern frontages of the site. Setbacks on these frontages incorporate raised planter beds which play an important role in layering the space between the road, the footpath and the building. On the western frontage seating areas are well-positioned; shielded from the streets and adjacent to the pedestrian entry-paths.*

*There is an opportunity for the provision of large Eucalypt trees to be placed on the street frontages to both Coward Street and Kent Road as replacement strategy for the trees removed to the site. These trees should be placed at ground level and not in raised planters so as ensure a sustainable outcome. The formal arrangement of the proposed trees does not accommodate the TPZs of the existing trees retained and as such the landscape proposal is unrealistic. The scale of the new tree planting proposed (Pyrus sp. ) trees is not appropriate in relation to the scale and bulk of the building and does not take advantage of the legacy of the native planting present established in the later part of the 20th century as part of the legacy of the greening cities of the 1970s.*

***Amenity***

*The scheme takes advantage of the triple-fronted site to create spaces that have good daylight and outlook. The introduction of the void/ atrium in the centre of the plan introduces daylight and the potential for vertical connection between floors within and between tenancies.*

*The void may present issues of acoustic and visual separation between the floors. It is anticipated that these issues will be capable of resolution in the space planning and interior design.*

*The amenity impacts to the surrounds includes: overshadowing, wind acceleration, vehicle movements. All of these impacts are considered to be within a range that is anticipated by the site zoning and development controls.*

*The design quality of the primary frontages: Coward Street and Kent Road, is significantly higher than the surrounding buildings and as such, the scheme sets a new high standard.*

***Safety***

*All building entries exist with clear lines of sight from the adjacent streets.*

*The lobby and commercial space provide good activation and surveillance to the north and west. The southern frontage is not activated by the proposal, this being the location of the substation, services and loading dock. However, this part of Chalmers Crescent is the primary address for other nearby properties which will provide activation and passive surveillance.*

***Aesthetics***

*The proposal achieves excellent aesthetic presentation.*

*The primary expression of the building is a grid pattern, which corresponds with the structure. The scheme adapts the grid to the particular conditions of each elevation.*

*A double-height colonnade gives the building a civic presence, which combined with the two levels of car parking creates a clearly defined base.*

*The height of the car parking levels is noticeably less than the other levels. Increasing the height of the car park levels will improve the composition of the elevations, while future-proofing these spaces so they may be adapted to other uses in the future*

***Design Excellence***

|  |  |
| --- | --- |
| **Design Excellence – Clause 6.16(4) of BBLEP 2011** | |
| *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,* | 1. *The scheme presents a high standard of architectural design and materials. It is important that the architect responsible for the Development Application are retained to provide the continuity of quality to the detailing in the delivery of the building.* |
| *(b)   whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,* | *(b) The relationship of the proposal to the surrounds will improve the quality and amenity of the public domain by providing activation and adjacent landscape spaces (within the property) which will make the site-edges pleasant places to occupy.* |
| *(c)  whether the development detrimentally impacts on view corridors,* | 1. *The envelope is largely within the envelope anticipated by the development controls. It is a street-wall building occupying a flat site. The additional height may impact views southward from the uppermost levels of the apartments at 39 Kent Road. Given the high-density context of the site and the desirability of employment uses in the precinct, this impact is not considered unreasonable.* |
| *(d)  the achievement of the principles of ecologically sustainable development.,* | *(d) The scheme adopts rational environmental responses including vertical shade elements on the western elevation.*  *The Panel notes that there are further opportunities for including sustainability initiatives in the design, such as rainwater harvesting and retention and planting native trees as described above.* |

The applicant has taken into consideration the comments raised by the Panel and has introduced adaptive reuse floors for levels 2 and 3 to allow for future conversion of the floors from parking to commercial space.

The new trees located at the front will be located in deep soil and not in planters. The Issue of the Pyrus tree being not appropriate in relation to scale and bulk of the building has been replaced with a more suitable Corymbia maculate tree with a mature height of 20m and has proposed retain additional trees on site which has been addressed under the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.*

Overall, the Panel has supported the application and considers that the development exhibits Design Excellence through a high standard of architectural design with an improved relationship to the surrounds and public domain. The panel also supports the departure in FSR and parking and considers the proposal to be in keeping with expectations and the surrounds.

**S.4.15(1)(a)(ii) - Provisions of any Draft EPI's**

There are no current Draft EPIs applicable to this development

**S4.15(1)(a)(iii) - Provisions of any Development Control Plan**

Botany Bay Development Control Plan (BBDCP) 2013

The most relevant and applicable clauses of the BBDCP 2013 are considered in the assessment of this development proposal and are provided below.

*Part 3A – Parking and Access*

| **Part** | **Control** | **Proposed** | **Complies** |
| --- | --- | --- | --- |
| **3A.2.** Parking Provisions of Specific Uses | Office premises:  1 space/40sqm (req. 361.95 spaces calculated at a GFA of 14,478sqm)  Commercial (shop) including cafe:  1 space/25sqm (req. 38.48 spaces calculated at a GFA of 962sqm)  **Total car parking spaces: 253 car spaces**  **Loading spaces:**  Office premises (between 8,000sqm to 9,999sqm)  req. 4 courier spaces, one SRV space and 1 MRV space  Retail premises (between 0-199sqm):  Req. 1 SRV space  **Total: 7 loading bay spaces** | The proposal provides a total of 253 car parking spaces. A traffic report and addendum letter prepared by McLaren Traffic Engineering has been provided with the development application. 7 Loading bay spaces are provided. | **No – Refer to Note 2 below** |
| **3A.3.1 -** Car Park Design | **C1 –** All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6. The design of off-street commercial vehicle facilities shall be in accordance with AS2890.2.  **C10** – Off street parking facilities are not permitted within the front setbacks  **C12** – Off street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site. | All car parking spaces are in accordance with the Australian Standards. No car parking spaces are located within the front setback with all spaces encased within the building envelope. The car parking within the podium is obstructed by perforated screening along the Coward Street, Kent Road and Chalmers Crescent and provides an attractive feature at podium level. | Yes |
| **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 development provides a total of 100 bicycle spaces. The proposal provides secure bicycle parking within the basement that is easily accessible the building entries which will be designed to comply with the relevant Australian Standards. End of trip facilities are provided that include separate make and female showers and change rooms. | Yes |
| **3A.3.4** – On-Site loading and unloading facilities | **C2** The number of service bays shall be provided in accordance with Table 2. Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number. | The site has included an additional two (2) 6.4m Small Rigid Vehicle (SRV) service bays resulting in a total of two (2) MRV and two (2) SRV service bays. If required, additional service spaces dedicated to courier vans can be provided within the basement level car park. | Yes |

**Note 2 – Departure in Car Parking and Loading and Unloading Spaces**

Table 1 of Part 3A.2 – *Parking Provisions of Specific Uses* of the BBDCP 2013 provides the car parking rates for certain types of development and uses. In this case, the proposal requires 1 car space per 40sqm of office floor area (40sqm/14,478sqm of GFA = 361.95 spaces), 1 space per 25sqm for a shop/retail/commercial (25sqm/962sqm of GFA = 38.48 spaces).

The proposal requires a total of 362 car spaces (rounded up from 361.95), however, the proposal provides a total of 253 car spaces for the uses.

The application was accompanied by a Traffic and Parking Impact Report prepared by McLaren Traffic Engineering. The report goes into detail on the traffic generation impact and provides justification for the car parking departure.

The applicant has proposed the following justification for the non-compliance in car parking within their SEE which has incorporated the comments made within the traffic and car parking report. (The numerical figures have been adjusted to reflect the most recent improvements to the gross floor area calculations)

*“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 literally opposite the site to the north across Coward Street 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 180.975 parking spaces for the office component of the proposal. When combined with the 24.05 spaces required for the retail/commercial component (at a rate of 1 per 40sqm), a total of 205 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 228 car parking spaces for the office component (with spaces for the retail/commercial component) which translates to a car parking rate of 1 space per 63.5 square metres for the office component which is only marginally more parking than the DCP control of 1 space per 80 square metres which applies in the Mascot Station Town Centre Precinct. This car parking provision for the office component is considered appropriate in the circumstance of the site for the following reasons:*

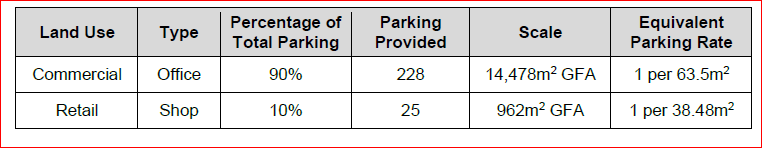
* *The reduced car parking provision for the office component satisfies the first objective under Part 3A. 1.2 of the DCP to minimise car parking in areas which have good access to public transport to promote sustainable transport.*
* *The DCP provides a pathway for considering a reduction in car parking 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 following development:*
* *DA-15/191 – Stage 1 Masterplan for 7-9, 14-18 and 19-21 Chalmers Crescent, Mascot*
* *DA-2017/1253 – Alterations and additions and change of use to office building – 40 Ricketty Street, Mascot*
* *DA-2019/47 – Construction of a 12 storey commercial development – 1-5 Chalmers Street, Mascot*
* *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 McLaren 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.”*

The above justification has been considered and is found acceptable. The application was referred to both Council’s Development Engineer as well as RMS. RMS raised no objections to the proposal subject to conditions incorporated within the consent.

Council’s engineers also favor a lesser parking rate of 1 space per 80sqm for commercial space as the site is in close proximity to Mascot Station. Council is actively discouraging parking rates in the commercial area close to Mascot Station of 1 space per 40sqm and is encouraging rates closer to 1 space per 80 sqm of commercial space. The development promotes the use of public transport and cycling to and from work and reduces the dependability on vehicles which in turn will improve traffic in the near future.

The following is the breakdown of the proposed parking rates which were approved by Council’s engineers:



It should be also noted that the Design Review Panel requested that the two above ground parking levels be designed as ‘Adaptive Re-use’ so they can be converted to commercial space in the future when society becomes less dependent on cars. The DRP made the following comments under sustainability:

*The panel notes that the proposal is for fewer car spaces than identified in the DCP. However, given its proximity to the train station and the changing character of transport (sustainable transport) this is considered reasonable.*

*The proposal is for 2 ½ levels of car parking above ground. Given the issues of ground conditions, this is considered reasonable, however, the floor-to-floor heights in these levels should be increased so that they are capable of adaptive re-use for a commercial or other non-car parking use. A further relaxation of the height control may be accepted in order to achieve this important sustainability outcome*

If Council was to apply the preferred rate of 1 car space per 80sqm for commercial and 1 car space per 40sqm, the total amount of parking required would be 205 spaces. As the application proposes 253 spaces, the development will be in surplus parking of 48 spaces.

Based on both Council’s Development Engineers comments and the justification provided by the applicant, the departure in car parking is assessed as acceptable and reasonable in the circumstance and is supported.

*Part 3C – Access and Mobility*

An Access Report prepared by BCA Logic accompanied the development application. The plans demonstrate that the proposal provides levelled access into the common areas and the commercial tenancies at ground level. Additionally, lift access is provided to the office spaces above in addition to the accessible car parking spaces that are provided within the car parking levels. The development satisfies the provisions and controls of the DCP.

*Part 3D Signage*

The proposed development includes a zone for a building identification sign at the top western end of the northern façade. The signage zone is approximately 3.5 metres in width and 5.5 metres in height with an area of approximately 19.25 square metres.

The proposed signage is considerate of the architectural design of the building and provides an appropriate scale which is particularly modest having regard to the scale of the building. The location of the sign does not obscure any important architectural elements of the building.

The proposed sign is against the parapet at the top of the building and will not result in any adverse impact to neighbouring buildings or streets. The proposal for a single building/business identification sign limits visual clutter.

The signage zone is at the top of the building and is not located between the first floor and the upmost level. The proposed sign will not have any visual impact to the skyline as it is not a roof top mounted sign and is instead placed on the parapet of the building. The sign does not project above the building and is not attached to other advertised structures.

The specific logos or graphics have not been identified yet as the proposal is only for a signage zone and not the actual graphical content of the sign.

The proposed sign is reasonable and satisfies the controls and Objectives of Part 3D of BBDCP 2013.

*Part 3E.5 Connectivity and Future Development Potential*

It has been raised as a concern during notification that the adjoining property at 251 Coward Street will be site isolated. The concerns was raised with the applicant who made the following comments:

*There are no site isolation controls within the DCP which relate to the precinct. Furthermore, there is no minimum site area or site frontage required for development, and so it is not reasonable to state that the proposal results in isolation of 251 Coward Street. The Bates Smart analysis clearly shows that 251 Coward Street could feasibly be development in the future, compliant with all of the LEP and DCP controls. Accordingly, the proposed development does not prevent the orderly and economic development of that site in the future.*

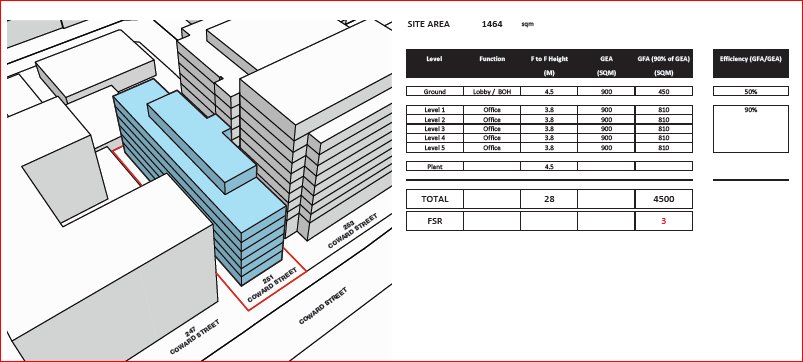


Figure 14: Applicants analysis of future redevelopment of 251 Coward Street, Mascot

251 Coward Street has a frontage of 20.15m, side boundaries measuring 73.38m and a site area of approximately 1477m. Considering the size of the lot, frontage and with a generous FSR and height standard in a Business Development Zone, it is assessed that 251 Coward Street is not constrained by the proposed development and can successfully be re-developed.

*Part 3G – Stormwater Management*

An on-site stormwater detention system is proposed for the site and this is demonstrated in detailed stormwater management and drainage plans prepared by Webber Design Structural Engineers. The applicant has stated that the stormwater management system has been designed to provide measures regarding to water sensitive urban design and achieve consistency with regard to Part 10 – Stormwater Management Technical Guidelines of the BBDCP 2013.

The development proposal was referred to Council’s Development Engineer who has requested that the stormwater plans do not get stamped and has imposed appropriate conditions of consent to amend the stormwater plans prior to the issue of a construction certificate which are included within the attached Schedule below.

*Part 3H – Sustainable Design*

The applicant has stated that 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 to provide for natural ventilation, incorporating fittings and fixtures to minimize energy use, insulated roofing to limit heat gain and heat loss to the environment, and construction comprises high thermal mass components such as on-ground concrete slab flooring and concrete wall panels. An Ecological Sustainable Development assessment report, Authored by Integral Consulting Engineering, was submitted with the application and concludes that the proposal complies with Section J of the NCC

The proposal incorporates the use of glazing along all elevations. Apart from encouraging a sense of security and passive surveillance (see below), these windows will provide for a degree of solar heating for building users.

*Part 3I – Crime Prevention, Safety and Security*

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.

*Part 3J – Aircraft Noise and OLS*

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 25-30 ANEF contour. Commercial and office development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

An acoustic report prepared by Acoustic Logic, dated 5 August 2019, and has been prepared to accompany the development application.

The report demonstrates that the proposed development (when complete) will conform with the relevant requirements of AS2021-2000 provided the recommendations contained in the acoustic report are undertaken.

The development consent will be conditioned to comply with the recommendations outlined in the acoustic report and the requirements of AS2021-2000.

*Part 3K – Contamination*

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

*Part 3L – Landscaping and Tree Management*

The proposed development incorporates deep soil landscaping within the front building line to all surrounding streets, and within both the southern boundary setback, as well as planters on the upper levels. A Landscape Plan prepared by Site Image accompanies the application and has taken into consideration the requirements detailed within the BBDCP.

Deep soil landscaped zones are provided on the northern, southern and western sides of the development. The proposal provides a generous ground level outdoor area which can be used by staff for outdoor recreation. The area includes mixed seating arrangements in a garden setting and is well in excess of 16 square metres. The proposed development incorporates landscaping within the front building line to both Coward Street and Kent Road, as well as the southern setback and landscaping is also incorporated throughout the design of the building with various planters on the building façade, to improve the amenity of the car park, and within the internal atrium.

A total of seventeen (17) trees have received approval from Council’s tree officer for removal subject to replacement of these trees. Whilst the seven (7) remaining trees will be retained and protected. As stated above in the Vegetation SEPP section of the report, the application was referred to Council’s Tree Management Officer who recommended appropriate conditions for the retention and protection of these trees.

The application was also reviewed by Council’s Landscape Architect who provided the following commentary:

*Landscape Area*

*The proposal provides a deep soil area treated with soft landscape of 568m², which is equivalent to 14% of the site area. The provision is acceptable to the proposed development.*

*Deep Soil Landscape Treatment*

*Landscape setbacks proposes 19 Corymbia maculata to be planted at 200 litres, with understorey that complies with CPTED principles. Large canopy trees provide amenity and enhances the natural environment of the streetscape.*

*On Slab Landscape Treatment*

*The proposal also include a planter which acts like a rain garden on level 2 along eastern boundary of parking area. Rain garden is proposed on slab with no structures above.*

*Planter boxes with climbing plants to provide a series of vertical green walls around the proposed building, in the lower levels which interface with the streetscape is more effective. These planter boxes are proposed along southern border of parking area and front of the building on level 1, and along northern and southern edges of levels 2 and 3.*

*The proposed landscape treatment on slab is adequate to the proposal and will provide a green natural background behind the large Spotted Gums proposed and the already exiting canopy to be retained in the site and in public space.*

Furthermore, Council’s landscape officer and public domain officer have amended the ground level floor plans showing two splays. One splay 3x3 at the corner of Coward Street and Kent Road and another splay at the corner of Kent Road and Chalmers Crescent. The following comment was made regarding the splays:

*It is noted that there are currently poor public domain outcomes at the intersections of Coward & Kent and Coward & Chalmers due to the close proximity of the property boundary to the back of kerb hence, the pedestrian area must be increased in size via dedicated splays at the corners of the site to improve the amenity of the area. These areas will need to be paved (to match frontage works paving that forms part of the Mascot station precinct) and made free of obstructions to improve the movement of pedestrians in the area as this is a main entry point for pedestrians into the Chalmers Crescent commercial area. This is addressed via conditions of consent and marked up approved plans to provide for a minimum 3m public footpath width. Also running along Coward Street is part of the regional bicycle network and hence there is significant reason to improve public domain outcomes around the Coward and Kent intersection. Also the intersection will be experiencing a significant growth in pedestrian’s movements and more area for waiting pedestrians at the traffic signals is necessary.*

As mentioned, these splays will also form part of conditions of consent. The proposed landscaping on site is considered to be satisfactory in this regard and generally satisfies the controls and Objectives of Part 3L of BBDCP 2013.

*Part 3N – Waste Minimisation and Management*

A Waste Minimisation Management Plan (WMMP) prepared by Elephants Foot was submitted with the application. The plans demonstrate a common garbage storage room provided for the development at ground level. The application was referred to Council’s Waste Officer who supported the proposal. Appropriate conditions of consent regarding to waste disposal, management and minimisation have been incorporated within Schedule 1.

*Part 6 – Employment Zones*

The site is located within the Mascot Business Development Precinct which is bound by Coward Street to the north, Joyce Drive to the south and development on either side of O’Riordan Street. Relevant controls relating to the precinct and general employment zone are assessed below.

| **Part 6 – Employment Zone** | | |
| --- | --- | --- |
| **Control** | **Proposed** | **Complies** |
| **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 located within 800 metres of Mascot Train Station which is to the north-east of the site. Additionally, the proposal provides ample bicycle parking spaces within the basement to accommodate and promote higher public transport. In addition to the above, a Workplace Travel Plan has been conditioned to be provided with regards to the development. | Yes |
| **C2** Developments, including alterations and additions must:   1. Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and 2. Comply with Sydney Airport’s regulations in regard to safety, lighting and height of buildings. | The corner of Kent and Coward Streets may be considered as a gateway within the area. The development has been designed as a modern contemporary office/commercial building with high level of architectural merit with the front and rear elevations articulated and the incorporation of a variety of materials that will positively contribute to the character of the Mascot Business Development Precinct.  The application was referred to SACL and appropriate conditions of consent have been provided. | Yes  Yes |
| **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 submitted to the Department of Infrastructure & Transport for their determination. | The site does not fall within the stated areas. Regardless, the proposal complies with the OLS. | N/A |
| **C4** Redevelopment of property must take into account any road widening affectation. | The site is not impacted by road widening. | N/A |
| **C5** Development must not adversely affect the operation of duplication of the Sydenham-Botany Good Railway Line. | The site is not located in close proximity to the Sydenham- Botany Good Railway Line and will not adversely impact it. | N/A |
| **C6** Development within 25 metres of either side of the centre line of the Airport Line Tunnel is to be referred to RailCorp. | The site is outside of the Airport Line Tunnel zone of influence. | N/A |
| **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 ANEF Contour. An acoustic report has been provided with the application and appropriate recommendations have been imposed in the consent. | Yes |
| **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. | Noise abatement measures have been included in the acoustic report as referenced above. | Yes |
| **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’. | The site is not in close proximity to a rail corridor or busy road. | N/A |
| **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. | The site is not located along O’Riordan Street or Robey Street. | N/A |
| **6.3.1** Amalgamation and Subdivision | | |
| **C3** Where development or use of a number of existing lots is proposed, the lots shall be consolidated into one parcel, and the plan of consolidation lodged with the Land and Property Information NSW Office prior to release of the Construction Certificate. Written notification as to the registration of the Consolidation Plan at the Land Titles Office is to be received by Council prior to the occupation of the premises or use of the site. | No amalgamation or subdivision proposed. | Yes |
| **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**.  **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.  **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.  **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.  **C5** Setbacks are to maximise the retention of existing trees and their root systems and may need to be variable to achieve this (includes trees on adjoining properties).  **C6** Internal spaces are to be designed to satisfy the operational requirements of the particular land use whilst proving a safe and convenient work environment.  **C9** Adequate waste removal handling and minimisation facilities are to be provided on site for all development to ensure these facilities are not utilising car parking areas.  **C10** For new development (excluding multi-unit industrial development) all loading and unloading facilities and the majority of car parking required for the development is to be provided at the rear or at the side of any buildings. It is not to be provided at the front of buildings. Visitor car parking may be provided at the front of buildings behind the setback required in Part 6.3.5 - Setbacks.  **C13** For sites in excess of 1,000m², an outdoor staff recreation area is to be provided.  **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.  **C16** Site planning is to allow for the retention of significant trees and vegetation, particularly near the street frontage. | A site analysis plan has been provided with the development application.  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 café 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 retail/commercial component appearing as a spacious and contemporary element to the building.  No blank walls are proposed facing the street.  The FSR has been distributed evenly over the building and provides a prominent street frontage with articulated facade. The proposal has been designed to respond to opportunities and constraints on the site and is considered to provide an appropriate outcome having regards to the context of the site.  Deep soil has been provided along the north, south and western setbacks.  The existing trees located within the public domain are appropriately distanced from the development and will be protected during the demolition and construction stage.  The internal floor plates and the common areas are appropriately designed and operational.  Waste storage rooms are proposed at ground level. Refer to Part 3N of the BBDCP 2013 section above.  The proposal provides a seven loading bays within the development directly adjacent to the ingress/egress point. All parking is located within the building with no hardstand spaces within the front setback.  Large external areas are provided for staff  The building entrances along Kent Road will be clearly defined and identifiable from the street. Vehicular access is separate to pedestrian access.  Existing trees within the public domain are to be retained. There is no significant vegetation on the site. | Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes |
| **6.3.4** Building Design and Appearance | | |
| **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. An anti-graffiti coating may be required where buildings adjoins a public place or accessible from an open area that is not secured by fences.  **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. Consideration must be given to installing windows or false windows in the facade to enable surveillance of the adjoining area or to engender a feeling that it is being overlooked.  **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;  (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  (xv) Avoid bulky roof forms or extensive blank facades in a single material or colour.  **C28** For new development and substantial alterations to existing premises provision must be made for connection to future underground distribution mains. In such developments the following must be installed: (i) An underground service line to a suitable existing street pole; or (ii) Sheathed underground consumer mains to a customer pole erected near the front property boundary (within 1 metre).  **C34** Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view | The design report provided by the applicant contains a material palette demonstrating that the building will be constructed of concrete, dark and light aluminium panelling, perforated screening, glazing and vertical landscaping around the above-ground parking levels. The design intention of the new development is to create a building which references the commercial use whilst providing differing architectural typologies for the upper and lower components of the building.  Conditioned  The proposed materials will not lead to hazardous, undesirable or uncomfortable glare to pedestrians, motorists or occupants of surrounding developments.  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 will deliver a modern commercial building of high architectural quality that is generally consistent with the design controls relevant to new development.  The proposal utilises a large quantity of glass and perforated screening for the building.  The building mass is appropriate and complements the bulk of the development to the east and north. The proposal will provide a strong architectural outcome which should set a standard for the street.  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 development has an excellent outlook to Coward, Kent and Chalmers Crescent with the primary lobby off Kent Road and highly visible. Passive surveillance is provided from the café on ground floor and from the floor to ceiling windows in the upper levels. No blank walls are proposed with the development. The materiality proposed is appropriate for the context of the site and the surrounding development and provides an architecturally pleasing development.  Appropriate conditions of consent are imposed requiring any powerlines to be undergrounded.  All waste collection is to be carried out within the premises. | Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes  Yes |
| **6.3.5** Setbacks | | |
| **C1** Setbacks are to be in accordance with the following **Table 1**.  **C4** Setbacks are to be deep soil zones | The development proposes the following setbacks:  Northern (street) Setback to Coward Street:  7.5 meters  Eastern (side) Setback:  3 metres  Western (side) Setback to Kent Road:  6.1 -11.5 meters  Southern (rear) Setback:  4.7meters  The northern, eastern and southern portions of the front setback are deep soil. | **No – Refer to Note 3 below**  Yes |
| **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. A Swept Path Analysis may be required for the largest vehicle accessing the site.  **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. | Vehicles enter and exit in a forward direction. Swept path diagrams have been provided with the development.  Conditional.  The development proposes a separate loading dock away from the car parking spaces associated with the commercial development.  A dedicated loading bay is provided. | Yes  Yes  Yes  Yes |
| **6.3.7** Signage | | |
| **C1** Signage shall comply with Part 3D - Signage. | Refer to State Environmental Planning Policy No 64—Advertising and Signage | Yes |
| **6.3.8** Site Facilities | | |
| **C1** New site facilities such as mail boxes and electricity sub-stations shall be designed and/or sited so that they enhance the development.  **C3** The existing above ground electricity and telecommunication cables within the road reserve and within the site shall be replaced, at the applicant’s expense, by underground cable and appropriate street light standards, in accordance with the Energy Providers guidelines. The applicant shall bear the cost of the new installation and the first 12 months of additional street light charges. | No mailboxes are demonstrated on plans. This will be conditioned.  A condition of consent is imposed requiring undergrounding of powerlines and cables. The development proposes a substation. Appropriate conditions have been imposed. | Yes  Yes |
| **6.3.9** Landscape | | |
| **C9** Not less than 10% of the development site shall be landscaped. On sites over 2000m² the front landscaped setbacks are additional to the 10% requirement. The majority of landscaping shall front the street/s to which the development has frontage and include side and rear landscaped areas.  **C14** Landscaped setbacks shall be in accordance with Part 6.3.5 - Setbacks are to be landscaped to provide an effective, purposeful and site responsive planting design to enhance the visual amenity of the development, particularly at the interface with residential development and the public domain. | The development will provide at least 568sqm which represents 14% of landscaped area. The majority of the landscaped area is within the side and front setbacks.  The development provides an effective and site responsive planting design and provides appropriate amenity when viewed from the street. | Yes  Yes |
| **6.3.10** Fences | | |
| **C1** Fences are to be located behind the street frontage landscaped area or incorporated within the landscapes setback. All fencing along the street frontage is required to be permeable metal palisade or picket powdercoated in a suitable colour, dark colours are preferable. Maximum height is 1.8 metres on street frontages. | The development does not propose any fencing along the street frontage. | N/A |
| **6.3.12** Noise and Hours of Operation | | |
| **C4** All applications for noise generating uses are to be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met.  **C9** Hours of operation for the use of a site are to be restricted by Council if it is at all likely that the use will cause an impact on any adjoining or adjacent residential development. Uses that operate outside of normal hours of operation (ie Monday to Friday 8am to 5pm and Saturdays 8am to 4pm) are required to submit a Plan of Management (POM). | An acoustic report was submitted with the development application.  The proposal does not specify hours of operation however as the development is predominantly an office building, it is not considered to be a noise generating development. In regards to the café space at ground level, a separate application is to be sought for the use. | Yes  Yes |
| **6.3.13 Waste** | | |
| **C1** Development must comply with Part 3N – Waste Management and Minimisation. | A waste management plan prepared by Waste Audit accompanies the application which addresses waste management during demolition, construction and ongoing use. | Yes |
| **6.3.21 Business Premises and Office Premises in the B5 Business Development and B7 Business Park Zones** | | |
| **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 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. | 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 for the various components of the building.  The proposed materials and finishes detailed in the architectural plan by Bates Smart architects which demonstrate that a valid palettes and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. | Yes |
| **C2** Buildings are to have a clearly delineated entranceway to address its main frontage. Buildings on corner allotments shall include an accentuated form on the corner. Minor modulation in the height of buildings is required to reduce visual bulk and scale. | The front entry and common areas are appropriately positioned. The ground floor lobby is located central to the building and adjoins the proposed café space. The development is not considered to be bulky and is appropriate for the site. | Yes |
| **C3** Signage is to be kept to a minimum to reduce visual clutter and confusion. All proposed signage must be shown in the building elevations and plans (refer to Part 3D - Signage). | Signage is reasonable in size and does not add to visual clutter within the area. | Yes |
| **C4** Vehicle manoeuvring, circulation, access and parking shall be arranged on site to maximise the area available for landscaping. Excess hardstand areas should be minimised whilst designing manoeuvring, circulation, access and parking in accordance with Australian and Council standards. | Car parking spaces and access are compliant with the Australian Standards. | Yes |
| **C5** Stormwater absorption basins are to be planted with trees (where concrete storage tanks do not exist underneath), groundcovers and native grasses instead of lawn. Species are to be tolerant of periodic inundation and waterlogging and not reduce the storage capacity of the basin. | An on-site detention system is proposed. Appropriate conditions of consent are proposed. | Yes |
| **C6** Hard paved areas shall be finished with unit pavers. Use contrasting finishes to break up large sections of paving and to delineate pedestrian areas, entries, car parks, special use areas or at transition zones between different uses. Porous paving should be utilised wherever possible. | Conditional | Yes |
| **C7** There should be a balance between building footprint, parking/circulation and landscaping/open space. The majority of landscaping shall front the street/s to which the development has frontage and returning along the side boundaries of the setback. | The development incorporates soft landscaping within the front and side building lines with the extent of hard paving minimized 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 Kent Road and Chalmers Crescent, but will provide some softening of the proposed development from the street. | Yes |
| **C8** Underground parking shall be situated underneath the building footprint so that the majority of landscaping will be on natural ground to allow for deep root planting. As a minimum, landscaping along the frontage/s and abutting residential land uses shall be on natural ground. Deep root planting is planting that is not on a suspended concrete slab and not over an underground car park (refer to Part 3L - Landscaping and Part 6.3.9 - Landscape). | Basement is below the building footprint and allows for deep soil planting above on ground level. | Yes |
| **C9** Underground OSD (stormwater) detention tanks are not to be located underneath areas to be landscaped or planted. An alternative location ie. underneath driveways, car parks or pavements is required. No stormwater inlet pits or piping are to be located within the drip line of existing trees. | The OSD has been appropriately been located and Is subject to conditions of consent. | Yes |
| **C11** Landscaping is to 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 site and to screen unsightly areas. Emphasis is to be placed on leafy internal road corridors and a landscaped setback designed for softening of buildings. | The proposal provides landscaping at ground level along the front and side boundary setback areas. The proposal provides 14% of landscaping. Vertical planters are provided along the premiers of the above ground parking levels to reduce the hardscape of the development and improve the aesthetics of the development whilst covering the parking levels. | Yes |
| **C13** Landscaping in the public domain is to reinforce existing streetscape planting themes and patterns. Council may require street tree planting, grassing, shrub and accent planting or any combination of these. Streetscape beautification may also include re-paving the public footway with pavers. | The proposed landscaping will provide an improved landscaped setting in relation to the existing site circumstance and the overall development will provide a significant improvement to the Streetscape. | Yes |
| **C14** There shall be a minimum landscaped setback of 3 metres on all street 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 street. For example, buildings greater than 4 storeys in height will usually require a larger landscaped setback. | Landscaped setback has been discussed in greater detail above and in Note 3 below. | Appropriate |
| **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 Minimum Landscape Proportion   1. 2000m² 10%   2000 m²-5000m² 20%  >5000m² 30% | The site proposes a total of 14% of landscaping which is equivalent to 568sqm. | Yes |

**Note 3 – Building and Landscape Setbacks**

Control C1 of Part 6.3.5 – Setbacks of the BBDCP 2013 require new developments to have a 9 metre building setback (3 metre landscape setback), side setbacks of 2 metres and rear setbacks between nil to 3 metres. The proposed development provides the following setbacks:

* Front setback to Kent Road – 6.5 meters to 11.5 meters
* Font setback to Coward Street – 7.5 meters
* Side setbacks to Chalmers Crescent – 5.4meters
* Rear eastern setback – 3m provided.

As the site sits in a prominent position with three frontages, it is difficult to apply the above setback controls. The eastern side setback functions both as the side and rear of the development, irrespective of this, the 3 metre setback is compliant in both situations.

It is reasonable to request for a larger 9m setback fronting both Coward Street and Kent Road considering that the development will be fronting Coward Street and the Primary frontage is from Kent Road. The applicant has not provided the minimum 9m setback and justifies this non-compliance as matching the established front setback alignment along Coward Street to the east and Kent Street to the North.

The applicant provided a justification for the non-compliance as follows:

*“The suggested DCP setbacks do not relate to the established pattern of development within the visual catchment of the site, in this instance. A detailed analysis has been undertaken of the established setbacks which has determined that a 7.5 metre setback from Coward Street and 6.5 metre setback from Kent Road represents the axis of alignment, as illustrated in the design report prepared by Bates Smart. The proposal has adopted these setbacks with a front setback of 7.5 metres from Coward Street, 6.75 metres from Kent Road, and 5.4 metres from Chalmers Crescent.*

*Notwithstanding this, the proposal also provides for increased setbacks at the ground floor at the north-western corner of the site in order to provide a generous outdoor recreation and dining area and to provide meaningful landscape pockets and recesses within this area. When viewed from surrounding properties and the public domain, the development will sitting comfortably within the established pattern of development within the streetscapes of Coward Street and Kent Road.*

*The proposal is provided with a 3 metre setback from the eastern side boundary. The 3 metres exceeds the minimum required 2 metres.*

*Finally, Council’s Design Review Panel support the proposed setbacks as follows:*

*The envelope is largely within the envelope anticipated by the development controls. It is a street-wall building occupying a flat site.*

*Building heights are slightly greater than stipulated by the development controls. The additional height may impact views southward from the uppermost levels of the apartments at 39 Kent Road. Given that these apartments are more than 20 metres away, the high-density context and, the desirability of employment uses in the precinct, this impact is not considered unreasonable.*

*The site to the immediate east of the proposal is relatively narrow. It will be difficult infill site with limited outlook and daylight. The DCP calls for a 2m side setback and a zero to 3 metre rear setback. Side or rear conditions exist on the east and on the south east.*

*Generally, the proposal is for setbacks that are appropriate, however, given the commercial nature of the precinct. The proposal is considered to be in keeping with expectations and the surrounds*

Figure 15 below shows the setbacks at each boundary:

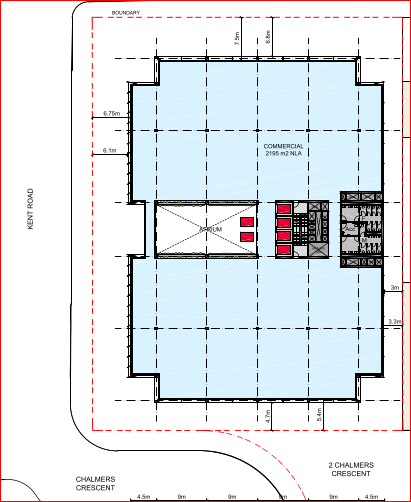


Figure 15: Setbacks alongside boundaries

Council has considered the applicants justification and the DRP comments and supports the varied setbacks as it is generally consistent with the setbacks along Coward Street and Kent Road.

The setback to Chalmers Crescent is reasonable considering that it is not a primary frontage and could be considered as a side setback. The applicant has proposed 5.4m setback which is reasonable and in excess of the minimum requirement of 2 metres.

Taking the above into consideration, the proposed setbacks are reasonable as development achieves landscaping within the side setbacks, minimizes its impacts on the surrounding area and creates a pleasant environment within and external of the site. The application satisfies the Objectives of Part 6.3.5 of BBDCP 2013.

**S.4.15(1)(a)(iv) - Provisions of regulations**

The proposed development is inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

**S.4.15(1)(b) - Likely Impacts of Development**

As outlined in the assessment above, the proposed development will have significant adverse environmental, social or economic impacts in the locality.

Ground water (Integrated Development)

Ground water was encountered at depth ranging between 2.2m and 2.6m which will mean that the proposed basement will come into contact with ground water. The applicant had provided additional information by EI Australia who recommended several conditions to ensure water does not flood the basement. The application was referred to Council’s engineers who have taken these recommendations into consideration when drafting their conditions of consent.

The application was referred to Water NSW who raised no concerns subject to conditions of consent which are located in Schedule 1 below. The General Terms of Approval issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

**S.4.15(1)(c) - Suitability of the site**

The site is affected by aircraft noise being situated within a 25-30 ANEF Contour. The proposal was accompanied by acoustic report which has been reviewed and is acceptable subject to conditions imposed in the consent for the development to comply.

Adequate information has been submitted to demonstrate that the site can be made suitable for the proposed development. Further discussion relating to this issue has been carried out within SEPP No. 55 section of the report above. Appropriate conditions have been recommended in the attached Schedule.

Regarding the traffic generated from the development, the departure in car parking is acceptable as the development is within close proximity to Mascot Train Station. Additionally the development encourages the use of public transport or cycling to the site. Traffic impacts have been considered and are satisfactory. RMS raised no objection to the proposal and has not requested any additional information.

The plans do not surpass the overall height to comply with the OLS limit of 51m AHD. SACL have raised no objection to the height of the proposed development.

The proposed use as commercial offices, food and drink premises and car park is permissible within the B5 - Business Development zone as identified within the BBLEP 2013 and achieves the objectives and controls of both the BBLEP and BBDCP 2013. It is considered that the development is suitable for the site.

**S.4.15(1)(d) - Public Submissions**

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition, it was notified for 30 days and advertised in the local newspaper as it is Integrated Development from 29 August 2019 and 30 September 2019. Two (2) submissions were received during notification and are discussed below:

**Issue 1**: Non-compliance with Floor space ratio standard of 3:1 and Clause 4.6 justifications are unsubstantiated.

**Commen**t: At the lodgement of this submission, the proposed FSR was 4.5:1 or a gross floor area of 18,211sqm. Since then, several amendments have been provided by the applicant reducing the gross floor area to the current amount of 15,630sqm or an FSR of 3.86:1 which is a significant reduction which was a result of deleting an entire floor and increasing the setback along the eastern side elevation.

The Clause 4.6 statement justifying the variation to the floor space ratio standard has been thoroughly addressed within this report. In this circumstance, considering that commercial developments within the area is scarce and is highly encouraged given the proximity to Mascot Station, the justification for varying the FSR standard is reasonable. The development is not perceived to create unreasonable levels of impacts to adjoining properties and is considered to set a bench mark for similar development within the future. For this reason, and the reasons mentioned in this report, the applicant has successfully demonstrated that strict compliance with the standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the contravening the development standard.

**Issue 2**: Non-compliance in parking will create a burden onto the surrounding streets which is currently under considerable pressure. The non-compliance in parking will set a precedence in the area.

**Comment**: Although the proposed parking does not comply with the parking rate of 1 space per 40 sqm of commercial space, the proposed rate of 1 space per 63.5sqm is acceptable. Council’s engineers favour a lesser parking rate of 1 space per 80sqm for commercial space as the site is in close proximity to Mascot Station. Council is actively discouraging high parking rates in the commercial area close to Mascot Station. The development promotes the use of public transport and cycling to and from work and reduces the dependability on vehicles which in turn will improve traffic in the near future.

A condition has been imposed in Schedule 1 of this report requiring a plan of management for operational traffic to the effect where if an employee is not provided with a parking space upon hire, the employee is prohibited from driving to work.

The intent is to make this reduced parking rate a consistent approach to all new commercial development within the area.

**Issue 3**: Non-compliance in height contributes to bulk and scale and is not in line with the prevailing scale of the area and will set a poor precedent for Coward Street.

**Comment**: With the amended plans received 20 March 2020, the applicant had provided a design which complies with the maximum building height of 44m which will ensure that the development will be in line with the prevailing scale of the area and will not create a precedence.

**Issue 4**: Site Isolation of 251 Coward Street as a result of the proposed development and will compromise the redevelopment of the site.

**Comment**: 251 Coward Street is located east to the subject site and Fronts Coward Street. The site has a frontage of 20m and a site area of at least 1,500sqm. The proposed development has a setback from the eastern boundary of 3m which complies with the minimum requirement for setback. Taking into consideration the size of the lot and the frontage, it is not assessed that the proposed development will hinder any future redevelopment of the land. Refer to section ‘Site Isolation’ for more information.

**Issue 5**: The proposed development will have significant adverse impacts to the childcare centre and out-door play area (i.e. over-shadowing), located on level 2 at 247 Coward Street.

**Comment:** 247 Coward Street is located east to the subject site and is separated from the subject site by 251 Coward Street (approximately 20m). The applicant has responded to this submission with the following statement:

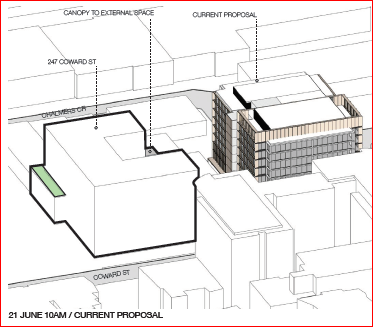
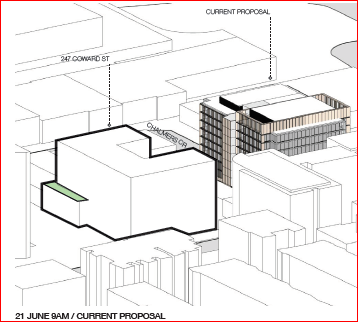
*The proposed parking levels will have no impact to the child care centre at 247-249 Coward Street, noting that it is separated from the subject site by another site at 251 Coward Street. Furthermore, the building itself at 247-249 Coward Street has podium level parking immediately below the child care centre.*

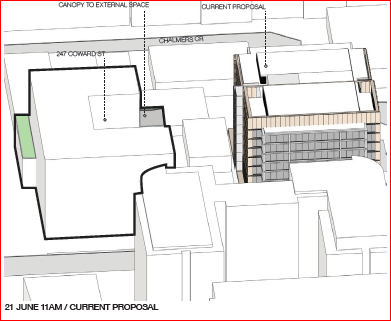
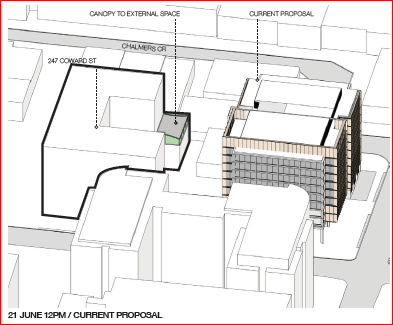
*It is noted that an objection has been raised an issue in relation to overshadowing of the outdoor play area of the child care centre by the proposed development. However, it is noted that there is already large shade structure which cover the majority of the outdoor play area on the western side of the building and so the objection is unfounded.*

*Notwithstanding this, Bates Smart have prepared a Shadow Study which is appendix B to this letter which demonstrates that the subject proposal does not prevent the achievement of 3 hours solar access to the outdoor play areas, if the shade structures were removed.*

*Finally, it is noted that the podium level on 247-249 is inherently vulnerable because it is currently borrowing amenity from the under-developed nature of the subject sites. It is unreasonable to expect that a lower level terrace, located at the rear of the site, and in an area which has a 44m height control could reasonably expect to retain solar access. The proposal is height compliant, such that any shadow caused by the proposal is as anticipated by the planning controls.*

The following are the shadow studies from Apendix B ‘Views from the Sun’ which show that from 9am-12pm, the childcare centre received at least the minimum requirement of 3 hours of solar access in winter June 21 (the childcare centre terrace is shown shaded in grey). It is not anticipated that the proposed development will unreasonably over-shadow the childcare centre. And taking into consideration the distance, the proposed development will have minimal environmental impacts to the property at 247 Coward Street

  
9am Sun view 10am Sun view

11am Sun view 12 noon sun view

**S.4.15(1)(e) - Public interest**

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

OTHER MATTERS

The Development Application was referred to Council’s internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

| **Referral Agency** | **Response Date** | **Comments** |
| --- | --- | --- |
| **External Referrals** | | |
| SACL | 11 September 2020 | No objections. The conditions have been included in the Schedule of Consent Conditions. |
| WaterNSW | 16 January 2020 | No objections. The conditions have been included in the Schedule of Consent Conditions. |
| NSW Police | 6 May 2020 | No objections. Advisory Conditions have been provided. |
| RMS | 10 September 2019 | No objections. The conditions have been included in the Schedule of Consent Conditions. |
| Telstra | 2 September 2019 | No objections. The conditions have been included in the Schedule of Consent Conditions. |
| Ausgrid | 16 November 2019 | No objections. The conditions have been included in the Schedule of Consent Conditions. |
| **Internal Referrals** | | |
| Landscape Architect | 2 April 2020 | Conditions have been incorporated into the Schedule of Consent Conditions. |
| Development Engineer | 8 May 2020 | Conditions have been incorporated into the Schedule of Consent Conditions. |
| Environmental Scientist | 31 March 2020 | Conditions have been incorporated into the Schedule of Consent Conditions. |
| Tree Management Officer | 9 April 2020 | Conditions have been incorporated into the Schedule of Consent Conditions. |
| Waste Officer | 17 April 2020 | Conditions have been incorporated into the Schedule of Consent Conditions. |

**Section 7.11 Contributions**

A Section 7.11 contribution of $4,447,721.89 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1)  and having regard to the Ministerial Directive of 21 August 2012 (the $20,000 cap).  The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.

The contributions are broken down as follows:

Community Facilities – $364,081.71

Recreation and Open Space – $3,756,286.60

Transport Facilities – $294,968.87

Administration - $32,384.71

**Conclusion**

In accordance with Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, the Application is referred to the Sydney Eastern City Planning Panel (SECPP) for determination.

The non-compliance in the floor space ratio has been considered as part of the Clause 4.6 variation submitted by the applicant. It is considered that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported. The departure in the car parking numbers is supported as the developments’ proximity to Mascot Train Station lends itself to the opportunity for less traffic generation onto the surrounding road network as well as encourages the use of public transport.

The property’s presentation in a streetscape context will be enhanced as a consequence of the proposed development given its high quality form. The non-compliance in the front building setback controls allows the built form to provide an articulated form which provides differing architectural typologies for the upper and lower components.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B5 Business Development zone and is considered to result in a development which is suitable in the context. This is further emphasised as the proposal did not receive any objections during the public notification period. Therefore, the proposal is recommended for approval subject to the conditions of consent in the attached Schedule.

**Attachment**

**Schedule 1 – Conditions of Consent**

**Premises: 253 Coward Street, Mascot Da No.: DA-2019/281**

**SCHEDULE OF CONSENT CONDITIONS**

**GENERAL CONDITIONS**

1. The development is to be carried in accordance with the following plans and endorsed with Council’s stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

|  |  |  |
| --- | --- | --- |
| **Plans** | **Author** | **Dated / Received by Council** |
| A01.000 – Site plan- Rev B | Bates Smart | Dated 20 April 2020 Received 8 May 2020 |
| TP00.05 – Demolition Plan- Rev A | Dated 19 June 2019; Received 2 July 2019 |
| A03.B01 – Basement 01 Floor plan Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A03.00 – Ground level floor plan A03.000 Rev B | Dated 21 April 2020 Received 8 May 2020 |
| A03.00 – Level 01 Floor plan Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A03.002 – Level 02 Floor plan Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A03.003 – Level 03 Floor plan Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A03.004 – Level 04 Floor plan Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A03.002 – Level 05 Floor plan/ Typical commercial Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A03.010 – Level 10 Floor plan Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A03.011 – Roof plan Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A07.001 – North elevation Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A07.002 – West elevation Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A07.003 – South elevation Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A07.004 – East elevation Rev B | Dated 20 April 2020 Received 8 May 2020 |
| A08.001 – Section AA Rev A | Dated 20 April 2020 Received 8 May 2020 |
| A08.002 – Section BB Rev BB | Dated 20 April 2020 Received 8 May 2020 |
| SS19-4134 000 Issue F | Site Image | Dated 19 February 2020; Received 20 March 2020 |
| SS19-4134 001 Issue F | Dated 19 February 2020; Received 20 March 2020 |
| SS19-4134 002 Issue F | Dated 19 February 2020; Received 20 March 2020 |
| SS19-4134 003 Issue D | Dated 2 August 2019; Received 20 March 2020 |
| SS19-4134 501 Issue D | Dated 2 August 2019; Received 20 March 2020 |

|  |  |  |
| --- | --- | --- |
| **Reference Document(s)** | **Author** | **Dated / Received by Council** |
| Architectural Design Report | Bates Smart | Dated 14 August 2019; Received 13 August 2019 |
| Amended Statement of Environmental Effects and Clause 4.6 variation | Sutherland and Associates Planning | Dated April 2020;  Received 22 April 2020 |
| Accessibility Review Report | BCA Logic | Dated 5 February 2019; Received 12 February 2019 |
| Acid Sulfate Soil Management Plan | Aargus | Dated 29 July 2019; Received 13 August 2019 |
| Acoustic Assessment Report | Acoustic Logic | Dated 5 August 2019; Received 13 August 2019 |
| Addendum to Traffic and parking assessment | McLaren Traffic Engineering | Dated 8 May 2020; Received on 8 May 2020 |
| Traffic and Parking Impact Assessment | McLaren Traffic Engineering | Dated 9 August 2019; Received 13 August 2019 |
| Traffic and Parking Impact Assessment | McLaren Traffic Engineering | Dated 13 March 2020; Received 20 March 2020 |
| Landscape Design Report | Site Image | Dated 19 February 2020; Received 20 March 2020 |
| Arboricultural Impact Report | Landscape Matrix | Dated 14 August 2019; Received 14 August 2019 |
| Envelope Study (for site isolation) | Bates Smart | Dates 13 March 2020; Received 20 March 2020 |
| BCA and Access 2016 A1 – Indicative Compliance Report | BCA Logic | Dated 26 July 2019; Received 13 August 2019 |
| Construction Management Plan | DEWCAPE | Dated 6 August 2019; Received 13 August 2019 |
| Wind Report | Windtech | Dated 1 August 2019; Received 13 August 2019 |
| Geotechnical Assessment Report | EI Australia | Dated 31 July 2019; Received 13 August 2019 |
| Detailed Site Investigation | Aargus | Dated 9 March 2020; Received 20 March 2020 |
| Ecologically Sustainable Development Report | Integral Consulting Engineering | Dated 2 August 2019;  Received 13 August 2019 |
| Waste Management Plan | Elephants Foot | Dated 6 August 2019; Received 13 August 2019 |

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

1. This Consent relates to land in Lot 1 DP 104795, as such, building works must not encroach on to adjoining lands or the adjoining public place.
2. The consent given does not imply that works can commence until such time that:
   1. Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
      1. The consent authority; or,
      2. An accredited certifier; and,
   2. The person having the benefit of the development consent:
      1. Has appointed a principal certifying authority; and
      2. Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
      3. The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

1. The following conditions are imposed by **Sydney Airport Corporation Limited (SACL):**
   1. This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
   2. The application sought approval for the PROPERTY DEVELOPMENT to a height of 51 metres Australian Height Datum (AHD).
   3. In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Manager has no objection to the erection of this development to a maximum height of 51 metres AHD.
   4. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
   5. Should you wish to exceed this height a new application must be submitted.
   6. Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
   7. Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
   8. Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
   9. "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
   10. The height of the prescribed airspace at this location is 51 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones

* 1. Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).
  2. Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

1. The following conditions are imposed by **Telstra**:
   1. Telstra requests the developer to make contact with Telstra prior to demolition of the site to ensure existing cables are removed from the Telstra site to avoid damage in the street; and to make arrangement for any future pit adjustments applicable during the footpath works.
   2. Telstra requests Bayside Council not to accept the footpath until both the council and Telstra are satisfied that the appropriate works have been undertaken.
   3. The applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property as Telstra and NBN have network in this location. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
2. The following conditions are imposed by **Water NSW**
   1. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application
   2. An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.
   3. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
   4. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and: a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and b. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and c. where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
   5. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
   6. The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation
   7. Measurement and monitoring arrangements to the satisfaction of WaterNSW are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores
   8. Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW the completion report which shall include: a. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and b. The location and construction of groundwater extraction works that are decommissioned c. a water table map depicting the aquifers settled groundwater condition and a comparison to the baseline conditions; and d. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
   9. The Department of Planning, Industry and Environment¿Water has determined that an authorisation to account for the temporary and transient impacts on groundwater systems associated with the proposed development for up to twelve months is required (to be issued by WaterNSW).
   10. All required monitoring and reporting arrangements are to be designed to demonstrate the activity meets due diligence with respect to the Water Management Act 2000, the relevant water sharing plan(s) and the NSW Aquifer Interference Policy during construction and occupation phases of the building.
   11. At the time of application for a Construction Certificate, the developer must be able to demonstrate to the consent authority that an authorisation for the pumping of groundwater for temporary construction dewatering has been obtained for the relevant groundwater source from which water is being taken.
   12. At the time of application for an Occupation Certificate, the developer must be able to demonstrate to the consent authority that any unexpected groundwater pumping (resulting from poor construction methods, materials or inadequate waterproofing) has been authorised by a water access licence purchased for the relevant groundwater source from which water is being taken and must be able to demonstrate no impact on neighbouring sites or the integrity of the aquifer.
   13. A Site Hydrogeology Report prepared and certified by a qualified, experienced and practising hydrogeologist must be provided with the authorisation application that includes, but is not limited to, the following: a. pre-development (existing) conditions in the form of a baseline monitoring record and comprehensive groundwater system description: i. site and neighbouring area stratigraphy, formation description, site groundwater levels, groundwater flow paths, site aquifer and aquitard (if relevant) hydraulic characterisation ii. groundwater quality and specific consideration of groundwater potentially affected by contamination from surrounding land uses or acid sulfate soils where they are found to exist iii. neighbouring users, groundwater dependent ecosystems, water bodies and other relevant features within a one kilometer radius of the subject site iv. the above site information must not date more than six months prior to the date of lodgment of the development application to account for climate trends and maintain the currency of groundwater data b. excavation phase (during dewatering), in the form of a comprehensive impact prediction description as well as a monitoring and management strategy (the latter equivalent to the requirements for a Dewatering Management Plan): i. predicted groundwater modelling impacts (extent, magnitude and duration) that are developed through suitable methods comprising either; &#61623; numerical modelling in high risk areas &#61623; analytical solutions in low risk areas ii. corresponding trigger levels (levels, quality, flow, volume and ground surface settlement) to manage any potential impacts iii. Construction techniques and approaches that will be used to prevent any ongoing groundwater pumping at the same time as not causing any obstruction to natural groundwater behavior iv. details of monitoring (groundwater levels, quality as required, rate of inflows, metered pumping) v. where a risk of ground settlement is identified due to the proposed dewatering, the proponent is to provide a program of monitoring, trigger and responses to Council (Note while it is the Proponents responsibility to identify the risk, the Department recommends that Council enforce this requirement for all applications in all high risk areas which includes sand formations or other unconsolidated ground). 10 Valentine Avenue Parramatta 2150 | Locked Bag 5123 Parramatta 2124 | dpie.nsw.gov.au | 4 c. post-excavation phase (during aboveground construction) in the form of a comprehensive post-dewatering impact review (equivalent to the requirements for a Dewatering Completion Report): i. collation of monitoring records, ii. analysis of actual impacts compared to predicted impacts, noting that some impacts may be delayed, iii. magnitude and extent of potential long-term effects from the completed structure iv. arrangements for reporting (measurements, technical analysis and future predictions) to the relevant authority d. occupational phase (after building completion) in the form of an annual groundwater monitoring plan: i. monthly monitoring to demonstrate the magnitude of groundwater pumping after construction, either through satisfactory photographic and documented evidence of no visible seepage into the building or, if inflows cannot be prevented, measured flow rates into all pump-out sumps ii. recording arrangements to document ongoing compliance, event-based notification of unexpected groundwater take to the relevant authority and annual reporting arrangements
   14. All monitoring data collected for the development and all monitoring and management reports are to be provided in electronic format (tabulated and raw corrected data) to the Department of Planning, Industry and Environment Water.
3. The following conditions are imposed by **Roads and Maritime Services (RMS):**
   1. All buildings and structures together with any improvements integral to the future use of the site shall be wholly within the freehold property (unlimited in height or depth), along the Coward Street boundary.
   2. The removal of the redundant vehicular crossing on Coward Street shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email at [DeveloperWorks.Sydney@rms.nsw.gov.au](mailto:DeveloperWorks.Sydney@rms.nsw.gov.au).

Detailed design plans of the proposed works are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

* 1. All vehicles shall enter and exit the site in a forward direction.
  2. If not already in place, “No Stopping” restrictions shall be implemented along the full Coward Street frontage of the development site at no cost to Roads and Maritime.
  3. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. 6.
  4. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.
  5. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.
  6. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
  7. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Coward Street during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.

1. The following advisory conditions are imposed by **NSW Police**:
   1. CCTV should be installed and operational internal and external to entry / exit points, internal and external of building, retail shops and basement carpark.
   2. CCTV to be positioned in foyer, lifts and common areas of premise.
   3. Adequate lighting should be positioned covering premise and surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.
   4. Mailbox area to be internal of building, with swipe access only and CCTV positioned covering this area.
   5. Clear signage of Building number, building name and shops should be clearly displayed, with light shining on signs at night to allow clear visibility for Police.
   6. Warning signs “No cash left on premise, CCTV in use at all times, lock your vehicle, take your valuables, Trespassers will be prosecuted” to be clearly displayed external / internal to building and throughout carpark.
   7. All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.
2. The following conditions are imposed by **Sydney Water**:
   1. The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in TM online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

* + 1. building plan approvals
    2. connection and disconnection approvals
    3. diagrams
    4. trade waste approvals
    5. pressure information
    6. water meter installations
    7. pressure boosting and pump approvals
    8. changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at: https:/Iwww.sydnevwater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

* 1. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water prior to development commencement. It is recommended that the Council includes this term as a Condition of the DA approval.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydnevwater.com.au > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

1. The applicant must prior to the issue of any Construction Certificate, pay the following fees:
   1. Development Control $3,174.00
   2. Footpath Crossing Deposit $482,942.41 (See below)
   3. Section 7.11 Contributions $4,447,721.89 (See below)
2. Prior to the issue of the Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
3. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **$482,942.41** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council’s asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
4. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council’s Section 94 Contributions Plans, a contribution of **$4,447,721.89** is payable as calculated below:

***City of Botany Bay Section 7.11 Contributions Plan 2016***

The 7.11 contributions for the development is as follows:

1. Community Facilities $364.081.71
2. Recreation and Open Space $3,756,286.60
3. Transport Facilities $294,968.87
4. Administration $32,384.71

The total Section 7.11 Contribution of **$4,447,721.89** is to be paid to Council prior to the issue of any Construction Certificate.

**Note:** The Section 7.11 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

1. Prior to the issue of the Construction Certificate, a dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of $10 million.
2. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au/) then the “e-developer” icon or telephone 13 20 92.
   * 1. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid.  Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design.  The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
3. Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by \*\*\* on \*\*\* to be submitted with the application for the issue of the Construction Certificate.
4. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council’s and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council’s infrastructure during the course of this development shall be restored at the applicant’s cost.
5. Prior to the issue of the construction certificate, amended plans are to be submitted to council detailing a provision of land to be dedicated to council (at no cost to Council) at the corners of the site at the intersection of Kent Road & Chalmers Crescent (4x4m splay) and Kent Road and Coward Street (3x3m splay) as shown marked up in red on the approved plans. This is to provide adequate provision of public footpath.
6. Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines (SMTG) sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. All drawings shall correspond with the approved architectural plans.
7. The detailed design stormwater plans must incorporate, but not be limited to, the following:

The stormwater management provisions generally made in the stormwater concept plans prepared by Webber Design in the following plans;

|  |  |  |  |
| --- | --- | --- | --- |
| DRG No. | Drawing Title | Revision | Dated |
| C090 | LEVEL B01 –STORMWATER DRAINAGE - NORTH PLAN | P3 | 04.02.20 |
| C095 | LEVEL B01 – STORMWATER DRAINAGE - SOUTH PLAN | P3 | 04.02.20 |
| C100 | LEVEL 00 – STORMWATER DRAINAGE - NORTH PLAN | P3 | 04.02.20 |
| C105 | LEVEL 00 – STORMWATER DRAINAGE - SOUTH PLAN | P5 | 11.03.20 |
| C110 | LEVEL 01 – STORMWATER DRAINAGE - NORTH PLAN | P2 | 13.08.19 |
| C115 | LEVEL 01 – STORMWATER DRAINAGE - SOUTH PLAN | P3 | 11.03.20 |
| C120 | LEVEL 02 – STORMWATER DRAINAGE - NORTH PLAN | P3 | 11.03.20 |
| C125 | LEVEL 02 – STORMWATER DRAINAGE - SOUTH PLAN | P3 | 11.03.20 |
| C150 | STORMWATER DRAINAGE PLAN – OVERLAND FLOW PATH | P1 | 13.08.19 |
| C200 | TYPICAL CIVIL DETAILS – SHEET 1 | P3 | 04.02.20 |
| C210 | TYPICAL CIVIL DETAILS – SHEET 2 | P5 | 11.03.20 |

The plans should be read in conjunction with the provisions/documentation/revisions detailed below:

* All detailed stormwater drawings shall be updated to correspond with the approved architectural plans and other relevant conditions of consent, and
* The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition. In any event the minimum OSD tank volume shall not fall below 160m3, and
* Piped emergency overflow to cater for storm events greater than the 1% AEP shall be provided within the OSD design, and
* A raingarden(s) shall be provided in accordance with the ESD/WSUD report, and
* On Kent Road, the existing kerb inlet pit within the road reserve shall be demolished and anew 2.4m kerb inlet pit shall be constructed in its location, with a new pipe connecting to existing stormwater infrastructure in Kent Road to Council infrastructure specifications as part of the development. The stormwater discharge from the site shall connect via gravity discharge to this new kerb inlet pit, and
* Heavy duty drainage grates shall be provided on the driveway at the boundary, and
* A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site. Only roof water shall be directed to the rainwater tank. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) must be connected to all outdoor irrigation for landscaping and ground floor & basement toilets within the development, and
* All subsurface structures must be designed with a waterproof retention system (i.e. tanking and waterproofing). Subsoil drainage around the subsurface structures must allow free movement of groundwater around the structure and must not be connected to the internal drainage system. No groundwater is permitted to enter any subsurface structure, and
* A pump-out system shall be provided for both basements and designed according to Part 7 of the SMTG. The pump-out systems are not permitted to be used to collect and pump any groundwater, and
* No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basements must be designed as a “fully tanked” structure. The pump-out can only be utilized to dispose stormwater runoff that may enter the basement carpark from driveway access to the basement. The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system, and
* All surface runoff in the basements and the ground floor internal driveways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer’s maintenance and cleaning requirements shall be submitted, and
* Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG, and
* The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
* A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
* Detailed calculations including computer modelling supporting the proposal.

22. All subsurface structures must be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. All subsurface structures are required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. Subsoil drainage around the subsurface structures must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structures, tanking and waterproofing, and subsoil drainage must be undertaken by a suitably experienced Chartered Professional Engineer(s) registered with the National Engineering Register (NER). Design details and construction specifications must be included in the documentation accompanying the Construction Certificate.

23. Prior to the issue of any Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the NER must:

(a) Review the recommendations and findings in the geotechnical investigation report prepared by eiaustralia, ref E24260.G03\_Rev1, dated 31 July 2019 and the groundwater letter prepared by eiaustralia, ref E24260.G20, dated 12 March 2020 and conduct any further geotechnical testing and assessment as required,

(b) Provide recommendations to allow the satisfactory implementation of the works.

i. The appropriate means of excavation/shoring in light of proximity to adjacent property and structures is to be detailed,

ii. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated,

iii. Review the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site),

iv. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages, and

(c) Provide a certificate from the qualified practicing chartered professional geotechnical engineer that the construction certificate plans and documentation are satisfactory from a geotechnical perspective, and

(d) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works, and

(e) Inspect the works as they progress at frequencies determined by the geotechnical engineer, an inspection schedule is to be prepared.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

24. Prior to the issue of any Construction Certificate, a certificate from a practicing Structural Engineer, registered with the NER, must be submitted to the Principal Accredited Certifier stating that the subsurface structural components located on the boundary of the public road and neighbouring properties, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads. An engineering design certificate is required to be submitted for the design of the shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

25. If it is necessary to excavate below the level of the base of the footings of the adjoining buildings/roadways, the person acting on the consent shall ensure that the owner/s of the building/roadway is/are given at least seven (7) day’s notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

26. Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard, the written permission of the affected property owners must be obtained and a copy of the owner’s consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

27. Where excavation support materials are proposed to be used in public land, an application must be made to Council or the relevant road authority for approval under Section 138 of the Roads Act 1993, via a permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

* Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of an adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
* The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

28. Prior to the release of the Construction Certificate, the following points are to be submitted to and approved by the Principal Certifying Authority:

a) Parking facilities (including parking spaces, ramps, aisles etc.) designed to facilitate access only to passenger vehicles smaller than a SRV vehicle (as denoted by AS2890.2:2018) must comply in full with AS/NZS 2890.1:2004 for the applicable user class, and

b) A minimum of 100 bicycle parking spaces are to be provided for the development in the basement and designed in accordance with AS2890.3:2015. Adequate end of trip facilities must be provided adjacent to the bicycle parking spaces (which must include toilets, showers, change rooms, lockers etc.), and

c) Sightlines need to be improved around sharp and blind corners within the parking facility. Sightlines are to comply with AS2890.1 and convex mirrors and/or splays shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and

1. If it is intended for the parking spaces provided for the retail tenancy to be accessible by the general public, these parking spaces allocated to this tenancy shall be designed as user class 3 as per AS/NZS 2890.1:2004.
2. The design of the car parking facility is to be certified by a suitably qualified engineer experienced in traffic & parking design as being strictly in accordance with Australian Standard 2890 parking series.

29. Prior to the issue of the Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:

a) The tandem car parking spaces are not supported and shall be deleted from the proposal and replaced with either motorcycle or bicycle parking spaces.

b) At least 10 of the proposed car parking spaces are to be converted into electric vehicle charging space stations as a matter of sustainability.

c) Car pool priority parking spaces are to be provided and detailed on the plans.

d) Detailed design for the photovoltaic cells systems on the roof level.

e) Consideration for adoption of a nominated car share space internally.

The above measures shall be implemented on site prior to the issue of the Final Occupation Certificate.

30. Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to, assessed and approved by the Principal Accredited Certifier:

a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and

b) All service vehicles shall enter the property front in front out, and

c) A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and

d) Demonstrate safe headroom clearance of 4.5m is achieved along the along the entire travel path, parking and manoeuvring areas of the Medium Rigid Vehicle (MRV) within the development, and

e) Swept path analysis shall be provided for manoeuvring of SRV & MRV commercial vehicles, depicting a forward entry and forward exit manoeuvre to/from the loading dock proposed within the development, and

f) Sight distances throughout the development must be in accordance with Australian standards, and

g) Certification of the above requirements and strict compliance with AS2890.2:2018 is to be provided by a suitably quailed engineer experienced in traffic & parking design.

31. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

a) Accessible car parking spaces shall be provided in accordance with the relevant legislation and designed as specified in Australian Standard 2890.6, and

b) All off street accessible parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements, and

c) All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.

32. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,

b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers) and Council in connection with:

i) The additional load on the system, and

ii) The relocation and/or adjustment of the services affected by the construction.

c) The Ausgrid lighting poles will need to be decommissioned and new underground supplied lighting poles shall be constructed satisfying V2 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,

d) All above ground utilities must be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and

e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

All low voltage street mains in the street/s adjacent to the development must be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid’s requirements shall be obtained prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the Council and service authorities are to be the responsibility of the developer.

33. A Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Council’s Public Domain Team for all frontage works that are required to be constructed within the public domain and which are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with consent conditions, Council technical manuals, master plans, town centre plans, Australian standards and standard design drawings and specifications.

Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices. The plans prepared are to detail compliance with all external works required under this development consent and must be submitted to Council with the frontage works application for assessment.

A ‘public domain frontage works application’ must be submitted to Bayside Council’s Customer Service Centre for assessment of all required works within the road reserve, upon payment of the relevant fee, prior to the issue of any Construction Certificate.

Note: Preliminary consultation with Council’s Public Domain & Referrals team is recommended.

34. Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to, assessed and approved by the Principal Accredited Certifier prior to the issue of any Construction Certificate. The program must detail, but not be limited to, the following:

(a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,

(b) The proposed phases of construction works on the site and the expected duration of each construction phase,

(c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,

(d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,

(e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,

(f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,

(g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,

(h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,

(i) Proposed protection for Council and adjoining properties, and

(j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

(k) The location of any Construction Work Zone (if required) approved by Council’s Traffic Committee, including a copy of that approval.

(l) Obtain Permits required under this consent.

35. Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Accredited Certifier for assessment and approval. The plan shall:

a) be prepared by a RMS accredited consultant,

b) address, but not be limited to, the following matters:

* ingress and egress of vehicles to the site;
* loading and unloading, including construction zones;
* predicted traffic volumes, types and routes; and
* pedestrian and traffic management methods.

c) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council’s Traffic Engineer or the Police, and

d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council’s & RMS Traffic Engineer’s approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

36. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.

37. Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap inTM online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

1. Prior to the issue of any Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by Pulse Acoustic Consultancy dated 25 January 2019. The measures as detailed in the acoustic assessment report prepared by Acoustic Logic, shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion – Building, Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

1. The roof/ceiling must be constructed as per Table 3 of the report,
2. All external walls need to be constructed as per Table 4 of the report,
3. Glazing to all windows and glazed door systems are to be as per Table 5 of the report.
4. Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

**Note**: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do, it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

39. The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan and Landscape Design Report prepared by Site Image, issue F, dated 19th February 2020 (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Bayside Council’s Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:

* + - * 1. A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. Minimum 14% of the site area will be deep soil treated with soft landscape treatment.
        2. To allow a minimum 3.5 meters wide pedestrian circulation splayed corner minimum 3 meters by 3 meters shall be provided in both corners: Kent Street and Coward Street, and Kent Street and Chalmers Crescent.
        3. Landscape setback to all three frontages around proposal shall include large native canopy trees to be supplied and planted at minimum 200 litres pot size as detailed in approved Landscape documentation
        4. Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat, areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.
        5. A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
        6. Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
        7. All areas to be used at night shall be well lit (including pedestrian pathways, laneways, access routes and entrances).

40. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:

* + - * 1. Ensure soil depths in accordance with Council’s Landscape DCP. The base of the planter must be screened to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
        2. A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
        3. Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer’s directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
        4. Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
        5. Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
        6. All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting.

41. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council’s City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council’s Engineering Services requirements. Contact Council’s Landscape Architect for further details of specific requirements in preparation of the plan. The following specific requirements are part of the landscape brief:

* + - * 1. Street trees pot size supplied shall be not less than 200 Litre. Height above container 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
        2. Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent
        3. An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

42. The applicant is to submit payment of a Street Trees and Public domain landscape Bond of $15,000.00. The duration of the Bond shall be limited to a period of 12 months after public domain landscape works have been finalised and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of public domain landscape works by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s and landscaped areas, unless the Applicant undertakes this work under instruction from Council.

* + - * 1. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.
        2. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker’s guarantee, together with a sum of $618.- (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

43. Landscape Completion / Certification- Prior to issue of any Occupation Certificate, the following must be complied with:

* + - * 1. All landscape works are to be carried out in accordance with the approved Construction Certificate landscape plans for the approved development. The landscaping is to be maintained to the approved standard at all times.
        2. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and conditions of consent.

44. An amended Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, must be submitted to the Council and Principal Certifying Authority (if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate.

Specifically, the amended plan must provide the following additional information:

1. Procedures to screen for acid sulfate soils (including laboratory testing) and measures to trigger treatment of acid sulfate soils, if encountered, during basement excavation, piling and ground retention works (eg. secant pile or CSM wall constructions)
2. Measures to control/limit groundwater drawdown (temporary/permanent) to ensure acid sulfate soils are not exposed in neighbouring sites

This report must be provided prior to the issue of any construction certificate and all recommendations of the report must be implemented during works on site.

45**.** A amended Detailed Site Investigation to include all tables and appendices, and a justification of site suitability for zinc impact to remain at BH12 as shown in Figure 5 of the Detailed Site Investigation prepared by Aargus (Report ES7399-Rev 1, dated 9 March 2020) must be completed by a suitably qualified and experienced environmental consultant in accordance with:

1. NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
2. NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
3. State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and must be provided to the Site Auditor (Contaminated Land), the Council and the Principal Certifying Authority (if the Council is not the Principal Certifying Authority) for approval prior to the issue of any Construction Certificate.

46.To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This must be provided prior to the release of any Construction Certificate.

Any conditions imposed on the SAS must form part of this consent. The accredited site auditor must provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Construction Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 4.55 application pursuant to the Environmental Planning & Assessment Act 1979 must be submitted to ensure that they form part of the consent conditions.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

1. The proposed development shall comply with the following:
   1. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
      1. Stating that unauthorised entry to the work site is prohibited;
      2. Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
      3. The Development Approval number; and
      4. The name of the Principal Certifying Authority including an afterhours contact telephone number.
   2. Any such sign is to be removed when the work has been completed.
2. A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and Council infrastructure, including but not limited to all buildings, footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of $10 million.
3. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
4. Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
   1. The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
   2. The name and permit number of the owner-builder who intends to do the work;
   3. The Council also must be informed if: -
      1. A contract is entered into for the work to be done by a different licensee; or
      2. Arrangements for the doing of the work are otherwise changed.
5. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council’s property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council’s road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
   1. Permit to erect hoarding on or over a public place, including Council’s property/road reserve,
   2. Permit to construction works, place and/or storage building materials on footpaths, nature strips,
   3. Permit to install temporary ground anchors in public land,
   4. Permit to discharge ground water to Council’s stormwater drainage system,
   5. Permit for roads and footways occupancy (long term/ short term),
   6. Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
   7. Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
   8. Permit to place skip/waste bin on footpath and/or nature strip, and
   9. Permit to use any part of Council’s road reserve or other Council lands.
6. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

* 1. Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
  2. Induction training for on-site personnel;
  3. Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  4. Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
  5. Disconnection of Gas and Electrical Supply;
  6. Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
  7. Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  8. Waterproofing of any exposed surfaces of adjoining buildings;
  9. Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
  10. Working hours, in accordance with this Development Consent;
  11. Confinement of demolished materials in transit;
  12. Proposed truck routes, in accordance with this Development Consent;
  13. Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
  14. Sewer – common sewerage system ad08.

1. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
2. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
   1. demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
   2. Each toilet provided:
      1. must be standard flushing toilet; and,
      2. must be connected:
      3. to a public sewer; or
      4. if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      5. if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

The provisions of toilet facilities in accordance with this condition must be in place before work commences.

1. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
2. Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
3. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines.  These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
4. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request. Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.
5. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
6. If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
   1. Must preserve and protect the building/ fence from damage; and,
   2. If necessary, underpin and support such building in an approved manner;
   3. Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
   4. Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
   5. If the soil conditions required it:
7. Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
8. Adequate provision must be made for drainage.
9. Where any shoring is to be located on or is supporting Council’s property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council’s (or other) consent if the works intrude on Council’s (or other) property.

**DURING WORKS**

1. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
2. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
3. The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council’s road reserve is required then separate applications are to be made at Council’s Customer Services Department.
4. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
5. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
6. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
7. In order to ensure the design quality excellence of the development is retained:
   1. A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
   2. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
   3. Evidence of the design architect’s commission is to be provided to Bayside Council prior to the issue of the Construction Certificate.
   4. The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
8. The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council’s road reserve is required, approval and permits shall be obtained from Council.
9. Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council’s lands.
10. Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council’s road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
11. Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Enginee
12. During demolition, excavation and construction, care must be taken to protect Council’s infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council’s infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council’s specification and AUS-SPEC at no cost to Council.
13. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

1. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

Note: The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.

1. As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:

i) Protect and support the adjoining premises from possible damage from the excavation, and

ii) Where necessary, underpin the adjoining premises to prevent any such damage.

iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.

1. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
2. During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant’s expense.
3. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
4. There shall be no encroachment of paths, fencing or other improvements onto the drainage easements without Council approval.
5. If the work involved in the construction of a building:
   1. likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
   2. involves the enclosure of a public place:
      1. a hoarding or fence must be erected between the work site and the public place.
      2. If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
      3. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s in the public place.
      4. Any such hoarding, fence or awning is to be removed when the work has been completed.
   3. Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
   4. The applicant shall conduct all construction works and any related deliveries/activities wholly within the site.  If any use of Council’s road reserve is required, approval and permits shall be obtained from Council.
   5. Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council’s lands.
   6. Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council’s road reserve or other property is strictly prohibited.  Fines and cleaning costs will apply to any breach of this condition.
   7. Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
6. During Demolition, Excavation and Construction, care must be taken to protect Council’s infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council’s infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council’s specification and AUS-SPEC at no cost to Council.
7. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council’s lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council’s land.
8. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
9. Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. “building includes part of a building and any structure or part of a structure”.

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

1. Inspections must be conducted by Council’s Engineer at the following occasions:
   1. Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
   2. Formwork inspection of Council’s kerb and gutter prior to laying of concrete,
   3. Formwork inspection of Council’s footpath prior to laying of concrete,
   4. Inspections of the Chalmers Crescent road reserve prior and during the construction of the new road pavement,
   5. Final inspection of Council stormwater infrastructure before & after backfill,
   6. Final inspection of driveway layback and adjacent kerb and gutter,
   7. Final inspection of Council’s kerb and gutter,
   8. Final inspection of Council’s footpath,
   9. Final Inspection of new road pavement on Chalmers Crescent.
2. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority’s Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.
3. **Level Restrictions**

Construction period of 4 weeks and under:

the L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

1. **Time Restrictions**

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

1. **Silencing**

All possible steps should be taken to silence construction site equipment.

1. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
2. All remediation work must be carried out in accordance with:
   1. NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
   2. NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
   3. State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
   4. The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
3. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to council, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site must cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).
4. For any water from temporary site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) in Australian & New Zealand Guidelines for Fresh & Marine Water Quality (ANZG 2018). All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into council’s stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council’s stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

1. To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, prior to any water from site dewatering to be permitted to go to council’s stormwater system, a permit to discharge to the stormwater shall be obtained from council. Temporary dewatering must not commence until this is issued by council. Permanent dewatering is not permitted.
2. All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this
3. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:
4. NSW Environmental Protection Authority (EPA) approved guidelines; and
5. Protection of the Environment Operations Act 1997; and
6. Protection of the Environment Operations (Waste) Regulation 2014.
7. All imported fill must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
8. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements must be made available to Council Officers on request throughout the construction works.
9. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
10. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
11. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
12. A Qualified Arborist, minimum level 2 (AQF 2) with their own public liability insurance must be engaged and undertaken all tree removal works as per ***Australian Standard 4373- Pruning of amenity trees.***
13. In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement. The area within the fenced area is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken.
14. The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
15. A Tree Bond of $10,000.00 shall be imposed to protect the retained trees.The duration of this bond should be 24 months after the occupational certificate has been issued
16. Consent is granted for the removal of the following trees
17. Trees 1, 2 & 3. *Banksia integrifolia*located in the public domainhave all been pruned by Ausgrid for line clearance and should be removed and replaced.
18. Tree 5. *Eucalyptus punctata*
19. Tree 6. *Corymbia maculata*
20. Tree 7. *Eucalyptus punctata*
21. Tree 8.*Eucalyptus robusta*
22. Tree 14.*Eucalyptus haemastoma*
23. Tree 15.*Corymbia maculata*
24. Tree 16.*Eucalyptus scoparia*
25. Tree 17*. Eucalyptus microcorys*
26. Trees 18, 19, 20, 21 & 22.*Casuarina glauca*located in the public domain, each tree in this group have either significant defects, diseased or are suppressed and are be removed and replaced.
27. Tree 23*. Robinia pseudoacaci*

Of the 17 trees, 8 trees are located in the Public Domain. These trees will be replace with eight Corymbiamaculata (Spotted Gum) specimens in the public domain along the three street frontages.

The following trees are to be retained and protected:

l) Tree 4. *Corymbia citriodora*

m) Tree 9. *Eucalyptus microcorys*

n) Tree 10. *Eucalyptus punctata*

o) Tree 11. *Corymbia citriodora*

p) Tree 12. *Corymbia maculata*

q) Tree 13. *Corymbia maculata*

r) Tree 24. *Corymbia eximia*

The retained trees shall be mulched to a minimum depth of 75mm and have a temporary irrigation system installed.

Consent is granted to undertake minor canopy pruning to assist in the construction.

Note tree 9 requires weight reduction of the north co-dominant leader to reduce the incidence of failure as noted in the arborist report

**CONDITIONS WHICH MUST BE SATISFIED PRIOR to the issue of the occupation certificate**

1. All applications associated with works on Council’s land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
2. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council’s satisfaction, prior to occupancy of the development and release of damage deposit.
3. Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
4. Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant’s expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid’s requirements and approved electrical design.
5. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:
   * + - 1. On Coward Street, Kent Road and Chalmers Crescent, adjacent to development, remove redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Council in accordance with Council’s Landscape Architect, Masterplans and Infrastructure Specifications, and
   1. On Coward Street, Kent Road and Chalmers Crescent, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with the applicable Council and RMS Infrastructure Specifications, and
   2. On Kent Road and Chalmers Crescent, adjacent to development, demolish existing footpath and construct new paved footpath (full width) as per Council’s Infrastructure, Landscape Architect and Mascot Station Precinct Public Domain Specifications, and
   3. On Coward Street, adjacent to development, demolish existing footpath and construct new shared footpath for pedestrians and bicyclists as per councils transport planner/engineer requirements and council infrastructure standards, and
   4. The dedicated splays at the corners of the site shall be paved to match the requirements of the Mascot Station Precinct Public Domain Plan and designed to council satisfaction (free of obstructions), and
   5. On Kent Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width and re-sheet the damaged sections adjacent to new road pavement as per Council’s Infrastructure and Pavement Engineer’s specifications, and
   6. On Kent Road, demolish existing kerb inlet pit within the road reserve and construct new 2.4m kerb inlet pit and pipe, connecting to existing stormwater infrastructure in Kent Road to Council infrastructure specifications.

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be constructed to the satisfaction of Bayside Council.

1. The public footpaths on Coward Street, Kent Road and Chalmers Crescent shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
2. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed with kerb and gutter.
3. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council’s engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
4. Prior to the issue of any Occupation Certificate, at no expense to the Council and generally in accordance with approved plans (refer to Condition 1), dedicate the portion of land to Bayside Council for the purpose of providing a public footpath along the corners of the frontage of the property. The areas of the land to be dedicated shall be the corners of the site at the intersection of Kent Road & Chalmers Crescent (4x4m splay) and Kent Road and Coward Street (3x3m splay) as shown marked up in red on the approved plans. This is to provide adequate provision of public footpath. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office. A copy of the registered document shall be submitted to Council for record purposes
5. Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2, AS2890.3 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999. Certification must be provided by a suitably qualified traffic engineer, certifying the design of the completed works.
6. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer competent in geotechnics shall certify that the construction works have been constructed in accordance with the approved geotechnical report/recommendations and include an evaluation of the completed works.  A copy of the certificate shall be supplied to the Principal Certifying Authority.
7. All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site, approved by the principal certifier, stating the following: “All vehicles shall enter and exit the site in a forward direction at all times”.
8. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 Stormwater Management Technical Guidelines.  The certificate shall include an evaluation of the completed drainage works.  A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works.  A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority.  A copy shall be provided to Council if Council is not the Principal Certifying Authority.
9. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
   1. Positive Covenant for on-site waste collection by private commercial waste collection service.
10. Positive covenant for the maintenance of the subsurface structure tanking and waterproofing system.
11. Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
12. Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
13. Positive Covenant and Restriction on Use of Land for Stormwater Pump out System. Refer to Appendix C of the SMTG for suggested wording.

*The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*

112. Prior to the issue of the Occupation Certificate, a Workplace “Green” Travel Plan shall be developed and submitted to Council for assessment and approval in order to encourage staff to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand by staff. The Workplace Travel Plan shall be generally in accordance with NSW Premier’s Council for Active Living’s “Workplace Travel Plan Guidelines - Final Report (April 2010)”. The plan shall include, but not be limited to, the following:

a)      Encourage staff to cycle and/or walk to the workplace;

b)      Encourage staff to use public transport to travel to workplace by providing financial incentive or shuttle bus services;

c)      Adopt car sharing and /or car pool scheme;

d)     Provide priority parking for staff with car pool;

e)      Provide bike storage area and end-of-trip facilities in the convenient locations;

f)       Include clear and time bound targets, actions, measurements and monitoring framework;

g)      Develop Transport Access Guides (TAGs) to Roads and Maritime Services (RMS) requirements for staff and visitors about information on how to reach the site via public transport, walking or cycling.

The workplace travel plan and TAGs must be prominently displayed within the staff communal areas within the development.

113. Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak/night-time deliveries, methods to avoid congestion of service vehicles, how the vicinity will be shared and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be prepared by a suitably qualified professional traffic engineer and shall be submitted to the Principal Accredited Certifier. The management plan is to be implemented for the lifetime of the use of the development and shall for part of any future subdivision of the site.

114. Waste and recycling must be collected by a private waste contractor within the site.  A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle (as denoted by AS2890.2:2018). The company engaged must ensure that all recycling is collected separately from waste.

Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

115. On completion of the development construction and prior to the issue of the Occupation Certificate, CCTV survey and report shall be submitted to Council in accordance with Section 17 of Botany Bay DCP Part 10 Stormwater Management Technical Guidelines to ascertain if any damage has occurred to the newly laid stormwater infrastructure. Any damage shall be repaired by the applicant to Council’s requirements and satisfaction. Once any damage has been repaired to Council requirements, a further CCTV survey and report shall be submitted to Council for further consideration. The CCTV survey and report shall also be used to view any rubbish and sediment in the conduits for cleaning by the applicant. Work-As-Executed (WAE) plans and design certification shall be submitted to Council for consideration. These plans shall be prepared by a registered surveyor and shall indicate the as-constructed pit and conduit sizes and conduit invert RL’s at each pit.

Furthermore, the following details resulting from the construction of new Council infrastructure assets within the road reserve shall be submitted to Bayside Council, in GIS/Shape file format:

For each pit

* 1. Pit code as per the work-as-executed plan.
  2. Pit type and lintel size.
  3. Total value to the nearest $1,000. -
  4. Construction date — month and year.
  5. Built by (contractor's name).
  6. Street name where applicable.
  7. Grate RL/Top of Pit RL (AHD).
  8. Invert RL (AHD).

For each conduit/pipe

1. Line code as per the work-as-executed plan.
2. Description — type, eg RCP, FRC, RRJ, box culvert, open channel, etc.
3. Size (mm).
4. Length (m).
5. Total value to the nearest $1,000.
6. Construction date — month and year.
7. Built by (contractor's name).
8. Street name where applicable.

116.

* 1. A notice of requirement shall be obtained from the Water Board;
  2. A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

117. The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.

118. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.

119. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval.

120. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

**CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

121. The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.

122. The use of the commercial premises and/or food and drink premises is subject to a separate approval (DA or complying development certificate).

123. The Workplace “Green” Travel Plan shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff travel to work by public transport, cycling and walking. Copy of the annual review shall be submitted to Council. In order to ensure the certainty to implement workplace travel plan for all future tenants of the site, preparation and implementation of workplace travel plan shall be part of the lease agreement for all tenants.

124. To reduce traffic impacts and promote sustainable transport, the office workers/employees in the commercial office component of the development, that are not provided/allocated a parking space within the car park on the premises, are not permitted to drive personal passenger vehicles to the workplace.

125. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

126. The operation of the development and movements of vehicles shall comply with the following requirements:

1. All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
2. Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas service bay;
3. All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas service bay;
4. All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
5. The maximum size of vehicle accessing the service bay shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2).

127. In order to ensure the certainty to implement workplace travel plan for all future tenants of the site, preparation and implementation of workplace travel plan shall be part of the lease agreement for all tenants. The Workplace Travel Plan shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff travel to work by Public transport, cycling and walking.

128. Ongoing maintenance of the road verges and footpaths shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.

129. All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.

130. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.

131. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.

132. Council’s footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant’s expense.

133. No garbage collection associated with the retail premises is permitted between 10pm and 6am.

134. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

135. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A* of the *Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.*

136. The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

* 1. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  2. The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  3. The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  4. For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.