



Development proposal for a concept DA for five commercial towers above a parking podium at 7-9, 14-18, 19-21 and Lot 1 DP 1260420, Chalmers Crescent, Mascot

Amended CLAUSE 4.6 VARIATION STATEMENT in support of a non-compliance with the maximum permissible Floor Space Ratio (FSR) for the site under Clauses 4.4 of the Bayside Local Environment Plan 2021

Document Control

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Text amended from V3 is highlighted for ease of comparison

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NOTE: This statement is prepared with reference to the architectural drawings dated 31/01/2025, Revision C, prepared by Crone Architects and needs to be read in conjunction to Statement of Environmental Effects (SEE).

This variation statement refers to the questions contained in the judgements of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (**Initial Action**), *Wehbe v Pittwater Council* [2007] NSWLEC 827 (**Wehbe**), *Project Ventures v Pittwater Council* [2005] NSWLEC 191, and other relevant case law.

1 Site and locality

- 1.1 Located at 7-9, 14-18, 19-21 and Lot 1, DP 1260420, Chalmers Crescent, Mascot, the subject site comprises of properties located in Chalmers Crescent cul-de-sac. The 16 lots have a legal description of Lots 11-26 in DP29697.
- 1.2 The L-shaped site has an area of 11,485m² and the contracted cul-de-sac an area of 1,118m², altogether totalling 12,603m². The site falls about 0.4m east to west. Currently, the sites accommodate obsolete two-storey industrial/warehouse buildings.
- 1.3 The street is accessed through Kent Road/Coward Street intersection to the north and is between Bourke Street to the east, Alexandra Canal to the west and Sydney Kingsford Smith Airport to the south. Surrounding development immediately to the west, east and south comprises airport-related industrial and office uses, many associated with Qantas Airways. On the north side of Chalmers Crescent are visually obsolete older one and two-storey industrial buildings used for a variety of warehouse and industrial uses. No.1-5 Chalmers Crescent is a recently completed office building of 12 storeys and another office building is under construction at No.2 Chalmers Crescent.
- 1.4 Located in Zone E3 – *Productivity Support* under the *Bayside Local Environmental Plan 2021* (BLEP), the proposed *commercial development* is permissible with consent.
- 1.5 The allowable FSR on site, in accordance with clause 4.4 of the BLEP, is 3:1. The proposal has a non-compliance of 10,836m² or 28.7% resulting in a total FSR of 3.86:1.
- 1.6 The permissible FSR for the site is defined by clause 4.4 of the BLEP. For the purpose of this assessment, the objectives of clause 4.4 of the BLEP are referenced in the statement.

The site in its immediate context is shown on the following map and aerial/street views.

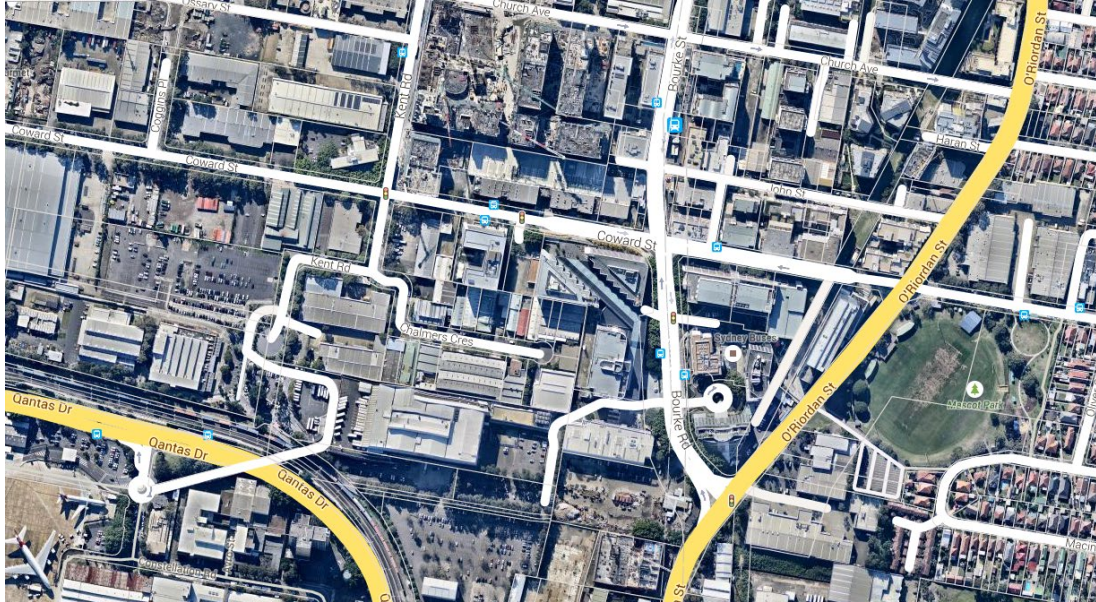


Figure 2. Subject site (red); Mascot Station Town Centre (orange). Residential development north of Coward Street has largely been built since 2015.

The proposal is illustrated in the render below:



Figure 3. Project render courtesy Crone Architects



2 Requirement for a 4.6 Variation Statement

- 2.1 Clause 4.6 of the BLEP seeks to provide appropriate flexibility to the application of development standards in order achieve better planning outcomes both for the development and from the development. The objectives of clause 4.6 are as follows:

Clause 4.6(1) Objectives		
Clause	Control	Justification
(1)(a)	to provide an appropriate degree of flexibility in applying certain development standards to particular development	
(1)(b)	to achieve better outcomes for and from development by allowing flexibility in particular circumstances	Flexibility in applying the FSR standard will allow better outcome to be achieved for the site by increasing the employment floorspace, making the towers slimmer and maximising the space between them. The proposed density ensures the site effectively caters to the growing employment generation and growth of the area, achieves a density similar to surrounding commercial developments and improves the streetscape without causing adverse environmental impacts.

- 2.2 Under clause 4.6(2) of the BLEP, development 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. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- 2.3 The development standard in question is contained in clause 4.4 of the BLEP and clause 4.6 may be used to permit the granting of development consent in spite of the contravention of this development standard.
- 2.4 Under clause 4.6(3) of the BLEP, the consent authority must consider a written request from the applicant that seeks to justify the contravention of the development standard. The following requirements have to be addressed in the written request:

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



- 2.5 The proposal has a maximum FSR of 3.86:1 resulting in a breach of the FSR control of 3.0:1 by 10,836m² GFA or 28.7%. Therefore, a clause 4.6 variation statement is required to justify the non-compliance with the FSR development standard set by clause 4.4 of the BLEP.
- 2.6 The requirements of subclauses 3 and 4 of clause 4.6 of the BLEP are addressed in the following sections of this report.

3 What is the degree of non-compliance?

- 3.1 Clause 4.4 of the BLEP establishes a maximum FSR of 3.0:1 for the subject site.
- 3.2 The proposal has a maximum GFA of 48,645m² that results in an FSR of 3.86:1. This is an exceedance of 10,836m² (28.7%) over the 3.0:1 - refer to drawing DA-A-70502 of the architectural plans.

4 Is the development consistent with the relevant aims of BLEP?

- 4.1 The relevant general aims of the BLEP under clause 1.2 are below. The proposal satisfies these aims as discussed:

(d) to encourage sustainable economic growth and development in Bayside,

Directed to providing business/office floorspace in support of the functions of Sydney Airport, the proposal maximises the floorspace on the site within the tight height constraints of the OLS. Growth in operations associated with the airport will place greater demands on the locality in the future. Having regard to the normal lifespan of commercial buildings, 40-50 years, the proposal must cater for a planning horizon of similar time. The additional 10,836m², in breach of the FSR, contributes to the growing employment demand for airport-related office space in the Mascot Western Employment Lands precinct.

(h) to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,

A sustainability report has been prepared as part of this application demonstrating the proposal's commitment to implementing sustainable practices to achieve:

- A 5.5 Star NABERS Base Building energy rating for the commercial office development
- A 5 Star Green Star Buildings v1 rating for the development, including the Climate Positive Pathway
- An all-electric building that leverages onsite and offsite renewable energy sources
- A 4 Star NABERS Base Building water rating for the commercial office development.

(i) to enhance and protect the functions and roles of the international trade gateways of Sydney Airport and Port Botany



The target market for the proposal is organisations/ corporations whose activities are central to the function of the airport and which need proximity to the airport. The proposal will enhance the functions of the airport by providing employment floorspace near the airport.

The subject site is zoned E3 - Productivity Support under the BLEP 2021. The relevant objectives of Zone E3 are:

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To promote redevelopment that is likely to contribute to the locality, including by improving the visual character of the locality, improving access and parking, reducing land use conflicts and increasing amenity for nearby residential development.

The FSR of the proposal, which is above the development standard of 3.0:1, satisfies the above objectives for the following reasons. The proposal will:

- Deliver an office park style development to accommodate 48,645m² of flexible commercial office space that will support the viability of Sydney Airport, Mascot Town Centre and, more broadly, Sydney's Global Economic Corridor. Proximity to the airport means that likely airport support facilities can be provided on this site.
- Provide a major employment hub to support Sydney Airport.
- Provide a limited retail component which will aid in supporting the future viability of the campus as a whole without adversely impacting on retail uses in the Mascot Town Centre.
- Contribute to the locality by replacing the obsolete industrial warehouses with a modern commercial campus.
- Improve the visual character of the locality, maintain acceptable vehicular access, improve pedestrian access and reduce land use conflicts.
- Maintain reasonable intersection performance of the Rickety Street/ Kent Road intersection well into the future on the basis that the commuter parking provided in the development is capped at 400 spaces. (Additional pool/corporate parking is accommodated.)



5 Is the development consistent with the relevant objectives of Clause 4.4 – Floor Space Ratio?

5.1 The relevant objectives of clause 4.4 of the BLEP, are:

- (a) *to establish standards for the maximum development density and intensity of land use,*
- (b) *to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,*
- (e) *to ensure 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.*

5.2 The proposed development meets the objectives of Clause 4.4 of the LEP based on the following assessment:

Clause	Objectives	Justification
4.4	BLEP	
(1)(a)	<i>to establish standards for the maximum development density and intensity of land use,</i>	Noted
(1)(b)	<i>to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,</i>	A number of buildings in the immediate vicinity have been approved with similar FSR. FSR is a crude control of bulk and scale and similarity of FSR usually results in similar characteristics of bulk and scale. These buildings represent the desired future character of the area. Having regard to the 40-50 year life of commercial buildings, and the intrusion of other appropriate uses, such as data centres, with very low employment numbers on large sites, it is important to maximise employment floorspace in Mascot.
(1)(c)	<i>to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,</i>	Enjoyment of the public domain will be increased to a very high level with this proposal which will transform Chalmers Crescent into an inviting and green workplace thoroughfare. This is not minimisation of adverse impact but the maximisation of positive impact on the public domain. Traffic impact due to the proposal will remain within reasonable bounds (LoS D) subject to a commuter parking cap of 400 allocated spaces.



(1)(d)	<i>to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,</i>	Setback from the site boundaries, with spaces between the towers, the proposal will create an appropriate visual relationship with adjoining buildings. Chalmers Crescent will be positively transformed by the proposal. Progressive renewal of the obsolete buildings in Chalmers Crescent will remove the need for compatibility with existing development by establishing a new character.
(1)(e)	<i>to ensure 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.</i>	Renders produced for the project show how the streetscape, and skyline, will be positively impacted by the proposal. The public domain will be transformed from uninviting to active and inviting with the building foyers at street frontage and the abundant landscaping on the site and the footpaths.

5.3 The following table includes comparable approvals in the surrounding locality:

Address	Zone	LEP control	Description	Approved	Approval Date of original approval
21 Ossary Street, Mascot	E3 Productivity Support	3.55:1	The self storage facility is seven storeys and corridors are included in the gross floor area calculation.	3.85:1	28/06/2022
32-34 Ricketty Street, Mascot	E3 Productivity Support	3:1	Demolition of existing structures and construction of an eleven (11) storeys commercial office development with roof top terrace and above ground parking.	3.9:1	1/07/2021
253 Coward Street, Mascot	E3 Productivity Support	3:1	Modification to the approved scheme for demolition of existing buildings, construction of an eleven (11) storey commercial building comprising one (1) basement level car park, ground floor retail / commercial tenancies, commercial and parking on level one (1), parking on levels two (2) and three (3), and seven (7) levels of office use above.	4:1	7/08/2023
1-5 Chalmers Crescent, Mascot	E3 Productivity Support	3:1	Demolition, lot consolidation and construction of a 12 storey commercial development at 1-5 Chalmers Crescent, Mascot.	3.89:1	30/07/2019



Address	Zone	LEP control	Description	Approved	Approval Date of original approval
2 Chalmers Crescent, Mascot	E3 Productivity Support	3:1	Demolition of existing structures, consolidation from two lots to one lot and construction of a twelve-storey commercial development comprising retail and office space.	3.83:1	23/03/2021
40 Ricketty Street, Mascot	E3 Productivity Support	3:1	Alterations to existing three (3) storey commercial office building Alterations to existing three (3) storey commercial office building and addition of two (2) commercial office floors.	3.87:1	22/11/2022
46-50 Kent Street, Mascot	E3 Productivity Support	3:1	Demolition of existing structures and construction of a ten (10) storey commercial development comprising retail and office space.	3.99:1	17/01/2020

6 Can the consent authority be satisfied that compliance with the development standard is unnecessary or unreasonable because the objectives of the development standard are achieved notwithstanding non-compliance with the standard?

6.1 At paragraph 16 of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ states:

*As to the first matter required by cl 4.6(3)(a), I summarised the **common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary** in *Wehbe v Pittwater Council* at [42]-[51]*

And although the above referenced *common ways* were said in the context of an objection under SEPP 1 – Development Standards in *Wehbe*, they are still applicable to the purpose of an application under a clause 4.6 variation statement.

Preston CJ further notes in [17] of *Initial Action*:



the first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary, because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

- 6.2 By its careful design, the proposal does not result in any significant or material adverse environmental impacts on adjoining sites. The project, as designed, demonstrates how it will comply with the first test under *Wehbe*, quoted above. By generally complying with the planning controls, the proposal accords with the character desired for the locality by the BLEP as much as is described in the BLEP and evidenced by recent approvals.
- 6.3 The proposal satisfies not only the relevant objectives of clause 4.4 for the FSR development standard, but that the proposal also complies with the general aims of the BLEP and the objectives of zone E3, in which the site is located. In terms of streetscape and public domain objectives, it must be said that the proposal far exceeds any objectives for improvement.
- 6.4 The application of the development standard is unnecessary because the proposal meets all the relevant FSR objectives in the BLEP in spite of the breach of the FSR standard by 10,836m². If all the relevant objectives are met, the numerical development standard has no further work to do and is thus unnecessary. Additionally, as all the relevant objectives are met, it is also unreasonable to apply the development standard in this case as the impact of the additional floorspace is very positive in economic terms in the locality. Compliance with the relevant standard is therefore both unreasonable and unnecessary for the purposes of clause 4.6(3)(a) of the BLEP.
- 6.5 The bulk and scale of the proposal is in keeping with the future character of the area to the extent that the planning controls reflect such character. The proposal is sufficiently large to positively influence the future of the locality. Considering that the bulk and scale is largely consistent with new commercial developments in its vicinity, the proposal presents an acceptable design and demonstrates compliance with the first test under *Wehbe*, quoted above.
- 6.6 Reducing the FSR to achieve a compliant FSR would not deliver any measurable environmental or amenity benefits. The proposed scheme of five towers results in smaller tower floorplates which cater to the post-Covid built form of larger commercial developments which need to provide better quality office environments to lure workers.
- 6.7 A sensitivity analysis and revised impact analysis of the project on traffic has been prepared by WSP (submitted under extra cover, 24/11/2025). The analysis shows that the intersection of Rickety Street/Kent Road is sensitive to the project and other background development in the locality. On a *prima facie* basis, the intersection might reach an unacceptable Level of Service (LoS) by 2036 without any mitigating factors. However, there are numerous mitigating factors which could prevent the intersection reaching LoS F by 2036.

- Commuter parking for the subject project should be capped at 400 allocated spaces forcing greater workforce use of the considerable public transport network and active transport. Capped commuter parking, as is the case with the City of Sydney 650m north of the site, will maintain intersection performance of the critical Rickety Street/ Kent Road intersection at LoS D into the future (2036), refer WSP report PS210815-PAM-SYD-MEM-001 of 24/11/2025.
- Airport- related uses will have much more extended hours of operation with fewer than forecast workers arriving and departing during the standard peak hours.
- Organisations might vary hours or workers might choose flexibility to avoid peak traffic conditions.
- Green travel plans, and corporate incentives, could be used to influence worker behaviour in a positive direction. Council has advised that at least a 10% drop in traffic generation will result from the GTP (green travel plan).

7 Are there sufficient environmental planning grounds to justify contravening the development standard?

- 7.1 Pain J held in *Four2Five vs Ashfield Council [2015]* NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 request must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning ground that justify contravening the development standard, preferably being grounds that are specific to the site.
- 7.2 Preston CJ noted in *Initial Action Pty Ltd v Woollahra Municipal Council [2018]* NSWLEC 118, that in order for there to be ‘sufficient’ environmental planning grounds to justify a written request under clause 4.6, the aspect of the development that contravenes the development standard should be the focus (as opposed to the development as a whole) of any analysis.
- 7.3 Pursuant to clause 4.6(3)(b) of the BLEP, there are sufficient environmental planning grounds to justify the variation to the FSR because:
 - General compliance of the proposed development with the applicable controls under the SEPPs and Bayside LEP and Development Control Plan (BDCP), ensures the potential adverse environmental impact of that part of the proposal which breaches the FSR standard is within the acceptable limits established by similar planning approvals in the last five years for developments in the E3 zone.

- The additional GFA is not discernible from the public domain where the bulk and scale of the built form matches that of other projects in the locality. The proposal does not dominate the streetscape when viewed from surrounding sites or the public domain. Further, the resulting built form does not result in any adverse visual amenity impacts greater than that of a fully compliant building envelope. In the absence of any identifiable visual impacts associated with the proposed contravention, **the proposal is considered to represent a development outcome which greatly enhances the desired future character of the area whilst making major improvements to the Chalmers Crescent streetscape.**
- The scale of the building is as anticipated by the planning controls and the proposed development has a consistent number of storeys with other nearby recently approved office buildings. Accordingly, the scale of the development in terms of its three-dimensional size will not be perceived as inappropriate or antipathetic in a streetscape and urban design context.
- With respect to impact on solar access, no residential uses are affected by shadow from the proposal. The FSR breach does not contribute to unreasonable overshadowing or any other amenity impact.
- The proposed FSR variation will create additional employment floor space offering an environmental benefit, especially in this area where the Council aims to promote more employment space to offset the substantial increase in residential floor space in recent years. This additional employment floor space will enhance the viability of the centre and provide essential job-related space in a location conveniently close to Sydney Airport and various transport hubs.
- The site is located in close proximity to Mascot Train Station and a range of bus services. The additional floorspace proposed is supported by the existing local infrastructure and public transport networks.
- The proposed design provides high quality office spaces, flexible tenant layouts to encourage diverse occupants, in addition to achieving a sustainability rating equivalent to Greenstar level 5. The 28% increase in FSR from the previously approved Masterplan is required in order to develop the site to its full potential and provide premium office spaces in the Mascot/ Sydney Airport precinct.
- Council's original comments from their assessment report of DA2017/1253 at 40 Ricketty Street are relevant to the proposed design of the subject site:



The proposal has maintained an appropriate visual character in that the building additions are stepped in from the boundaries to further minimise any impact associated with their addition and to provide consistency with the podium type treatments within the Mascot Town Centre which is the backdrop of this development and is consistent the transformation of the area.

- Traffic impact modelling (WSP report PS210815-PAM-SYD-MEM-001 of 24/11/2025), indicates that imposition of capped commuter parking of 400 max spaces on-site will maintain LoS D at the critical Rickety Street/ Kent Road intersection until 2036. The impact of the additional floor space above FSR 3.0:1 is sufficiently mitigated to justify approval of the proposed FSR of 3.86:1.
- The lack of any material or discernible adverse visual impact resulting from the non-compliance of the proposal with the FSR control must be counted as a positive environmental planning ground (*Randwick v Micaul Holdings* [2016] NSW LEC 7). Achieving strict compliance would not achieve an improved built form outcome for the development.
- As traffic impact is mitigated by capping allocated commuter spaces to max 400, the proposal would also meet the *Micaul* test with regard to traffic impact.

The considerations above provide strong environmental grounds justifying the contravention of the FSR standard.

7.4 As demonstrated above, the proposed development has satisfied the matters required to be demonstrated in Clause 4.6(3) by providing a written request that demonstrates:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, by establishing that the objectives of the development standard are achieved notwithstanding the non-compliance of a small part of the proposal as a whole.
- The environmental planning grounds relied on are sufficient to justify the breach of the development standard. The relevant items in Clause 4.6(3) of the LEP have been adequately addressed above to enable the consent authority to form the requisite opinion of satisfaction.

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CI 4.6(3) Justification of Contravention		
Clause	Control	Justification
4.6(3)	Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	This clause 4.6 submission has been prepared to address the contravention of the maximum FSR standard and to justify the proposal's contravention.
4.6(3)(a)	That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (see the test under <i>Wehbe v Pittwater Council</i> below), an	This clause 4.6 demonstrates that compliance with the development standard is unnecessary because the proposal meets all the relevant FSR objectives in the BLEP in spite of the breach of the standard by 10,836m². If traffic impact is reduced as a result of capping allocated commuter spaces to 400 max, the impact of the additional GFA becomes acceptable. Having regard to the measures reducing material adverse impact due to the non-compliant GFA, strict compliance with the FSR standard is unreasonable in the circumstances where there is demand for a development of the FSR proposed.
4.6(3)(b)	That there are sufficient environmental planning grounds to justify contravening the development standard.	Sufficient environmental planning grounds to justify the contravention of the development standard have been outlined in this report.
	As established in <i>Initial Action</i> [23], 'environmental planning grounds' refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act. These are as follows:	
1.3(a)	to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposed development is for a substantial commercial development and that will have a major positive impact upon the social and economic welfare of the Mascot community and the region at large. The State's natural and other resources remain unaffected as part of this proposal.

1.3(b)	to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	Energy and water consumption in occupation are managed through proposed compliance with NABERS and Green Star Building Ratings, which mandate limits on energy and water consumption.
1.3(c)	to promote the orderly and economic use and development of land,	The development of the site for its zoned purpose represents the orderly and economic use purpose of the Act.
1.3(d)	to promote the delivery and maintenance of affordable housing,	Affordable housing is not applicable to this application.
1.3(e)	to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	No threatened or other species of native animals and plants, ecological communities or their habitats exist on site or are threatened as a result of this application.
1.3(f)	to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	No built or cultural heritage requiring sustainable management has been identified on site.
1.3(g)	to promote good design and amenity of the built environment,	The proposed commercial development is of a high standard of architectural design which will improve the amenity of the built environment of the locality and the streetscape of Chalmers Crescent.. An emerging character of high quality commercial designs is already evident in Chalmers Crescent and the proposal adds greatly to this character.
1.3(h)	to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	By meeting modern standards of construction required by the NCC, the proposal can meet the health and safety needs of its tenants.
1.3(i)	to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	Not relevant to this development application which proposes the use of the site in accordance with its zoning.
1.3(j)	to provide increased opportunity for community participation in environmental planning and assessment	Not relevant to this development application which proposes the use of the site in accordance with its zoning.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ established at least five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary.



These are examined below:

Five Tests		
Part	Test	Discussion
1	The objectives of the standard are achieved notwithstanding non- compliance with the standard and the compliance with the standard is unreasonable or unnecessary.	This is the test upon which this submission relies. It is argued above that strict compliance with the FSR standard is both unreasonable and unnecessary.
2	The underlying objectives of the standard are not relevant and compliance is not necessary.	It is not suggested that the underlying objectives of clause 4.4 of the BLEP are not relevant.
3	The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.	It is not suggested that the underlying objectives of clause 4.4 of the BLEP would be thwarted or defeated if compliance were required.
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.	Evidence has been found to demonstrate that Council has modified the FSR standard in the approvals given for commercial development in the E3 zone over a number of years. Presumably this is to meet employment goals for the area at large.
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 subject site is appropriately zoned.

8 Conclusion

In circumstances where the adverse impacts resulting from the contravention of the development standard can be managed, chief among them the traffic impact, and there are many positive impacts from the complete reshaping of the environment and streetscape of Chalmers Crescent, it is unreasonable and unnecessary to require strict compliance with the FSR development standard under clause 4.4 of the BLEP.

<https://nurban.sharepoint.com/sites/CPWActiveProjects/Shared Documents/23238 - Mayer, Mascot/CPW reports and files/CI4.6 - FSR - V5.docx>