

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	PPSSEC-38
DA Number	DA-2020/14
Local Government Area	Bayside Council
Proposed Development	Demolition of existing structures and construction of a ten (10) storey commercial development comprising retail and office
Street Address	46-50 Kent Road Mascot
Applicant	Sutherland and Associates Planning Pty Ltd
Owner	Cate Investments P/L and Hiddon Pty Ltd and Direct Vision Pty Ltd
Number of Submissions	Two (2) submissions (from same objector)
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$90,250,274.00
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • 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 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Plans- Sissons • Clause 4.6 variation- Sutherland and Associates Planning Pty Ltd • Landscape Plans- Aspect Studios
Report by	Angela Lazaridis – Senior Development Assessment Planner

RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), as the Consent Authority, resolve to:

- a) Grant consent to the Clause 4.6 variation request to vary Clause 4.4 of the Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.77:1 (19,056sqm) for the development, as it is satisfied that the applicants' request has adequately addressed the matters required to be demonstrated by cl4.6, and the proposed development would be in the public interest because it is consistent with the objectives within the zone;
- b) Grant approval of Development Application No. 2020/14 for the demolition of existing structures and construction of a ten (10) storey commercial development comprising retail and office space at 46-50 Kent Road Mascot, subject to the conditions of consent in the attached Schedule; and
- c) That any objectors be advised of the Sydney Eastern City Planning Panel decision.

The reasons for approval are as follows:

- a) The proposal is consistent and conforms with the objectives of the B7 Business Park zone and conforms with the desired future character of the precinct;
- b) The proposal will provide for an increase employment density on the site within the Mascot (West) Business Park Precinct; and
- c) The proposal provides a considered built form response that will deliver a positive urban design outcome.

EXECUTIVE SUMMARY

Council received Development Application No. 2020/14 on 17 January 2020 for the demolition of existing structures and construction of a ten (10) storey commercial development comprising retail and office space at 46-50 Kent Road 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 \$30,000,000.00.

The Development Application was advertised for a period of fourteen (14) days 30 January to 13 February 2020. Two (2) submissions were received from the same objector, once in the original notification period and another following the amended plans being sent to the objector.

The key issues in the assessment of the development application include FSR and car parking. The proposal seeks a variation to the FSR control of 3:1. The applicant proposes a GFA of 19,056sqm which equates to 3.77:1 and is a variation of 25.6%. The applicant has submitted a Clause 4.6 variation with the development application and has been assessed. 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. Further discussion relating to the FSR is provided in Note 1 below.

The development has a car parking and loading bay departure. Under the BDDCP 2013, the proposed development generates a total of 434 car spaces and ten loading spaces. The development provides 238 car spaces and three loading bays. This is a departure of 196 spaces based on a net lettable floor area of 17,365sqm. The departure in 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 was encouraged and supported by Council's Development Engineer.

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 in the attached Schedule.

SITE DESCRIPTION

The site is legally identified as Lot 100 in DP 1118363 and is identified as 46-50 Kent Road Mascot. The site is located on the western side of Kent Road between Ossary Street to the north of the site and Coward Street to the south. The site is generally rectangular in shape and has a total site area of 5,059sqm, a northern side boundary length of 94.305 metres, a southern boundary length of 90.89 metres, an eastern boundary length of 50.75 metres and a rear western boundary length of 53.8 metres. The site is generally level with a slight fall of 500mm from the eastern side of the site to the west.

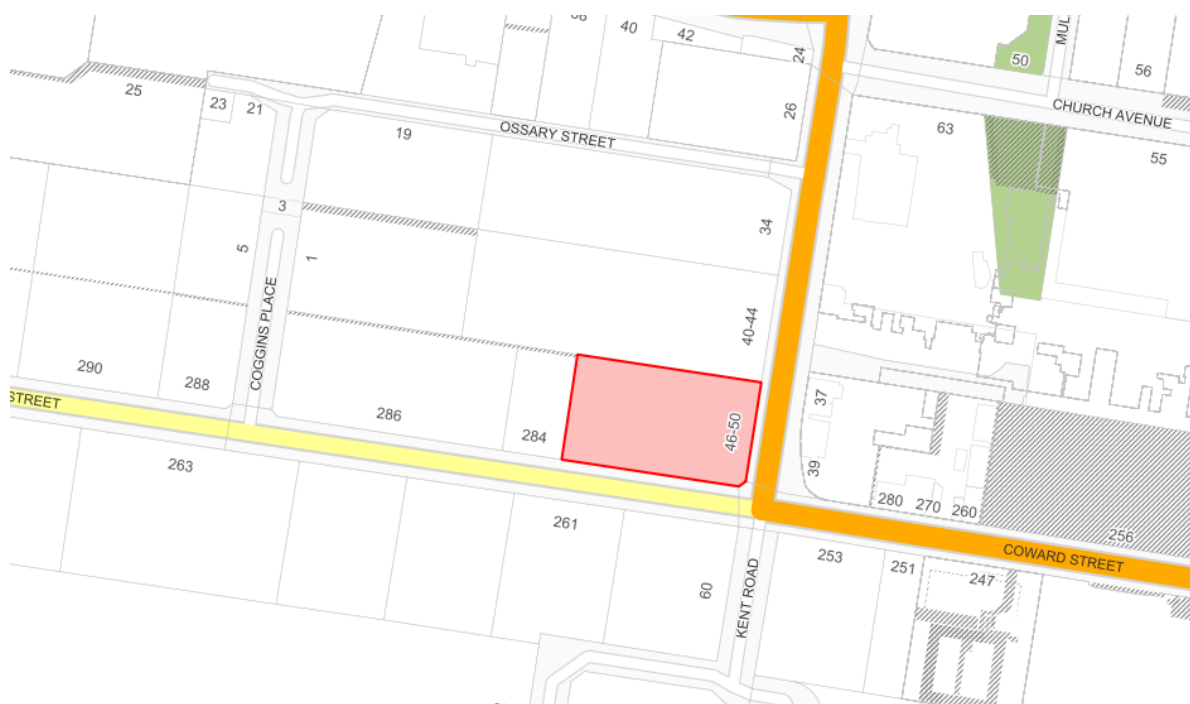


Figure 1. Locality Plan

The site currently contains a part one part four storey commercial building which is primarily located on the eastern side of the site. The rear of the site includes an at grade hard stand car park. There are 12 trees located within the site including a large fig tree which is located in the centre of the site. The southern and eastern boundary contains 13 large fig trees along its perimeter which are proposed to be retained as part of the proposal with the exception of the removal of one tree to make way for the driveway into the site. The site is located within

the 25-30 ANEF Contour. The site is located within the Mascot Station Precinct Key Area and is located within the PMF flood zone.

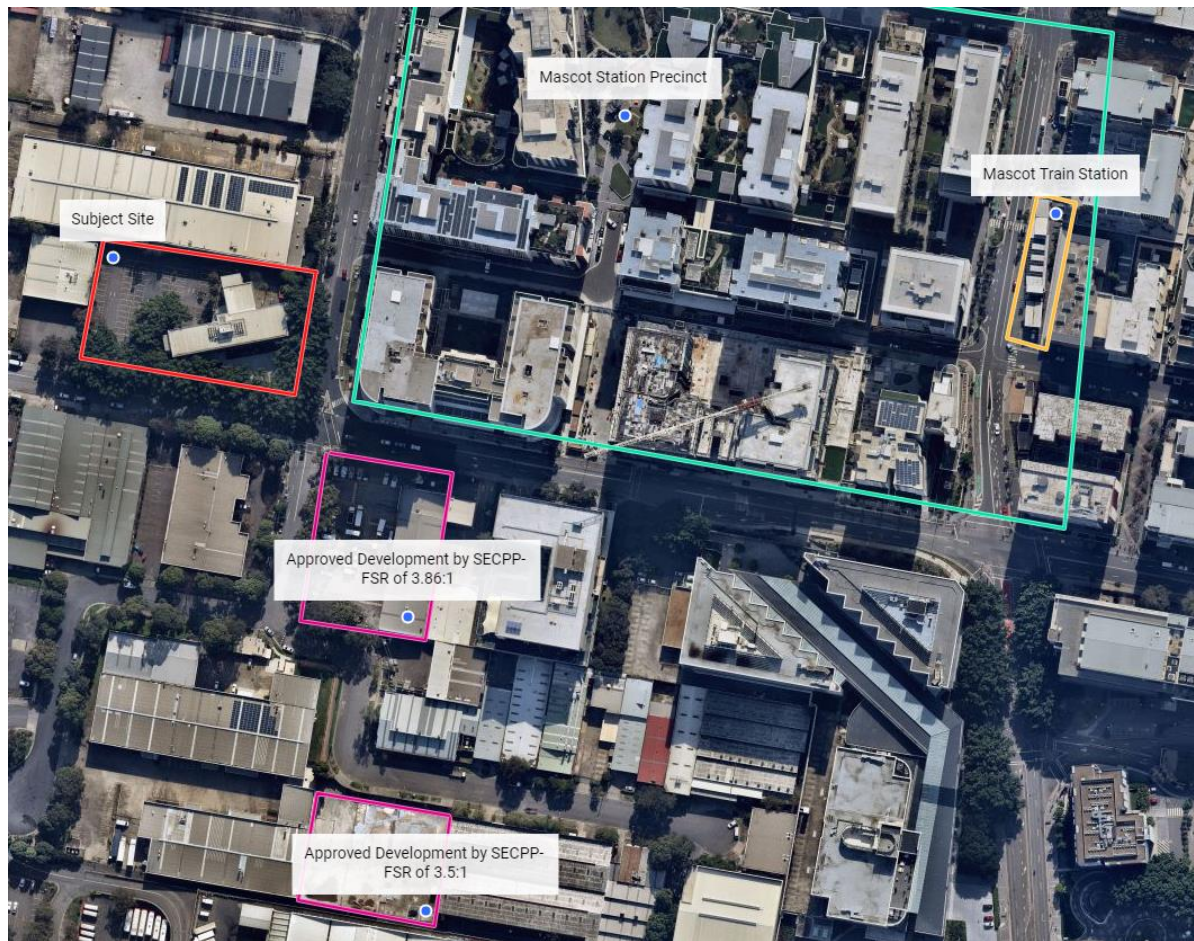


Figure 2. Aerial Map of the subject site



Figure 3. Subject site when viewed from north-east side of Kent Road



Figure 4. Subject site viewed from the south on Coward Street

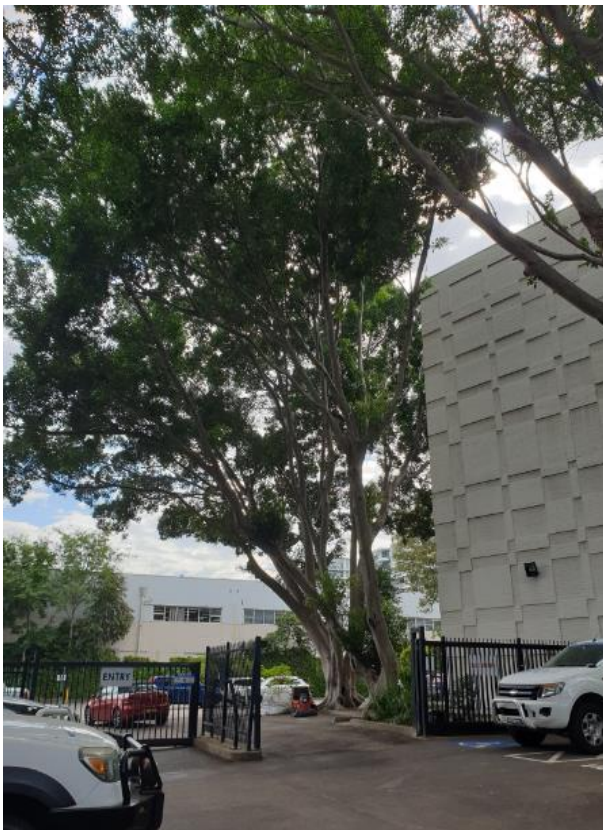


Figure 5. Looking north within site



Figure 6. Existing Fig trees along Coward Street frontage



Figure 7. View from within subject site looking east

SURROUNDING LOCALITY

To the west, the site adjoins 284 Coward Street which comprises a 2 storey industrial and commercial building with a large hardstand area within the front setback. The building is constructed with a 1.5 metre setback from the common boundary with the subject site.



Figure 8. Neighbouring site at 284 Coward Street

To the north of the site is 40-44 Kent Road which contains a large 2 storey industrial and commercial building which is aligned to the southern side of that site with a setback of approximately 3 metres from the common boundary with the subject site.



Figure 9. Neighbouring site at 40-44 Kent Road

Opposite the site to the south across Coward Street are a variety of typically single or two storey industrial and commercial buildings, whilst opposite the site to the east across Kent Road is the recently constructed East Square mixed use development at 39 Kent Road which is 14 storeys in height.



Figure 10. Neighbouring Site at 60 Kent Road



Figure 11. Neighbouring site at 39 Kent Road

To the south-east of the site, diagonally opposite is 253 Coward Street which currently contains a part one and 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. A recent approval for an 11 storey mixed use development comprising of retail and office space has been allowed by the Panel.



Figure 12. Neighbouring Site at 253 Coward Street (existing)

BACKGROUND/SITE HISTORY

Site History

- DA-09(28) was approved on 22 September 2008 for use as commercial offices;
- DA-09(128) was approved on 19 January 2009 for interior fit out for a new Hyperbaric Health Care Facility and new oxygen storage tank;
- DA-11(38) was approved on 10 August 2011 for alterations to the existing commercial development; and
- DA-13(55) was approved on 31 May 2013 for an extension of an existing Hyperbaric Health Facility to the adjacent tenancy.

Development Application History

- 17 January 2020- Development Application was lodged
- 30 January to 13 February 2020- The application was placed on public notification and advertised in the local newspaper.
- 2 March 2020- The application was presented to the Design Excellence Panel for assessment. The Panel were not satisfied that the proposal achieved design excellence and requested the scheme to be amended and referred back to Panel for assessment.
- 4 March 2020 – The application was presented to the Bayside Traffic Advisory Committee for recommendations.
- 10 March 2020- Meeting with the applicant to discuss design excellence recommendations
- 7 April 2020 – Additional information request was sent to the applicant relating to FSR, height, setbacks, landscaping, basement, contributions, and other minor changes required.
- 29 May 2020- Meeting was held with applicant to discuss amended plans.
- 22 June 2020- Amended plans and documents were provided to Council addressing the issues in the RFI.
- 7 July 2020 - The amended plans were presented to a second Design Excellence meeting. The Panel requested amendments to the setbacks, undercroft, materials and the rooftop. The Panel recommended changes to be carried out and referred to Council for satisfaction.
- 13 July 2020- Amended plans and documentation was referred to objectors for further comment
- 29 July 2020- Meeting with the applicant to discuss Design Excellence Minutes and amended plans
- 13 August 2020- Briefing Meeting with Panel was undertaken

- 18 August 2020- Amended Plans and Clause 4.6 variation submitted

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, as amended, is for the demolition of existing structures and construction of a ten (10) storey commercial development comprising retail and office.

The proposal is further broken down as follows:

Ground Floor

- Double height café and lobby area
- End of trip facilities separated in male and female areas, bicycle storage, showers and lockers;
- A dedicated retail/wellness centre of 312sqm which is likely to be occupied by a dedicated yoga studio, gym or the like;
- Undercroft outdoor area towards the corner of Kent Road and Coward Street;
- Public Artwork is proposed within the outdoor open space area and within the lobby area;
- Loading bay for two SRV and one MRV areas and associated waste holding room;
- Plant and machinery and kiosk/fire booster along the Kent Road frontage.

Mezzanine to Level 2

- Car parking levels which include motorbike spaces. EV spaces and regular spaces with ramping leading up to each level.

Level 3

- Office floor level measuring 2,395sqm located centrally to the floor plan and with landscaped breakout areas on top of the podium.

Level 4 to 8

- Office floor levels with each level measuring 2,908sqm with bathrooms located centrally to the floor plan.

Roof Plan

- Architectural roof feature which includes a metal pergola;
- Plant room including cooling towers.

The below figures demonstrate the proposed development:

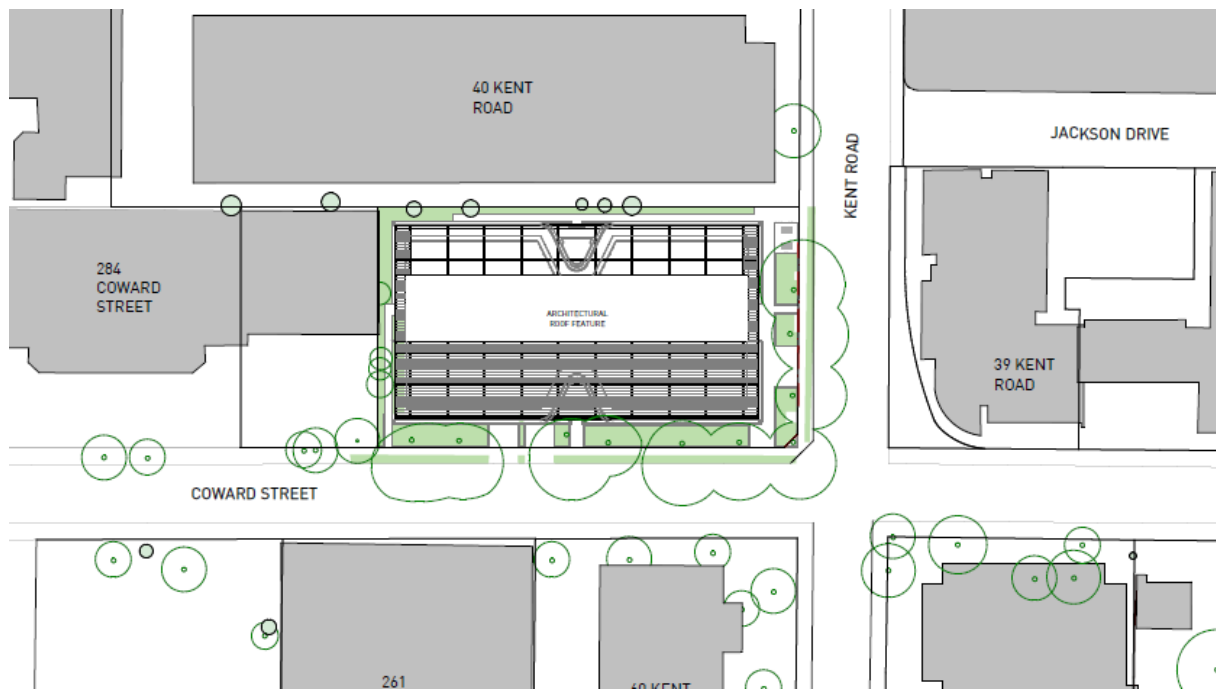


Figure 13. Proposed Site Plan

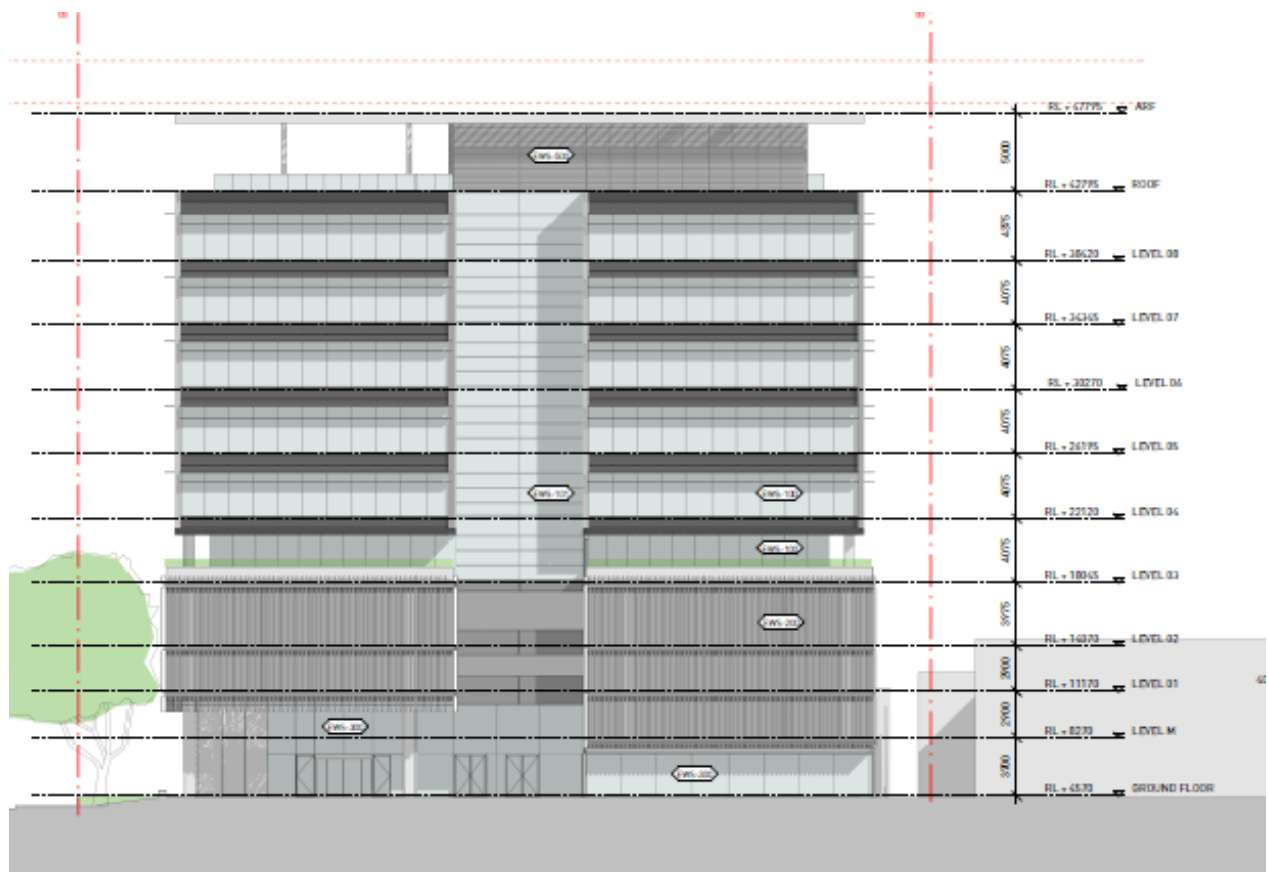


Figure 14. Proposed Eastern (Front) Elevation

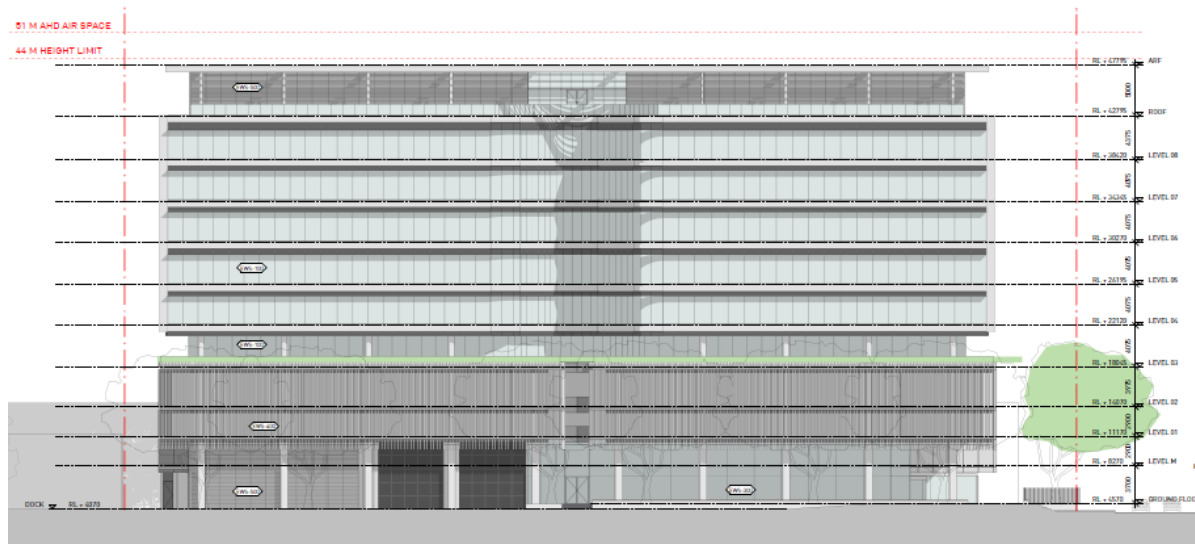


Figure 15. Proposed Southern (Side) Elevation

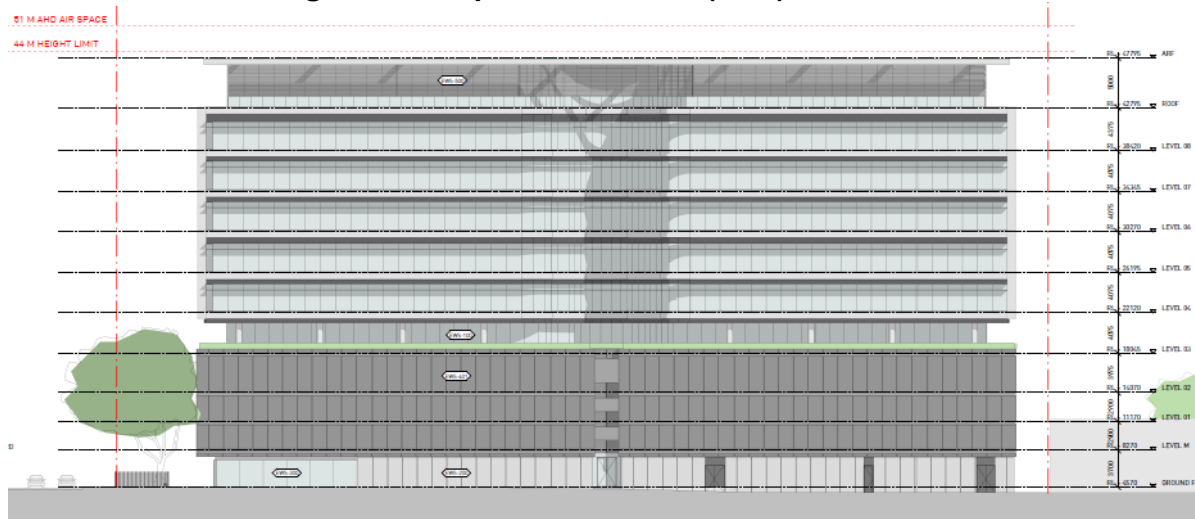


Figure 16. Proposed Northern (Side) Elevation

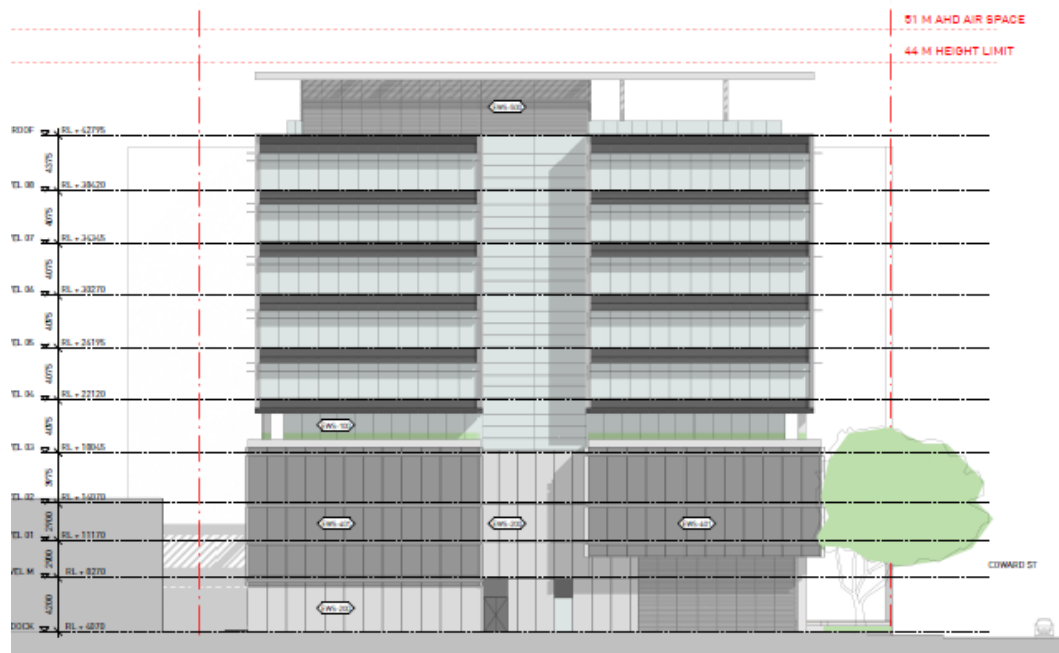


Figure 17. Proposed Western (Rear) Elevation



Figure 18. Photomontage of development viewed from Kent Road/Coward Street Intersection with trees to be retained



Figure 19. Photomontage of development viewed from Kent Road/Coward Street Intersection if trees were removed



Figure 20. Photomontage from the southern elevation (Coward Street) without existing trees



Figure 21. Photomontage of ground floor outdoor area with lobby in the background

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 (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007) was gazetted on 21 December 2007. The aim of the SEPP is to facilitate the effective delivery of infrastructure across the State by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, such as classified roads, and providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing. An assessment against the relevant clauses of the Infrastructure SEPP has been carried out below:

Clause 45 – Development likely to affect an electricity transmission or distribution network

Clause 45 which relates to development likely to affect an electricity transmission or distribution applies to the development application. The site currently has an existing substation at the front facing Kent Road. The applicant seeks to decommission and remove the existing associated easement for maintenance. The site also is in close proximity to overhead powerlines which after consideration by Council's Development Engineer, will be required to be removed and replaced underground. The application was referred to Ausgrid for comment and a response was received on 26 February 2020 relating to undergrounding, substation and overhead powerlines. These conditions have been imposed in the consent within the attached Schedule.

Clause 101 – Development with Frontage to a Classified Road

The site has one of its frontages on Kent Road which is a classified road. The proposal has been designed so that Coward Street is the sole vehicular access to the site. The proposal provides half the amount of car parking required for the proposed generated therefore with regard to traffic generation and impact on the traffic and road network, the proposal will not significantly impact Kent Road. The applicant has provided a traffic report which addresses traffic generation and operations of the street. The application was referred to Transport for NSW (TfNSW) who had no objections to the proposal subject to the imposition of conditions.

Clause 104 – Traffic Generating Development

The proposal is identified as a traffic generating development under Schedule 3 – Traffic generating development due to the size and floor space proposed for the office premise. The application was referred to TfNSW and a response was received on 4 March 2020. TfNSW has no objections with the proposal, as amended, and have provided conditions which have been inserted within the consent in the attached Schedule.

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. 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.

Councils' Environmental Scientist reviewed the below reports in their assessment of contamination and geotechnical measures:

1. *'Report on Preliminary Geotechnical Investigation, 46-50 Kent Road, Mascot, New South Wales', by Edison Environmental & Engineering, dated 19 November 2019, Report E19011-TIP-03-GEO.*
2. *'Acid Sulfate Soil Management Plan, 46-50 Kent Road, Mascot, New South Wales', by Edison Environmental & Engineering, dated 16 January 2020, Report E19011-TIP-04-R.*
3. *'Report on Detailed Environmental Site Assessment, 46-50 Kent Road, Mascot, New South Wales', by Edison Environmental & Engineering, dated 19 November 2019, Report E19011-TIP-02-R.*

Following a review of the reports, the Environmental Scientist provided the following commentary on the application:

"The site is situated in Class 2 acid sulfate soil land.

The geotechnical investigation identified Botany Sands to over 13m depth, based on 2 deep boreholes. Groundwater table was measured at 2m to 4m depth.

The Acid Sulfate Soils Management Plan (ASSMP) comprised soil testing from 13 shallow boreholes up to 2.5m depth only. Potential acid sulfate soils (PASS) were identified in the shallow natural sands. Piling activities are expected to extend through the Botany Sands into the bedrock. No testing was carried out in deeper soils. The management plan proposes a visual identification of PASS indicators during excavation, and stop work to carry out further testing if PASS indicators are identified. A relatively generic liming procedure is proposed should PASS be identified. The liming procedure lacks details.

The Detailed Environmental Site Assessment (DESA) comprised a site history review and a field/laboratory program.

The site history review identified the site was owned by private individuals until 1950s which was developed and owned by McDonald Constructions (partly leased to The Sydney County Council). The site comprised a series of buildings serving as a depot/office. The ancillary buildings were removed between 1965 and 1975. The site history review identified the following concerns:

- *Market garden use prior to 1943*
- *Historical use as a construction yard*
- *The ground was raised with imported fill*
- *A diesel underground storage tank (UST) in the north-east corner was removed and subsequently validated by Aargus (2006)*
- *Lead and PAH soil hotspots in the north-west corner were excavated and validated by Aargus (2006)*
- *A landfill notified to the EPA at 19-33 Kent Road (redeveloped to be the Meriton complex)*

The field and laboratory investigation program comprised soil sampling from 13 boreholes and groundwater sampling from 4 monitoring wells (one was try).

The soil results indicate that soil concentrations meet site criteria for commercial/industrial land use, with the exception of a single fragment of asbestos cement sheeting at BH207. In addition benzo(a)pyrene exceeding the ESL was identified in a number of locations.

The groundwater results did not indicate significant contamination impacts. However, some petroleum hydrocarbons were detected in groundwater but at concentrations below the HSL for commercial/industrial land use.

The DESA concluded that the site is suitable for the proposed commercial office development. No remediation or additional investigations are recommended.

Based on the above findings, the Environmental Scientist generally concurs with the conclusion that the site is suitable for the proposed development. However, some parts of the DESA report by Edison are difficult to follow. Validations of UST and the lead/PAH hotspot removals have not been provided. Whilst the results generally meet the commercial/industrial land use criteria, mild petroleum hydrocarbon impact in groundwater is evident. The above issues would unlikely result in a rejection to the development application. However I would recommend the site be signed off by a Site Auditor to provide added level of confidence.

The Environmental Scientist considers the ASSMP is inadequate to manage acid sulfate risks for the development activities comprising piling. The ASSMP should be amended to include testing of deeper soils or testing of piling spoils to allow assessment of liming requirements, not to rely on contractors to look out for visual indicators. The liming procedure should include details on how and where liming should be carried out and the associated environmental controls required during liming."

On this basis, as Council's Environmental Scientist has no objection to the proposal and appropriate conditions have been imposed in the attached Schedule, the site could be made suitable for the proposed commercial development. Therefore the objectives and relevant clauses of SEPP No. 55 has been satisfied.

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-rural areas 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.

There are a total of 25 trees within the site, with the majority of the trees located along the perimeter at Coward Street and Kent Road. The majority of the trees are Hills weeping figs (*Ficus microcarpa* var *hillii*) with the remaining trees being Spotted Gum trees (*Corymbia maculata*) and Cabbage Tree Palm (*Livistona australis*).

The applicant has submitted an arborist report prepared by Stuart Pitendrigh which outlines which trees are to be retained or removed. The arborist report and landscape plans have been reviewed by Council's Tree Management Officer who has assessed the existing trees and has granted approval for the removal of Trees 3, 7, 14, 15, 16, 17, 18 and 19 and retention of Trees 1, 2, 5, 6, 8, 9, 10, 11, 12 and 13.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

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:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
2.7 Demolition of a building or work may be carried only with development consent	Yes	The proposal seeks to demolish all structures on the site, including the decommission of an existing substation and removal of trees. Approval for the structures is provided and removal of a number of trees is granted with the remaining trees to be retained.
Land use Zone	Yes	The site is zoned B7 Business Park zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposal is defined as a commercial premises which is permissible with consent in the zone.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the B7 Business Park Zone which are as follows: <ul style="list-style-type: none"> • To provide a range of office and light industrial uses. • To encourage employment opportunities. • To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area. • To encourage uses in the arts, technology, production and design sectors
What is the proposed height? Does the height of the building comply the maximum height?	Yes	The maximum height allowed on the site is 44 metres. The proposed height is 43.315 metres metres.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		The proposal height is compliant with Clause 4.3 of the Botany Bay Local Environmental Plan 2013.
What is the proposed FSR? Does the FSR of the building comply the maximum FSR?	No – Refer to Note 1 below	<p>The maximum FSR allowed on the site is 3:1.</p> <p>The proposal achieves a maximum GFA of 19,056sqm which equates to an FSR of 3.77:1.</p> <p>The proposed FSR is not compliant with the Botany Local Environmental Plan 2013. The applicant has provided a Clause 4.6 variation which has been assessed in Note 1 below.</p>
Is the land affected by road widening?	N/A	The site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not a heritage item, is not located within a heritage conservation area or is within the vicinity of a heritage item.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 6.2 – Earthworks 6.3 – Stormwater Management 6.8 – Airspace Operations 6.9 – Development in areas subject to aircraft noise 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site is located within a Class 2 ASS zone. The proposal was accompanied by an Acid Sulfate Soils Management Plan which was reviewed by Council's Environmental Scientist and appropriate conditions have been imposed within the consent.</p> <p>The proposed work may necessitate to some minor earthworks on site. Conditions of consent have been imposed to ensure minimal impacts on the amenity of the surrounding properties, drainage patterns and soil stability.</p> <p>The proposal contains an on-site detention system. The application was referred to Council's Engineer who had no objections subject to appropriate conditions of consent.</p> <p>The site is subject to a maximum height of 51 metres AHD. The proposal is below the maximum RL height and therefore complies.</p> <p>The subject site lies within the 25-30 ANEF contour. An amended Acoustic Report, prepared by Acoustic Logic has been submitted with the development application,</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.16 – Design Excellence 	Yes – Refer to Note 2 below	<p>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.</p> <p>The site is located in the Mascot Station Key Precinct area therefore the proposal is to be assessed against Design Excellence. The proposal was presented to the design review panel in which greater detail is provided below in Note 2.</p>

Note 1 – Floor Space Ratio Variation

The site has a maximum FSR of 3:1 (15,177sqm GFA) within the FSR Map of Clause 4.4 of the BBLEP 2013. The development proposes a total GFA of 19,056sqm which equates to an FSR of 3.77:1. This is a variation to the standard of 3,879sqm or 25.6%.

Clause 4.4 of the BBLEP 2013 specifies that the floor space ratio of a building may not exceed the maximum FSR specified on the relevant FSR Map. The applicant has provided a Clause 4.6 variation seeking to contravene the FSR 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. The applicants' Clause 4.6 justification states the following:

“1.5 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 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 fully 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 setbacks being consistent with the established pattern of 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 south 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, 253 Coward Street 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 West Business Park 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 maintaining the existing landscaped character of the site. 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 including 40 Ricketty Street, 1-5 Chalmers Crescent, and 253 Coward Street.

It has been demonstrated on many sites within Mascot that with a height of 44 metres it is possible to comfortably accommodate an FSR of up to 4:1 whilst meeting the various design criteria in Council's DCP to achieve a high level of internal amenity. Accordingly, it has been demonstrated that the subject site has the environmental capacity to absorb the proposed density, objective (f) of the standard is satisfied.

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

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

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

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

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

The underlying objective of the floor space ratio control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design, location and configuration of the proposed development, the proposal successfully achieves these objectives and will provide a considered built form response that will deliver a positive urban design outcome. However, strict compliance with the floor space

ratio control would likely lead to a less satisfactory outcome as it would result a development which fails to fulfil the environmental capacity of the site and would result in an inferior built form that would be contextually inappropriate because it would result in inconsistent setbacks 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. In particular, the proposed street setbacks respond to the pattern of setbacks already established to the east, north and south of the site. A reduction in the floor space ratio of the development would not result in any meaningful difference or improvement in relation to the impact of the proposal however would diminish its fit within the context of the site. 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 West Business Park Precinct.
- The height of the development fully 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.*
- *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, Council have been willing to consider an FSR on a site by site basis. It is considered that the subject proposal demonstrates a careful and appropriate spatial arrangement of built and landscape elements, such that the FSR variation can be supported in this instance.*
- *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.*
- *Finally, it is noted that there are a number of additional facilities proposed within the project for the significant benefit of the occupants which increase the Gross Floor Area but are not Net Leasable Area or profit producing components of the proposal. These facilities include end of trip facilities and wellness facilities, which are not mandatory requirements for the project and could potentially be removed to lower the FSR. However, it is considered that this would simply be to the detriment of the project and the future occupants with no public benefit achieved as a result of the removal of these components. The proposed FSR variation facilitates the implementation of these additional facilities. Strict compliance, or any required reduction in the gross floor area, for the proposal would undermine the ability to provide these additional communal facilities for the benefit of the future occupants.*

1.6 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 3,656 square metres could correlate with GFA on the top 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 3,656 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 the top 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. Furthermore, strict compliance, or indeed any required reduction to the floor space of the building, could be achieved by removing the 'wellness' areas from the development which would only serve to significantly diminish the amenity within the development with no offset positive outcome.*
- *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 234 car parking spaces whereas an FSR compliant proposal could provide 380 car spaces.*
- *The proposed FSR variation will provide for additional employment floor space which is an environmental benefit particularly in this location where Council is trying to encourage employment floor space to balance the significant delivery of residential floor space over recent years in the area. The additional employment floor space will support the viability of the centre and provide much needed employment floor space in a location which is close Sydney Airport and various transport nodes.*

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

'to encourage:

- i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*

- ii) *the promotion and co-ordination of the orderly and economic use and development of land...*

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

- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*
- Strict compliance 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."

Officers Comment:

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

The applicant makes worthwhile points regarding to the non-compliance. 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. It is acknowledged that strict compliance with the floor space ratio control would likely lead to a less satisfactory outcome as it would result in smaller commercial floor plates and would result in an inferior built form. The applicant has provided a development which includes a component of 'wellness' to it which is above and beyond Councils requirements within either the LEP or the DCP. This demonstrates initiative in providing sustainable options available to future workers of the building, particularly with the proposed EOT facilities and bicycle parking. The site is ideal to accommodate large floor plates for commercial offices which is characterized within the Mascot Business Development Precinct. Compliance with the FSR would unnecessarily reduce employment opportunities on an ideally located site, to the detriment of achieving the vision for the Mascot (West) Business Park Precinct. The subject site is one of the first to be considered for development within the B7 Business Park zone and the current proposal establishes valuable characteristics on how Council would like the site and neighbouring sites to be redeveloped.

Regarding whether the standard has been virtually abandoned or destroyed, Council maintains that the standard has not been abandoned or destroyed within the area. 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 provide a

range of office uses, encourage employment opportunities and provides a facility or service that will meet the day to day needs of workers in the area.

It is considered that both the LEP and DCP controls set the standard building envelope for the site. The proposal requires a maximum building 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 and well under the building height requirement, provides greater side and rear setbacks and a slight departure to the front setback. It is key to note 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. To develop to its full potential results in a higher FSR and yield provided than if the site required setbacks greater than 6 metres and a lower height. This is evident by the height proposed. The proposal has three levels of car parking above ground. Should these be located below ground, the development, with the current FSR proposed, would be seven storeys in height. This is almost half the maximum number of stories allowed within the maximum building height of 44 metres or 12-13 storeys.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site. It is considered that the Clause 4.6 variation provides sufficient justification in supporting the non-compliant FSR and has addressed the matters that are stated within Clause 4.6(3) and should be supported.

Note 2 – Design Excellence (Clause 6.16 of the BBLEP 2013)

Clause 6.16 of the BBLEP 2013 relates to design excellence and the objective of this clause is to deliver the highest standard of sustainable architectural and urban design on the site. The provisions of the clause applies to the Mascot Station and applies to the construction of new buildings or external alterations to existing buildings in which this clause applies.

The site is located within the Mascot Station Precinct as identified within the Key Areas Map within the BBLEP 2013. Therefore the site is subject to design excellence. The proposal was presented to two design review panel meetings, with the first one on 2 March 2020 while the second one was held on 7 July 2020, following the submission of amended plans. The Panel have directed that any further amendments will not be subject to a third DEP meeting and will be assessed by Council staff. The below comments are provided by the Panel following the second meeting:

Context and Neighbourhood Character

Panels Comments:

The panel notes the amendments that have been undertaken since the last presentation including the reduction of one floor in height, the side setbacks increased from 3.2 metres to 4 metres, the rearrangement of the layout of the ground floor that has resulted in the retention of one more fig tree to Coward Street and an increased open space to the corner of Coward Street and Kent Road.

The panel also notes that there has been a marginal reduction in the FSR and that the proposal conforms to the 44 metre height limit.

While the open space to the corner of Coward Street and Kent Road is welcomed, the south easterly aspect and exposure to the busy roads (particularly Kent Road) and overhanging

form of the building above will result in a windy, noisy and overshadowed space that is not liable to fulfil the expectation of the use of this space as illustrated in the CGI that forms part of the application. It is recommended that a more consistent setback with overhang (of say 6m) is proposed with consistent double height extended across the elevation. This would make the space more like a “porch” than an “undercroft”, increasing its engagement with the adjacent garden and reduce the extent of darkness.

Officers Comments:

The proposal has been amended so that the undercroft area has been reduced. The applicant has increased the lobby space further to Kent Road to reduce the impact from wind and noise whilst also maintaining a landscaped setting and outdoor communal area. Figure 21 above demonstrates the recent change to the undercroft/lobby area as proposed.

Built Form and Scale

Panels Comments:

The concerns raised in the earlier panel comments have been marginally addressed, particularly in relation to FSR and height.

However, the increase of setback from 3m to 4m does not really alter the fact that the proposed northern boundary setback is insufficient. It is the Panel's view that the setback is too narrow to facilitate light, outlook, circulation at ground level and substantial planting with large trees. It is therefore recommended that the setback be increased to 6m - for at least the first two levels - for the length of the boundary.

Note is made of the applicant's setback context study and potential connections to John Street and Etherden Walk. This study suggests that the minimal northern setback of 4 metres on the subject site is acceptable, because the adjacent property at 40 Kent Road can provide a large setback in the form of a public courtyard. Regardless of the merits of this plan, it does not have Council endorsement or any documented support from the owners of 40 Kent Road. So it cannot be used as an argument for the currently proposed setback.

While the proposed floor plates are similar in size to those proposed in the previous scheme, the indentations provided do allow for greater light penetration. It is recommended that more use is made of these indentations at podium level; perhaps the podium should be rectilinear to allow for larger terraces and much larger trees in these locations.

The formerly proposed pergola's size and dominance were of concern to the last Panel, NOT its rectilinear form and “texture” (which appeared as a lightweight screen). The currently proposed structure (in keeping with the new expression of the building) appears to increase building height and bulk and lacks the fine grain of the previous proposal. Therefore, the Panel believes that the formerly proposed screen pergola should be reinstated but with a substantially greater setback from the building alignment than previously proposed.

Officers Comments:

The northern setback proposed varies between the podium and the tower levels. The Panel has made reference to light, deep soil planting, outlook and circulation. The increase in setback to 6 metres will have minimal difference with regard to outlook and light. The development proposes greater setback than the 2 metre minimum required within the BBDCP 2013. Additionally, the proposal has been redesigned to create greater articulation by having the central core of the building drawn in further from the boundaries to demonstrate a ‘bow’ shape. The podium level on both the northern and southern side comprises a terrace

area where planting of a tree on each elevation is provided. The setback at ground level is currently proposed greater than 3 metres. There is the opportunity to provide greater deep soil landscaping along this setback however this will compromise the pathway proposed to the rear of the site from Kent Road. Additionally, the majority of the northern elevation at ground and the above podium levels have no direct outlook to the landscaping. The ground floor contains plant room while the podium levels are perforated screening for the car park area. The additional planting would not be for privacy concerns but more of a landscape buffer to reduce the bulk impact.

Density

Panels Comments:

While the applicant has adjusted the height and increased the setbacks of the revised proposal, this has not resulted in any substantial reduction in bulk and scale of the proposal.

The insertion of a modulated façade above level 4 has reduced the length of the building façade, however, further modulation is needed to improve the proposal's bulk and scale.

Officers Comments:

The applicant has not carried out greater amount of modulation to the building. The key change to the building is at the ground level and the rooftop architectural roof feature. The proposal relating to the ground floor does increase the overall GFA slightly, approximately by 200sqm, which addresses the Panels concerns relating to the use and amenity of the south-eastern outdoor corner. All four facades have been articulated with the northern and southern façade modulated more than the eastern and western facades. When viewing the development from the eastern and western corners of the site, the building does present itself as two buildings. When looking at the site from the north or the south, this does present as one building however as the building has an arched indent at the core area, this is appropriate. The proposal is in excess of the minimum setbacks found within the DCP. The proposal has been reduced in height so that the height of the building is lower as well as the architectural roof feature. Much of the building is heavily screened by street tree canopy, with any further articulation resulting in negligible perceptibility from the public domain.

Sustainability

Panels Comments:

The panel commends the reduction of car parking and the increase in the floor to floor height of the car parking levels so as to provide potential flexibility of use in the future.

Passive thermal design has been improved with built form providing shade to level 4. Further, the provision of planting to the level 4 terrace and a substantial planter to the northern terrace has acknowledged a marginally better outcome.

Officers Comments:

Noted and is supported.

Landscape

Panels Comments:

It is noted by the panel that that one extra fig tree has been retained in the amended proposal. Plantings to the interior of the site have been removed. The panel is of the opinion that while the retention of the existing fig trees is commendable, the further planting to the site is marginal and should be increased to improve the overall quality of the proposal. For example, the greening of the roof space would enhance the quality of the open space and increase the cooling the effect of this substantial building. These green spaces to the roof could provide an alternative to the unrealistic open amenity proposed to the ground floor.

Officers Comments:

The original scheme originally had a rooftop terrace with landscaping, outdoor seating and a running track. With recent revisions to the plans and the design of the building coming in within the central core area, the rooftop terrace has been removed. The podium terrace has been increased in size as a result of the changes. Additionally, greater amount of landscaping has been provided at the ground floor which is supported by Council. The majority of the rooftop is plant area/cooling towers. Appropriate conditions have been imposed in the consent addressing this.

Amenity

Panels Comments:

The panel notes the increase in the floor to floor heights for the car parking and the benefit for the proposal in this regard. The panel also notes the opportunity that has not been realised by 'sleeving' the car parking using office space for example on the corner of Kent Road and Coward Street that could form both an architectural feature and improve the CPTED values of the proposal to allow for informal observation of the streetscape and surrounds.

Officers Comments:

The additional height in the car parking area will allow for future adaptability to the site for offices. By including additional GFA along the Kent Road/Coward Street elevations at the podium will further increase the overall FSR/GFA of the development. The Panel has made reference to CPTED and observation of the streetscape as being a benefit of having this sleeved arrangement. The trees are large with large dense canopies that obstruct any views of the street and the streetscape from Level 1 and above. The towers above have been provided with floor to ceiling windows that allow for passive surveillance to the street and surrounding area.

Further discussion regarding the floor space is provided in Note 1 above.

With regard to amenity, the office floor plans demonstrate large floor plates which with the benefit of floor to ceiling windows will have appropriate sunlight access. The floor to floor heights are sufficient to allow for flexibility.

Safety

Panels Comments:

The focus of pedestrian access on the south-east corner is supported.

The reduction of vehicle cross overs – as noted above – will improve pedestrian safety as well as assist in the preservation of existing trees.

Note the comments above in amenity in relation to safety.

Note is again made in relation to the compromised open space design to the open forecourt and activation of the busy and over shadowed corner of Coward Street and Kent Road.

Officers Comments:

Appropriate measures have been undertaken to ensure safety at the ground level. The undercroft area has been reduced, the number of driveways has been minimized so that the porte cochere is deleted and the only driveways is ingress and egress. The vehicle and pedestrian entries are separated. Appropriate conditions relating to CCTV and surveillance have been proposed within the consent. The towers look out at all elevations so provide passive surveillance to the street. The large fig trees around the perimeter of the site do present a surveillance issue due to their thick canopy however the ground floor lobby is proposed to be floor to ceiling glass which looks out to both Coward Street and Kent Road.

Aesthetics

Panels Comments:

The panel notes the revised architectural detail and expression that contrasts to the previous application.

The panel is not convinced that the design approach of using the imagery of an airplane fuselage is successful in this highly urbanised setting, especially as it excludes the warm textures and natural materials explored in the previous application.

The panel also notes that the expression of the pergola roof form is not as successful as the previous proposed screened framed structure. While the previous design was overscaled, its screened texture provided a better termination to the building top.

The panel also notes that the colour rendition of the building is now a cold palette with a predominance of grey. The colour selection appears to increase apparent building bulk and is not as contiguous with adjacent soft landscapes and large trees as the formally proposed warmer tones.

Officers Comments:

The applicant has reinstated the architectural roof feature (pergola) to its original state so that there is architectural interest to the top of the building. By extending the roof feature to the edge of the building allows it to be visible from the streetscape rather than its previous design which was not noticeable from the street.

With regard to colour palette, the applicant has designed the building to be grey with steel elements which would reflect the colour and tone of the existing trees off the material. The podium level will be completely obstructed by the tree canopy and from a streetscape perspective, the tower above will be visible from Kent Road and Coward Street. This is evident in Figure 18 above. Should the Panel disagree with the proposed palette, this could be conditioned for the podium incorporate a warmer colour tone.

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,*

The Panel and Council has confidence that the proposal is well detailed and composed. The Panel notes that the colour and materiality choices are subjective and appreciate the inspiration of the underpinning the current choice.

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

The proposal is more modulated than the original scheme. While the density of the development does exceed the development standard, the Panel notes that numerous nearby proposals have been approved with similar breaches of density.

- c) *whether the development detrimentally impacts on view corridors,*

This is not applicable

- d) *the achievement of the principles of ecologically sustainable development.*

The amended plans have shown that the development is ecologically development through improvement of passive thermal design and by increasing the height of the top level of car park to allow for future adaptability to offices.

In summary, the proposal does achieve design excellence and meets the objective of Clause 6.16 of the BBLEP 2013.

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

The following draft EPIs are of relevance:

Draft Bayside Local Environmental Plan 2020

The Bayside draft LEP 2020 was on public exhibition from 8 April to 1 June 2020 and applies to the subject site.

The draft LEP reviews the current planning controls under three existing LEPs into one consolidated LEP.

The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area. The proposal is generally consistent with the objectives and requirements of the draft LEP.

The draft LEP does not impact the site.

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

Botany Bay Development Control Plan (BBDCP) 2013

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

Part 3A – Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<p><u>Office premises:</u> 1 space/40sqm (req. 434 spaces)</p> <p><u>Loading spaces:</u></p> <p><u>Office premises (between 15,000sqm to 19,999sqm)</u> req. 5 courier spaces, two SRV spaces and three MRV spaces</p> <p>Total: 10 loading bay spaces</p>	The proposal provides a total of 238 car parking spaces within three levels of car parking podium. A traffic report and addendum letter prepared by Transport and Urban Planning Pty Ltd has been provided with the development application.	No – Refer to Note 3 below
3A.3.1 - Car Park Design	<p>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.</p> <p>C10 – Off street parking facilities are not permitted within the front setbacks</p> <p>C12 – Off street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.</p>	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 at all frontages.	Yes
3A.3.2 – Bicycle Park Design	<p>C1 Bicycle parking areas shall be designed in accordance with Australian Standards AS2890.3 and AUSTROADS Guide to Traffic Engineering Practice, Part 14, Bicycles.</p> <p>C2 Bicycle parking and access shall be designed to ensure that potential conflicts with vehicles are minimised.</p>	The development provides a total of 112 bicycle spaces. The proposal provides secure bicycle parking within the ground floor that is easily accessible from the street and building entries which will be designed to comply with the relevant Australian Standards. End of trip facilities are provided that include separate male and female showers and change rooms.	Yes

Part	Control	Proposed	Complies
	<p>C3 Bicycle parking is to be secure (lockers, compounds or racks) and located undercover with easy access from the street and building entries.</p> <p>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.</p>		
3A.3.4 – On-Site loading and unloading facilities	<p>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.</p>	<p>The proposal provides 3 loading bay capable of accommodating two SRV spaces as well as 1 MRV space.</p> <p>Whilst not strictly meeting the minimum requirement, having regard to the proposed use as offices with minimum deliveries, adequate provision for parking of services vehicles is provided.</p> <p>Servicing of the development is addressed further within the Traffic and Parking Report prepared by Transport and Urban Planning Pty Ltd accompanies the application.</p>	No – Refer to Note 3 below

Note 3 – Car Parking and Loading/Unloading

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. The proposal contains 17,356sqm total net lettable area of office/lobby space. Therefore the proposal requires a total of 434 car parking spaces. The proposal provides 238 car spaces which is a departure of 196 spaces. The car parking is contained within the podium which extends from mezzanine level to Level 2.

The application was accompanied by a Traffic and Parking Impact Report prepared by Transport and Urban Planning Pty Ltd dated 19 December 2019. The report goes into detail on the traffic generation impact and provides justification for the car parking departure. The applicant originally had a higher number of car parking spaces on the site. This was reviewed by Council and requested the overall amount of car spaces be reduced to align closer to 1 per 80sqm of GFA, rather than the DCP rate of 1 per 40sqm GFA. Considering its location to Mascot Train Station and consistency with Councils' Transport Management and Accessibility Plan (TMAP) which seeks a rate of 1 per 80sqm, the applicant amended their scheme to have a parking rate of 1 per 58sqm (based on a NLA of 17,365sqm). If the car parking was calculated on the basis of overall GFA which equates to 19,056sqm, then the car parking would meet 1 per 80sqm.

The applicants' transport report and addendum following amended plans have been reviewed and is found acceptable. The application was referred to both Council's Development Engineer as well as TfNSW. TfNSW had no objections to the proposal subject to conditions incorporated within the consent.

It is noted that TfNSW is currently upgrading the adjacent intersection (Coward Street and Kent Road) and will be providing fully signalized pedestrian crossings and a new slip lane from Kent Road (Southbound) into Coward Street along with better signalization. TfNSW is also upgrading a few other intersections in Mascot and finalizing works near the airport. There is also broader schemes being undertaken which may substantially reduce existing traffic through Kent Road and Coward Street being the WestConnex project. The existing high levels of traffic are primarily through traffic associated with the result of a lack of alternatives (e.g. adequate highway infrastructure from airport to the western suburbs) and not associated with the suburb of Mascot itself.

With regard to Council's Development Engineer, the following comments were made:

A far greater outcome on the site can be achieved by complying with the 1 per 80sqm parking rate, reducing the amount of vehicular trips to and from the site and reflecting the nature of the mascot station area with a highly serviced train station approx. 200m away. There is no need for an excessive quantum of parking that matches the excessive 1 per 40sqm rate stipulated in the DCP. Doing the above changes will result in the ability to eliminate an entire level of parking and increasing the floor to ceiling heights (to match the office levels) of the parking facility. Providing a far greater outcome in the foreseeable future as aboveground parking facilities are converted into more habitable uses due to nature of vehicle ownership dramatically changing overtime.

The Applicant provides reduced parking rates for this site at a rate of 1 per 58sqm in line with Mascot Town Centre Precinct Transport Management and Accessibility Plan (Mascot TMAP) recommendations for the entire area. Support for the amendments is given to the amended scheme however further steps can and should be taken to reduce it down to 1 per 80sqm as it will encourage alternative forms of transport to and from the site subject to the following requirements being addressed:

- *Workplace (green) travel plan*
- *Provision of sustainable transport options i.e. increased bicycle parking, motorcycle parking, Electric vehicle charging stations, car share space, car pool priority spaces etc.*

Support is given for the proposed nil parking for the café/retail given the small size, location, ancillary purposes and circumstances of the site. The applicant will need to provide private waste collection internally for this development. Council will not be able to enter the site and will not collect from the street. Loading bay provision is considered acceptable. The operation of the loading dock will need to be adequately addressed through the provision of a loading dock management plan via conditions of consent.

It is noted that the porte-cochere is not required for office developments – given its proximity to the state road network and a signalized intersection it is not appropriate for the development. There are also potential conflicts with pedestrians in the design and poor public domain outcome. Hence it is recommended to be deleted. If it were to be retained, bollards would be necessary to separate vehicles from the internal pedestrian area.”

Based on both Council's Development Engineers comments and the justification provided by the applicant, the departure in car parking is supported. The original scheme had a porte cochere along the Coward Street frontage however following on from Council's recommendation, the applicant sought to remove it in its entirety. This allowed for one of the fig trees to be retained which was previously sought to be removed. The applicant has provided sustainable measures within the development such as EV spaces, 112 bicycle spaces and a workplace travel plan which has been conditioned in the consent in addition to the requirement of a loading dock management plan. The parking at Level 2 has raised its ceiling height to allow for future adaptability to office space.

With regard to the proposed loading and unloading recommended in the proposal, the development generates a total of five courier van spaces, two SRV spaces and three MRV spaces. This results in a total of ten loading/unloading spaces to be provided. The development provides three loading spaces in total (two spaces for SRV and one MRV space).

It is considered that there is adequate access provided for an SRV/MRV vehicle to be accommodated within the dedicated loading bays which are locating directly adjoining the entry driveway within the building envelope at ground level off Coward Street. Should the loading bay be used for garbage collection, the size of the private contractors garbage truck is similar to an MRV sized vehicle so this is considered acceptable and can handle the requirements for loading/unloading of the commercial premises. Overall, the loading requirement is short as stipulated within Part 3A of the BBDCP however the amount of spaces provided is considered acceptable.

Both non-compliances in car parking and loading spaces is acceptable and supported in this instance.

Part 3C – Access and Mobility

An amended Access report and statement of compliance for access for people with a disability has been submitted with the development application. The plans demonstrate that the proposal provides ramps at the Coward Street and Kent Road footpaths up to the development site. Within the development, lift access is provided to the office floors above the ground level lobby and to the car parking area. Additionally, the proposal provides four (4) accessible spaces on the mezzanine level. The development satisfies the provisions and controls of the DCP.

Part 3G – Stormwater Management

The proposed stormwater system for the development consists of conventional pipe and pit drainage networks, treated and discharged to Coward Street, ensuring that there are no adverse impacts on the downstream stormwater network. A traditional pit and pipe network of surface inlet pits, and pipes is proposed for the site drainage. The site stormwater system discharges via an OSD tank to Coward Street. The onsite detention is sized to restrict the post developed outflows to the 20% AEP "State of Nature" flows for all storm events from the 5-year (20% AEP) up to and including the 100-year (1% AEP) storm events. Emergency overflow path to the council system along Coward Street is provided to cater for excessive flows or blockages.

The application was referred to Councils Development Engineer who had no objections to the proposal subject to conditions imposed in the consent.

Part 3H – Sustainable Design

The applicant has provided an ecologically sustainable development report provided by Hurley Palmer Flatt which demonstrates that the building has been designed as follows:

Mechanical

- Energy efficient building envelopes, incorporating external shading
- Energy efficient plant and equipment
- Economy cycle to all floors
- Variable speed control on fans
- Demand ventilation control for carparks

Electrical

- LED Lighting
- Solar PV
- Daylight sensors
- Energy submetering

Fire and Hydraulic

- Rainwater capture and reuse
- Wells rated water efficient fixtures
- Capture and reuse of sprinkler test water
- Tenant and EOT water submetering

Considering the report and the design of the building, the ESD proposed is supported.

Part 3I – Crime Prevention, Safety and Security

The proposed development provides opportunities for natural surveillance to Kent Road and Coward Street through the use of floor to ceiling windows in the office areas as well as in the ground floor lobby. 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 through the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development 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 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 standard requires that the external environment to the building be considered for aircraft noise impacts. This process has taken the following into account:

1. There are existing industrial warehouse/commercial buildings on site and the development proposes commercial development on the site;
2. The degree the land is affected by aircraft noise is related to the use and operation of the airport as it affects the subject commercial development;
3. Development in the immediate surrounding environment is commercial and industrial development; and
4. The outdoor environment, given the curfew and current operating patterns, are such that in daylight hours there will be sufficient opportunity to utilise the common terrace without the presence of aircraft noise.

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 SEPP No. 55 – Remediation of Land above in the report for discussion.

Part 3L – Landscaping and Tree Management

The development application was accompanied by a landscape plan prepared by Aspect Studio. The proposal presents landscaping at the ground plane as well as on top of the podium. The development proposes a total of 1,201.6sqm of landscaped area which results in 24% of the site area. The development does not propose any basements therefore the ground floor is all deep soil areas.

As stated above in the Vegetation SEPP section of the report, the application was referred to Council's Tree Management Officer who recommended appropriate condition relating to tree removal and retention/protection.

The application was also reviewed by Council's Landscape Architect who had no objections to the proposal subject to conditions imposed in the consent regarding landscape plan at Construction Certificate stage, irrigation, location of fire hydrants and boosters, and tree and plant species.

As discussed throughout the report, the amount of landscaping and tree removal/retention is acceptable.

Part 3N – Waste Minimisation and Management

A Waste Minimisation Management Plan (WMMP) prepared by Morgan Moore and Associates was submitted with the application. The plans demonstrate a common garbage storage room provided for the development at ground level. The plan demonstrates that the development will generate approximately 9,445 litres of waste per week which includes general waste, paper and cardboard waste and commingled recycling. Additionally, 9,445 litres of recyclable waste will be generated. It is also indicated that the building manager will

present the bins from the waste storage rooms where a private contractor will pick up twice a week. 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 (West) Business Park Precinct which is bound by Coward Street to the south, Gardeners Road to the north, Kent Road to the east and Alexandra Canal to the west. Relevant controls relating to the precinct and general employment zone are assessed below.

Part 6 – Employment Zone		
Control	Proposed	Complies
6.2.2 Mascot (West) Business Park 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 pooling 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 east of the site. Additionally, the proposal provides ample bicycle and motorbike parking spaces as well as EV spaces within its car parking levels 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: (i) Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings.	 The development has been designed as a modern contemporary office/commercial building with high level of architectural merit with the front and side elevations articulated and the incorporation of an articulated form that will positively contribute to the character of the Mascot(West) Business Park Precinct. The application was referred to SACL and appropriate conditions of consent have been provided.	 Yes Yes
C3 Developments within the precinct shall submit a detailed Flood Study/Assessment for 1 in 100 year average recurrence interval (ARI) design storm events and probable maximum flood (PMF).	A flood study was not provided with the development application however the applicant had applied for a flood advice letter and has designed their building to meet Councils advice.	Acceptable
C4 Development shall: (i) Have finished floor levels of a minimum 500mm above the 1 in 100 year flood level habitable areas and 300mm for industrial areas and garages; and (ii) Not	The development has been designed with appropriate levels. This has been assessed by Councils Development Engineer who has no objections to the design of the building.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
impede the passage of floodwater to cause a rise (afflux) in the flood level upstream and/or increase the downstream velocities of flow.		
C5 Development within the precinct shall require submission of a Risk Management Plan to address potential risks related to coastal sea levels (projected to increase above Australian Height Datum by 40cm by 2050 and by 90cm by 2100).	The site is located on the eastern most point of the precinct and is not impacted by Sea level rise from Alexandra Canal. Therefore a risk management plan is not warranted in this instance.	N/A
C6 Applies to development along Alexandra Canal	The site is not located in close proximity to Alexandra Canal.	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 located on Kent Road which is a classified road. Appropriate noise and traffic movements have been considered within the development design.	Yes
6.3 General Provisions		
6.3.2 Building and Site Layout		
C1 A site analysis plan is to be lodged with the Development	A site analysis plan has been provided with the development application.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
Application in accordance with the Council's Development Application Guide .		
<p>C2 Through careful site arrangements new building works must :</p> <p>(i) Address the street and highlight any non-industrial aspects (ie office section) of the development;</p> <p>(ii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; and</p> <p>(iii) Provide regular modulation to the façade or division of massing.</p>	<p>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 outdoor area acts as a meeting area and creates a positive interface between the site and the public domain.</p>	Yes
	No blank walls are proposed facing the street.	Yes
<p>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.</p>	<p>The FSR has been distributed across the site with the majority of the area located within the offices above the podium by creating large floor plates. 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.</p>	Yes
<p>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.</p>	<p>Deep soil has been provided along all four setbacks with the majority of the deep soil located on the eastern and southern street frontages.</p>	Yes
<p>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).</p>	<p>The existing fig trees located within the public domain along Coward Street and Kent Road are appropriately distanced from the development and will be protected during the demolition and construction stage with the exception of the trees which have been granted for removal.</p>	Yes
<p>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.</p>	<p>The internal floor plates and the common areas are appropriately designed and operational. Large office floor plates are proposed which is ideal for the Mascot West Business Park precinct.</p>	Yes
<p>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.</p>	<p>Waste storage rooms are proposed at ground level. Refer to Part 3N of the BBDCP 2013 section above.</p>	Yes
		Yes

Part 6 – Employment Zone			
Control	Proposed	Complies	
<p>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.</p>	<p>The proposal provides three loading bays within the development directly adjacent to the ingress/egress point. This is further discussed in Note 3 above. All parking is located within the building with no hardstand spaces within the front setback.</p>	Yes	
<p>C13 For sites in excess of 1,000m², an outdoor staff recreation area is to be provided.</p>	<p>The site contains a ground floor undercroft area directly adjoining the lobby as well as the Level 3 contains an open space area on the northern and southern area which is acceptable.</p>		Yes
<p>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.</p>	<p>The building entrances along Kent Road and Coward Street will be clearly defined and identifiable from the street. Vehicular access is separate to pedestrian access with vehicle access off Coward Street to the south-west of the development.</p>		Yes
<p>C16 Site planning is to allow for the retention of significant trees and vegetation, particularly near the street frontage.</p>	<p>Existing trees within the public domain are to be retained with the exception of a few trees primarily located centrally within the site which are to be removed to accommodate the new building. The large fig trees along the perimeter of the site are predominantly to be retained.</p>		Yes
6.3.4 Building Design and Appearance			
<p>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.</p>	<p>The design report provided by the applicant contains a material palette demonstrating that the building will be constructed of white painted fibre cement, natural concrete columns and panels, external timber seating, perforated panels, masonry paving, aluminium fins for screening, and façade glazing.</p>	Yes	
<p>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.</p>	<p>The design intention of the new development is reflective to the nearby airport. The revised facade design draws inspiration from a rich history of aeronautical pioneering spirit nearby. Deep curved recesses in the building create a swooping wing like form. Clad with silver and white panels the building takes inspiration from the sleek and fluid forms of airplanes</p>	Yes	

Part 6 – Employment Zone		
Control	Proposed	Complies
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.	Conditioned	Yes
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.	The proposed materials will not lead to hazardous, undesirable or uncomfortable glare to pedestrians, motorists or occupants of surrounding developments.	Yes
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.	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.	Yes
C13 Open style or transparent materials are encouraged on doors and/or walls of lifts and stairwells, where fire safety requirements allow.	The proposal utilises a large quantity of glass and perforated screening for the building.	Yes
C14 Building height, mass, and scale should complement and be in keeping with the character of surrounding and adjacent development.	The proposal is one of the first developments proposed within the Mascot (West) Business Park Precinct and will set a strong architectural outcome which should set a standard for the street.	Yes
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;	The typical commercial office floor plate has been designed to allow for excellent tenant flexibility and promote a positive working environment. This is achieved through expansive floor plates that encourage interaction and communication. A centralised and symmetrical core contains vertical transportation, amenities, service risers and escape stairs. This configuration allows for straight forward subdivisibility. The proposed facade system to the perimeter of the car park comprises of perforated metal panels	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
<p>(iv) Building entrances should be clearly defined and well articulated through form, materials and colour and provide level or ramped access;</p> <p>(v) Waiting areas and entries to lifts and stairwells are to be close to areas of active use and be visible from building entrances;</p> <p>(vi) Windows on the upper floors of a building must, where possible, overlook the street;</p> <p>(vii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines;</p> <p>(viii) New construction is to achieve both functional and visually attractive buildings;</p> <p>(ix) Provide regular modulation to the facade or division of massing;</p> <p>(x) Architecturally express the structure of the building by variation and minimal use of reflective glass;</p> <p>(xi) Visually reinforce entrances, office components and stair wells of units to create rhythm on long facades and reduce perceived scale;</p> <p>(xii) Introduce variation in unit design within building works;</p> <p>(xiii) Introduce solid surfaces, preferably masonry, and incorporate horizontal and vertical modulation including windows in appropriate proportions and configurations;</p> <p>(xiv) New development on corner sites must address both street frontages in terms of facade treatment and articulation of elevations; and</p> <p>(xv) Avoid bulky roof forms or extensive blank facades in a single material or colour.</p> <p>C28 For new development and substantial alterations to existing</p>	<p>and tubular aluminium screens that will allow natural ventilation of car parking levels.</p> <p>The ground floor lobby is a significant double height volume accessed via revolving doors off the Kent Road elevation. Inside the lobby is a break out space and a retail cafe space to serve the building's tenants. The lobby area provides access to the lift lobby, wellness area, and end of trip facilities.</p> <p>The provision of landscaping on multiple levels will be visible from the street, including significant deep soil zones at ground floor and an expansive outdoor terrace at level 3.</p> <p>Appropriate conditions of consent are imposed requiring any powerlines to be undergrounded.</p>	

Part 6 – Employment Zone																			
Control			Proposed	Complies															
<p>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).</p> <p>C34 Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view</p>			<p>All waste collection is to be carried out within the premises.</p>	Yes															
				Yes															
6.3.5 Setbacks																			
<p>C1 Setbacks are to be in accordance with the following Table 1.</p> <table><tr><th>Boundary</th><th>Landscape</th><th>Building Setback</th></tr><tr><td>Front- to non classified road (rear to Note 2)</td><td>3m</td><td>9m (Refer to Note 5) (Refer to Note 6 for corner site)</td></tr><tr><td>Front- to classified road (Refer to Note 2)</td><td>4m</td><td>9 metres (Refer to Note 5) (Refer to Note 6 for corner site)</td></tr><tr><td>Side- adjoining non- residential</td><td>2m</td><td>2m (refer to Note 6)</td></tr><tr><td>Rear (Refer to Note 3)</td><td>Nil to 3m</td><td>Nil to 3m</td></tr></table>			Boundary	Landscape	Building Setback	Front- to non classified road (rear to Note 2)	3m	9m (Refer to Note 5) (Refer to Note 6 for corner site)	Front- to classified road (Refer to Note 2)	4m	9 metres (Refer to Note 5) (Refer to Note 6 for corner site)	Side- adjoining non- residential	2m	2m (refer to Note 6)	Rear (Refer to Note 3)	Nil to 3m	Nil to 3m	<p>The development proposes the following setbacks:</p> <p><u>Eastern (Kent Street) Setback:</u></p> <p>Ground: 10m-17m</p> <p>Podium: 7.85m</p> <p>Tower: 8m</p> <p><u>Southern (Coward Street) Setback:</u></p> <p>Ground: 7.45m-12m</p> <p>Podium: 5.2m</p> <p>Tower: 6m</p> <p><u>Western (side) Setback:</u></p> <p>Ground/Podium: 3.25m-5.8m</p> <p>Tower: 3.25m</p> <p><u>Northern (side) Setback:</u></p> <p>Ground/Podium: 3.25m-3.4m</p> <p>Tower: 4m</p>	Yes
Boundary	Landscape	Building Setback																	
Front- to non classified road (rear to Note 2)	3m	9m (Refer to Note 5) (Refer to Note 6 for corner site)																	
Front- to classified road (Refer to Note 2)	4m	9 metres (Refer to Note 5) (Refer to Note 6 for corner site)																	
Side- adjoining non- residential	2m	2m (refer to Note 6)																	
Rear (Refer to Note 3)	Nil to 3m	Nil to 3m																	
<p>C4 Setbacks are to be deep soil zones</p>																			
<p>C5 New buildings are to be setback a minimum of 9 metres (this includes the landscaped setback) from the street frontage unless the prevailing setback is closer than 9 metres, or unless stipulated differently in this DCP. For sites fronting designated</p>																			

Part 6 – Employment Zone		
Control	Proposed	Complies
<p>roads the minimum building setback is to be 4 metres.</p> <p>C6 New development on sites that have a corner frontage is to provide a 9-metre minimum setback to the main street/road and a minimum 3- metre setback to the secondary road/street.</p>	<p>established on the opposite side of the road which are nil to 6 metres, the setbacks provided are appropriate and supported.</p> <p>In accordance with the DCP, the site is a corner site therefore the primary street address is Kent Road while Coward Street is the secondary street. The southern, northern and western setbacks are well over the minimum required. At 6m the setback to Coward Street exceeds the minimum 3 metre setback required.</p>	Yes
6.3.6 Parking and Vehicular Access		
<p>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.</p> <p>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.</p> <p>C6 Separation of service areas (loading/unloading) and parking areas is required.</p> <p>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.</p>	<p>Vehicles enter and exit in a forward direction. Swept path diagrams have been provided with the development.</p> <p>Conditional.</p> <p>The development proposes a separate loading dock away from the car parking spaces associated with the commercial development.</p> <p>A dedicated loading bay is provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
6.3.7 Signage		
C1 Signage shall comply with Part 3D - Signage.	There is no signage proposed.	N/A
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.	No mailboxes are demonstrated on plans however plant room is demonstrated.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
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.	A condition of consent is imposed requiring undergrounding of powerlines and cables. The development proposes a substation. Appropriate conditions have been imposed.	Yes
6.3.9 Landscape		
C9 Not less than 10% of the development site shall be landscaped. On sites over 2000m ² 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.	The development will provide at least 1,201.6sqm which represents 24% landscaped area. The majority of the landscaped area is within the front setbacks which will retain the existing trees and landscaping. The front setbacks are generally 4m to 5m wide.	Yes
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 provides an effective and site responsive planting design and provides appropriate amenity when viewed from the street.	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	An acoustic report was submitted with the development application.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
<p>from a qualified acoustic engineer certifying that the acoustic standards can be met.</p> <p>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).</p>	<p>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.</p>	<p>Yes</p>
6.3.13 Waste		
<p>C1 Development must comply with Part 3N – Waste Management and Minimisation.</p>	<p>A waste management plan prepared by Morgan Moore and Associates accompanies the application which addresses waste management during demolition, construction and ongoing use.</p>	<p>Yes</p>
6.3.21 Business Premises and Office Premises in the B5 Business Development and B7 Business Park Zones		
<p>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.</p>	<p>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 as the nearby airport use.</p> <p>The proposed materials and finishes detailed in the architectural plan by Sissons 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.</p>	<p>Yes</p>
<p>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.</p>	<p>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.</p>	<p>Yes</p>
<p>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).</p>	<p>No signage is proposed.</p>	<p>N/A</p>
<p>C4 Vehicle manoeuvring, circulation, access and parking shall be arranged on site to maximise the area available for landscaping. Excess hardstand</p>	<p>Vehicle maneuvering, parking access has been arranged to allow the front and side setbacks deep soil zones. No basement is proposed. Car parking spaces and access are compliant with the Australian Standards.</p>	<p>Yes</p>

Part 6 – Employment Zone		
Control	Proposed	Complies
areas should be minimised whilst designing manoeuvring, circulation, access and parking in accordance with Australian and Council standards.		
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.	<p>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.</p> <p>The landscaping proposed and existing along the perimeter of the site, particularly at Kent Road and Coward Street will retain its landscaped character.</p>	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).	There is no basement car park proposed.	N/A
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.	The OSD has been appropriately been located under the building.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
No stormwater inlet pits or piping are to be located within the drip line of existing trees.		
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 24% landscaping in total with 306.1sqm at Level 3 and 895.5sqm at ground level.	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 within the development will provide a layered amount which will contribute to the building while retaining the existing trees and landscaping at the ground level.	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.	Compliant as discussed above in the report.	Yes
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 0- 2000m ² 10% 2000 m ² -5000m ² 20% >5000m ² 30%	The site proposes a total of 24% landscaping. While this is compliant with the minimum amount required on the site, the proposal is not compliant with the 30% required on the site. Considering the site area is over the minimum site area by 59sqm, it is considered that the proposed amount of landscaping provided is acceptable.	Acceptable

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.

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 the 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 and car park is permissible within the B7 - Business Park 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 for a fourteen (14) day period from 30 January to 13 February 2020. One (1) objection was received during the notification period. A second objection was received on 30 July 2020 by the original objector following the amended plans. The key issues raised in the objection are as follows:

- *FSR non-compliance*

Objectors Comments:

The FSR exceedance remains exceptionally high, at 0.72:1 or 23.2%. This is well in excess of the average FSR exceedance in the locality (approximately 15%). There appears to be no reasonable justification for such a high FSR exceedance to be accepted in this instance, particularly given the large scale of the site.

Councils Comments:

The plans have been amended since the objector has provided their submission. The FSR proposed is 3.77:1 however the sentiments expressed in the objectors' submission remain. A discussion regarding FSR has been provided in Note 1 above.

- *Traffic and Parking*

Objectors Comments:

The increase number of bicycle spaces provided on site is supported but still falls short of the amount requested by Council (123 spaces, per the Addendum Traffic, Transport and Parking Assessment). There appears to be no publically accessible visitor parking which can easily be accommodated on or adjacent to the plaza. All necessary bicycle parking should be accommodated on site to mitigate the shortfall in car parking proposed.

The proposal provides a car parking shortfall of over 200 car parking spaces over the DCP parking rate for the site. This is an excessive shortfall that will have knock-on effects on the wider locality. When taking into account the cumulative impact of the proposal in conjunction with other approvals and proposals in the area, it is likely that such a shortfall will give rise to adverse traffic and parking impacts in the locality. This has not been fully considered or addressed in the Addendum Traffic, Transport and Parking Assessment, dated 2 June 2020.

Councils Comments:

With regard to bicycle parking and accessible spaces, this has been reviewed by Council's Development Engineer who has imposed appropriate conditions of consent. An assessment of the car parking shortfall and impacts of traffic within the area have been summarized in Note 3 above.

- *Trees and Landscaping*

Objectors Comments:

The increase in deep soil areas on the site is supported, however there is ample space to further increase this on site. In particular, increase setbacks from the north and west boundaries would enable increased canopy tree planting on site. There are also opportunities to provide green roofing to the building, which would increase the landscaped area and enhance the sustainability credentials of the proposed building.

Retention of the large Fig trees along the south and eastern boundaries of the site is supported. Council are encouraged to thoroughly interrogate the proposal to ensure that it will not prejudice the health and vitality of these trees during and after construction.

Councils Comments:

The northern and western setbacks proposed are in accordance with Councils minimum requirements and does allow for planting within these boundaries. The applicant has provided adequate landscaping at the ground level and podium levels. Initially, the rooftop did have a rooftop communal open space with landscaping however later revisions of the plans demonstrate its deletion.

The retention of the Fig Tree issue has been carefully reviewed by Councils Tree Management Officer who has imposed appropriate conditions of consent in order for appropriate protection during construction.

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

It is considered that granting approval to the proposed development will have 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	12 February 2020	No objections. The conditions have been included in the Schedule of Consent Conditions.
Sydney Water	1 May 2020	No objections. The conditions have been included in the Schedule of Consent Conditions.
NSW Police	12 February 2020	No objections. Advisory Conditions have been provided.
RMS	4 March 2020	No objections. The conditions have been included in the Schedule of Consent Conditions.
Ausgrid	26 February 2020	No objections. The conditions have been included in the Schedule of Consent Conditions.
Internal Referrals		
Landscape Architect	15 July 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	6 August 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	24 March 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health Officer	26 June 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Tree Management Officer	3 August 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Waste Officer	2 April 2019	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Contribution Planner	24 August 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Address and Road Naming Officer	23 March 2020	Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Advisory Committee	4 March 2020	Recommendations were provided and have been incorporated within development.

Section 7.11 Contributions

It is considered that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 7.11 Contribution Plan 2016. The

site is located within the Mascot Station Precinct Area therefore contributions are based on the number of workers generated by the use.

The number of workers that are generated from 19,056sqm of office floor space is 1,077 workers.

The existing development on the site has 221 existing workers therefore a credit for these workers has been applied.

Therefore the total amount of workers that the development generates is 856 workers. The rate per worker in 2020/2021 year is \$4,960.37. The total amount of contributions that is generated by the development is **\$4,244,339.19**. This is indexed to July 2021.

The contributions are broken down as follows:

Community Facilities – \$347,433.20

Recreation and Open Space – \$3,584,521.43

Transport Facilities – \$281,480.72

Administration - \$30,903.84

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. 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 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 development has been designed to allow 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 B7 Business Park zone and is considered to result in a development which is suitable in the context. Therefore, the proposal is recommended for approval subject to the conditions of consent in the attached Schedule.

Attachment

Schedule 1 – Conditions of Consent

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.

Drawing No.	Author	Date Received
DA-10-01- Coversheet- Rev C	Sissons	Dated 18 August 2020; Received 21 August 2020
DA-10-04- Site Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-11-10- Ground Floor Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-11-11- Mezzanine Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-12-11- First Floor Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-12-12- Second Floor Plan- Rev B		Dated 18 August 2020; Received 18 August 2020
DA-12-13- Third Floor Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-12-15- Typical Commercial Floor Plan (Levels 4-8) - Rev C		Dated 18 August 2020; Received 18 August 2020
DA-12-20- Roof Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-12-21- Architectural Roof Feature Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-15-01- East Elevation- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-15-02- West Elevation- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-15-03- South Elevation- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-15-04- North Elevation- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-16-01- Section AA- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-16-02- Section BB- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-17-60- Demolition Plan- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-17-80- GFA Areas- Rev C		Dated 18 August 2020; Received 18 August 2020
DA-001- Landscape Statement- Rev E		Dated 18 August 2020; Received 18 August 2020

DA-002- Tree Removal and Retention Plan- Rev E	Aspect Studios	Dated 18 August 2020; Received 18 August 2020
DA-003- Ground Plane Plan- Rev E		Dated 18 August 2020; Received 18 August 2020
DA-004- L03 Plan- Rev E		Dated 18 August 2020; Received 18 August 2020
DA-006- Indicative Planting Plan		Dated 18 August 2020; Received 18 August 2020

Reference Document(s)	Author	Date Received
Clause 4.6 Variation- FSR	Sutherland and Associates Planning Pty Ltd	Dated August 2020; Received 24 August 2020
Cover letter with amendments	Sutherland and Associates Planning Pty Ltd	Dated 19 June 2020; Received 22 June 2020
DA Design Report	Sissons	Dated August 2020; Received 18 August 2020
Civil DA Report	Taylor Tomson Whitting	Dated 18 June 2020; Received 22 June 2020
C01-C06- Civil Works	Taylor Tomson Whitting	Dated 17 June 2020; Received 22 June 2020
Response regarding Civil Works	Taylor Tomson Whitting	Dated 25 May 2020; Received 22 June 2020
Workplace Travel Plan	Transport and Urban Planning Pty Ltd	Dated May 2020; Received 22 June 2020
Addendum Report- Traffic, Transport and Parking Matters	Transport and Urban Planning Pty Ltd	Dated 2 June 2020; Received 22 June 2020
Traffic, Transport and Parking Assessment	Transport and Urban Planning Pty Ltd	Dated 19 December 2019; Received 17 January 2020
BCA Assessment Report	Steve Watson and Partners	Dated 12 June 2020; Received 22 June 2020
Ecologically Sustainable Development Report	Hurley Palmer Flatt	Dated 17 June 2020; Received 22 June 2020
BCA Section J DTS Assessment Report	Hurley Palmer Flatt	Dated 16 June 2020; Received 22 June 2020
Pedestrian Wind Environment Statement	WindTech	Dated 15 June 2020; Received 22 June 2020
Waste Management Plan	Morgan Moore and Associates	Dated June 2020; Received 22 June 2020
Construction Management Plan	Morgan Moore and Associates	Dated June 2020; Received 22 June 2020
Statement of Compliance Access for People with a Disability	Accessible Building Solutions	Dated 17 June 2020; Received 22 June 2020
Noise Impact Assessment	Acoustic Logic	Dated 16 June 2020; Received 22 June 2020
Art Strategy	Cultural Capital	Dated June 2020; Received 22 June 2020
Place Report	Hoyne	Received 17 January 2020
Preliminary Geotechnical Investigation	Edison Environmental and Engineering	Dated 19 November 2019; Received 17 January 2020

Detailed Environmental Site Assessment	Edison Environmental and Engineering	Dated 19 November 2019; Received 17 January 2020
Acid Sulfate Soils Management Plan	Edison Environmental and Engineering	Dated 16 January 2020; Received 17 January 2020

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

2. This Consent relates to land in Lot 100 in DP 1118363, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
3. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) 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.
4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
6. No further signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Councils guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.
7.
 - a) The air handling system and associated cooling tower system shall be designed, installed and maintained in accordance with the requirements of the Public Health Act 2010 and Public Health Regulation 2012, NSW Health Guidelines and other relevant practices issued by the NSW Health.
 - b) The proposed Water Cooling System shall be designed, installed and commissioned in accordance with the provisions of the Public Health Act

2010 and Public Health Regulation 2012 and the current guidelines published by the NSW Health.

- c) The proposed Water Cooling System shall be operated and maintained in accordance with the provisions of the Public Health Act 2010 and Public Health Regulation 2012 and relevant Australian Standards.
 - d) The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
8. Adopt and implement all recommendations contained in the acoustic report prepared by Acoustic Logic – Project ID: 20191270.1, Document Reference: 20191270.1/1606A/R3/AZ, ‘Noise Impact Assessment 46-50 Kent Road Mascot’ dated the 16 June 2020.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

9. The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:
- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 50.35 metres Australian Height Datum (AHD).
 - c) In my 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, I have no objection to the erection of this development to a maximum height of 50.35 metres AHD.
 - d) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - e) Should you wish to exceed this height a new application must be submitted.
 - f) 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.
 - g) 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.
 - h) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

- i) "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)).
 - j) The height of the prescribed airspace at this location is 51 metres above AHD.
 - k) Planning for Aircraft Noise and Public Safety Zones
 - l) 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).
 - m) 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.
10. The following conditions are imposed by **Transport for NSW (TfNSW)**:
- a) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth), along the Kent Road boundary.
 - b) The removal of the redundant vehicular crossing on Kent Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.
 - c) Detailed design plans of the proposed works are to be submitted to TfNSW 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
- 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 TfNSW.
- d) All vehicles shall enter and exit the site in a forward direction.
 - e) 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. Parking Restrictions may be required to maintain the required sight distances at the driveway.
 - f) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.
- The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment

by TfNSW. Please send all documentation to development.sydney@rms.nsw.gov.au.

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

- g) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- h) Bicycle Parking should be provided in accordance with AS2890.3.
- i) 'No Stopping signage' shall be installed along all frontages of the development, at no cost to TfNSW.
- j) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- k) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. No works zone will be permitted on Kent Road.
- l) A Construction Pedestrian Traffic Management Plan (CPTMP) 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.
- m) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Kent Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

11. The following advisory conditions are imposed by **NSW Police**:

- a) CCTV should be installed and operational at entry / exit points of retail stores, commercial premises and internal mail room. Further CCTV should be positioned throughout retail stores, mailbox room and lift / stairs leading to commercial premises.
- b) Internal mail room should consist of swipe access only.
- c) Adequate lighting should be positioned covering premise and surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.
- d) Clear signage on Buildings number and building name, should be clearly displayed, with light shining on signs at night to allow clear visibility for Police.

- e) Clear signage at entrance of retail stores, commercial premises and mail room, covering the following subjects. 'CCTV surveillance in use at all times', and 'Trespassers will be prosecuted'.
- f) All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.

12. The following conditions are imposed by **Ausgrid**:

Overhead Powerlines:

- a) There are existing overhead electricity network assets in Kent Rd.
- b) Safework NSW Document –Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.
- c) The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au
- d) Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

Underground Cables:

- a) There are existing underground electricity network assets in Kent Rd, Coward St and within the Development Site.
- b) Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.
- c) Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

Substation:

- a) There are existing electricity substation assets within the Development Site.

- b) The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.
- c) In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres
- d) Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glassblock work or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier.
- e) The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1HZ–100kHz)(ICNIRP 2010). For further details on fire segregation requirements refer to Ausgrid's Network Standard 141. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.

13. The following conditions are imposed by **Sydney Water**:

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. 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.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
- b) 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™ 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:
 - (i) building plan approvals
 - (ii) connection and disconnection approvals
 - (iii) diagrams

- (iv) trade waste approvals
- (v) pressure information
- (vi) water meter installations
- (vii) pressure boosting and pump approvals
- (viii) 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://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

14. Before commencement of demolition works, the applicant must undertake the following notifications:-
 - a) Notify adjoining residents two (2) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority.
 - b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the Safe Work NSW licensed asbestos demolisher and the list of residents advised of the demolition;
 - c) Five (5) working days prior to licensed asbestos removal work is commenced to Safe Work NSW;
 - d) Notice to Public Authorities - the demolisher shall give notice to other statutory authorities, such as Sydney Water Corporation and Safe Work NSW, in relation to service disconnection.
15. Prior to the commencement of any work, 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.
16. A professional engineer specialising in structural engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises, a photographic survey, and including buildings, foundations and structures likely to be affected by the site works as determined by the consulting engineer. This shall include, but not limited to:

- a) 284 Coward Street Mascot
- b) 40-44 Kent Road Mascot

The report shall be prepared at the expense of the applicant and 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 commencement of any works. The insurance cover shall be a minimum of \$10 million.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the dilapidation report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

17. Prior to commencement of any works, a Safe Work Method Statement shall be prepared by a licensed demolisher who is registered with the Safe Work NSW to the satisfaction of the Principal Certifying Authority and a copy sent to Council (if it is not the PCA) and Safe Work NSW. The statement must be in compliance with AS 2601-1991 *Demolition of Structures*, the requirements of Safe Work NSW and conditions of this approval. This Plan must include provisions for:
 - a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors under Work Health & Safety Act 2011(NSW) and the Work Health & Safety Regulation 2011 (NSW) unless specified in the Act and/or Regulation that a license is not required). Any asbestos removal work shall be undertaken in accordance with the How to Safely Remove Asbestos: Code of Practice published by Safe Work Australia;
 - d) Dust control – dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of relevant utility services, including Gas and Electrical Supply;
 - f) 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;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) 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;

- j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent (where applicable);
 - m) Location and method of waste disposal and recycling in accordance with the Waste Minimisation and Management Act 1995;
 - n) Sewer – common sewerage system;
 - o) On site monitoring both during asbestos removal and the remainder of demolition activities.
 - p) Identification of any hazardous materials including surfaces coated with lead paint, method of demolition, and the disposal methods for hazardous materials.
 - q) Erosion and Sedimentation Controls are in place and in accordance with the approved plan.
18. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
 - d) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
19. If a Construction Certificate is required, a copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
20. Prior to the commencement of any works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.
21. 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.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit to install temporary ground anchors in public land,
- d) Permit to discharge ground water to Council's stormwater drainage system,
- e) Permit for roads and footways occupancy (long term/ short term),
- f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- g) 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,
- h) Permit to place skip/waste bin on footpath and/or nature strip, and
- i) Permit to use any part of Council's road reserve or other Council lands.
- j) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

22. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:

- a) Must preserve and protect the building/ fence from damage; and,
- b) If necessary, underpin and support such building in an approved manner;
- c) 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;
- d) 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, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) If the soil conditions required it:
 - (i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other

approved methods of preventing movement of the soil must be provided and:-

- (ii) Adequate provision must be made for drainage.

23. A Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation or construction works. The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and *Assessing Vibration: A technical guideline* (available www.environment.nsw.gov.au). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.
24. 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
25. All contractors shall comply with the following during all stages of demolition and construction:
 - a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

26. 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 Organization 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.
- Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
27. 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 Councils. Copies of the guidelines are available from Council.
28. 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 practising 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 Principal Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
29. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the any works for the building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
30. Prior to commencement of any works, 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.
31. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safe Work Australia and the Department of Environment and Climate Change and Water and with the provisions of:
- a) New South Wales Occupational Health and Safety Act, 2000;
 - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - d) Protection Of the Environment Operations Act 1997 (NSW); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
32. Consent is granted for the removal of the following trees as per the tree numbering prepared by Stuart Pittendrigh. Dated September 2019.

Tree 3, 7, 14, 15, 16, 17, 18 & 19.

The following trees are to be retained and protected physically in accordance with **AS 4970-2009** Protection of Trees on Development Sites (TPZ).

Tree 1, 2, 5, 6, 8, 9, 10, 11, 12, 13.

Also TPZ are to be erected to protect the adjacent *Eucalyptus saligna* (Sydney Blue Gum) adjacent to the side boundary of 284 Coward Street and also the group of trees along the side boundary of 40 Kent Road which consist of a *Lagunaria patersonia* (Norfolk Island Hibiscus), 2 x *Ulmus pumila* (Siberian Elm), 2 x *Stenocarpus sinuatus* (Queensland Fire Wheel Tree), 2 x *Elaeocarpus reticulatus* (Blueberry Ash), 2 x *Syzygium smithii* (Lilly Pilli) and a *Ficus carica* (Common Fig).

- a) Protective fencing shall comprise 1800mm high chain link wire mesh fixed to 50 mm galvanised steel posts. Portable chain link fencing may be installed. Coloured plastic tape fencing or plain strained fencing wire fixed to steel droppers is unacceptable. Chain link portable panels must be securely fixed top and bottom to avoid separation.
- b) No storage of building materials, tools, paint, fuel or contaminants and the like shall be placed within the fenced area. Ropes, ties or signs must not be attached to any part of a tree (s) to be preserved.
- c) Advice to contractors and visitors to the site the purpose for protecting and preserving trees by the placement of suitable warning signs fixed to all tree protection fences and trunk protection throughout the site.
- d) All areas enclosed by protective fencing must have the entire ground surface mulched to a depth of 100 mm with composted Eucalyptus leaf and woodchip to help retain soil moisture and reduce erosion.
- e) Any site activity close to or beneath the drip line of the tree to be preserved must have elevated protection installed clear of the ground to avoid compaction and damage to roots. Protection may comprise timber planks or metal decking supported on scaffolding or the like.
- f) Do not attach temporary powerlines, stays, guys and the like to the tree. Do not drive nails into the trunks or branches.
- g) Demolition works within the TPZ of trees to be preserved shall be carried out so as to avoid damage to the tree roots. Manual excavation shall be carried out under the supervision of the project arborist to identify roots critical to tree stability.
- h) Where the project arborist or site foreman identifies roots to be pruned within or at the outer edge of the TPZ, they should be pruned with a final cut to undamaged wood. Pruning cuts should be made with sharp tools such as secateurs, pruners, handsaws or chainsaws. Pruning wounds should not be treated with dressings or paints. It is totally unacceptable for roots within the TPZ to be 'pruned' with machinery such as backhoes or excavators.
- i) Where roots within the TPZ are exposed by excavation, temporary root protection should be installed to prevent them drying out This may include

jute mesh or hessian sheeting as multiple layers over exposed roots and excavated soil profile, extending to the full depth of the root zone. Root protection sheeting should be pegged in place and kept moist during the period that the root zone is exposed.

33. Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$40,000.00 to ensure protection of the retained trees. The duration of the Bond shall be limited to a period of 12 months after the occupation certificate is issued. At completion of the bond period of twelve months (12 months) the Bond shall be refunded pending an inspection of the trees by council. If a tree is found to be dead, pruned not in accordance to Council instructions or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree/s.
34. Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.

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

35. The applicant must prior to the issue of the Construction Certificate, pay the following fees:

a)	Development Control Fee	0.26% of the cost of works with estimated cost of works capped at \$10M
b)	Footpath Crossing Deposit	\$474,986.38
c)	Section 7.11 Contributions	\$4,244,339.19
36. 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.
37. 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 **\$4,244,339.19** 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:

a)	Community Facilities	\$347,433.20
b)	Recreation and Open Space	\$3,584,521.43
c)	Transport	\$281,480.72
d)	Administration	\$30,903.84

The total Section 7.11 Contribution of **\$4,244,339.19** 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.

In accordance with the NSW Governments ministerial directions for s.7.11 local infrastructure contributions of 25 June 2020, a monetary contribution that is required to be paid under the conditions of this consent must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates.

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.

38. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$474,986.38** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Bayside Council against possible damage to Bayside Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Bayside Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
39. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
 - a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
40. Prior to the issue of the relevant 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 and other conditions of this development consent.

The detailed design stormwater plans must incorporate, but not be limited to, the following:

- a) The stormwater management provisions made in the Civil DA Report prepared by Taylor Thomson Whitting (NSW) Pty Ltd, Project No: 191700, Rev D, dated 18 June 2020 and the conceptual civil engineering drawings in Appendix A of the Civil DA Report along with the provisions/documentation/revisions detailed below:

- b) 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, and
 - c) An adequate provision for emergency overflow from the OSD shall be provided for within the design of the development, and
 - d) Heavy duty drainage grates shall be provided on the driveways at the boundary, and
 - e) A rainwater tank(s) system with a minimum capacity of 10000L shall be provided for the development. Only non-trafficable roof run-off 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 designed to be connected to all outdoor landscape irrigation along with all ground floor toilets within the development for non-potable stormwater re-use, and
 - f) All surface runoff from parking facilities and vehicular access ways 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
 - g) The stormwater system must incorporate a Stormwater Quality Improvement system(s) to ensure compliance with Section 16 of Botany Bay’s SMTG and Part 3G of BBDCP 2013, and
 - h) 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
 - i) 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
 - j) The stormwater discharge from the site shall discharge underground via gravity discharge into a new kerb inlet pit on Coward Street to Bayside Council infrastructure specifications, and
 - k) Detailed calculations including computer modelling supporting the proposal.
41. Prior to the issue of any Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the National Engineering Register (NER) must:
- a) Review the recommendations and assessment in the geotechnical investigation report prepared by EDISON environmental + engineering, Report ID: E19011-TIP-03-GEO, dated 19 Nov 2019, conduct any further geotechnical testing and assessment of the site as required and ensure the appropriate recommendations are implemented into the construction certificate plans and documentation,
 - b) (b) Provide detailed recommendations to allow the satisfactory implementation of the works:
 - (i) The appropriate means of any 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 any excavation 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 that the construction certificate plans and documentation are satisfactory from a geotechnical perspective, and
 - d) Certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures and road reserve,
 - e) 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
 - f) Inspect the works during construction 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.

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

- a) Provision of photovoltaic cell systems on the rooftop. The detailed design for the photovoltaic cells systems is to be provided, and the provision of photovoltaic cells is to be at a rate that maximises the use of available non-trafficable space on the rooftop. The cells shall not exceed the applicable height limit for the site as prescribed by the Botany Bay LEP 2013 and SACL/CASA.
- b) Sensor controlled and zoned internal lighting and air conditioning within the building.
- c) Maximisation of non-potable stormwater re-use throughout the development.

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

43. To ensure that utility authorities and Bayside 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 (e.g. 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 and power poles will need to be decommissioned and new underground supplied lighting poles shall be constructed along the entire frontage of the development site satisfying V2 lighting requirements and any other requirements as specified by Bayside Council, TfNSW 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 Bayside Council prior to the issue of the Construction Certificate.

Any low and high 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 obtain Ausgrid approval for the undergrounding works. Written confirmation of Ausgrid's approval for the undergrounding works shall be obtained.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by Bayside Council and service authorities are to be the responsibility of the developer. If it is necessary to go beyond the frontages of the development site, (e.g. to cross a road/or extend the extent of undergrounding to the frontage of another property), to ensure all required undergrounding works are undertaken for this development, then those works shall be done. The extent of undergrounding required for this development includes the overhead wires that cross Coward Street and Kent Road. All undergrounding works are to be designed and constructed in such a way that the existing fig trees (that are required to be protected during and post construction) are preserved/protected adequately.

44. A detailed Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Bayside 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 development consent conditions,

Bayside 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 Bayside 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 Bayside Council's Public Domain and Development Referrals team is highly recommended.

45. 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, vehicular crossings 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, and
 - b) 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
 - c) A minimum of 112 bicycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015. The end of trip facilities must include toilets, showers, change rooms, lockers, and
 - d) A minimum of 9 electric vehicle charging spaces and 3 car share spaces are to be provided as part of the car parking spaces provided for the development, and
 - e) Accessible car parking spaces shall be provided in accordance with the relevant legislation and designed strictly in accordance with AS2890.6:2009. All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building.
 - f) 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.
46. 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 qualified engineer experienced in traffic & parking design.
47. Prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first, a Construction Management Program shall be submitted to, assessed and approved by the Principal Accredited Certifier. 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,
- j) How demolition and construction activities on the site will be managed with respect to protecting the existing fig trees which must be retained and preserved during construction. The proposed methodology and protection measures are to be comprehensively detailed,
- k) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation,
- l) The location of any Construction Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval, and
- m) Obtain Permits required under this consent.

48. Prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first, a detailed Traffic and Pedestrian Management Plan for the pedestrian and traffic management of the site during works and construction shall be prepared and submitted to the Principal Accredited Certifier for assessment and approval. The plan shall:

- a) be prepared by a TfNSW accredited consultant,
- b) address, but not be limited to, the following matters:
 - (i) ingress and egress of vehicles to the site;
 - (ii) loading and unloading, including construction zones;
 - (iii) predicted traffic volumes, types and routes; and
 - (iv) 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 & TfNSW 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.

49. Prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first, a qualified practitioner shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of all Bayside

Council drainage infrastructure, adjacent to, and traversing the site. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints, and
- c) Distance from the drainage pit shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to the satisfaction of Bayside Council prior to the commencement of any works. A written acknowledgment shall be obtained from Bayside Council attesting to this condition being appropriately satisfied and submitted to the Principal Certifier. Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicant's expense.

50. Prior to the issue of any Construction Certificate, the approved plans must be submitted to 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. Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

51.

- a) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45 o C in one bowl for washing purposes; and 80 o C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.
- b) Premises shall be provided with a cleaner's or sluice sink, floor waste or other similar facility which is connected to drainage that is not intended for use to prepare food, wash any equipment or for hands/face washing for disposing of mop water and similar liquid waste and shall be located outside of areas where open food is handled.
- c) Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.

- d) All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic micro-organisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.
 - e) The Accredited Certifier shall not issue a Construction Certificate until all structural or equipment requirements for food premises (cafe) specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fitout of Food Premises” have been incorporated in the plans and specifications for the Construction Certificate.
52. The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, exhaust fans, ventilation fans, cooling towers and condenser units) and equipment including air-conditioners which meet the NSW EPA Industrial Noise Policy and Protection Of Environment Operations Act 1997 as specified by Acoustic Logic – Project ID: 20191270.1, Document Reference: 20191270.1/1606A/R3/AZ, ‘Noise Impact Assessment 46-50 Kent Road Mascot’ dated the 16 June 2020 has been carried out.
- The acoustic assessment / report shall include at least the following information:
- a) the name and qualifications or experience of the person(s) preparing the report
 - b) the project description, including proposed or approved hours of operation
 - c) relevant guideline or policy that has been applied
 - d) results of background and any other noise measurements taken from most noise affected location at the boundary line
 - e) meteorological conditions and other relevant details at the time of the measurements
 - f) details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
 - g) a site map showing noise sources, measurement locations and potential noise receivers
 - h) noise criteria applied to the project
 - i) noise predictions for the proposed activity
 - j) a comparison of noise predictions against noise criteria
 - k) a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
 - l) how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic

engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifying Authority. All recommendations and/or noise mitigation measures (If applicable) shall be complied with.

53. Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;
- a) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors
 - b) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements
 - c) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non-potable water.
 - d) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
54. Prior the issue of the relevant Construction Certificate the Final Landscape Plan shall be generally in accordance with the approved Landscape Plan prepared by Aspect Studio, revision E and dated 18 August 2020 (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by but not be limited to:
- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.
 - c) Indicate the location of all basement structures relative to the landscape areas.
 - d) Schedule of existing trees to be retained and removed, with TPZs of all trees to be retained, and existing and new levels within TPZs.
 - e) Root barriers shall be indicated where structures are located to existing or proposed large trees to avoid future conflicts with roots.
 - f) Deep soil areas shall maximised the inclusion of canopy trees, and deep root planting in general. Retaining walls and other structures shall be avoided or minimised in all proposed deep soil areas.
 - g) 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.

- h) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.
 - i) Conflict between landscaped beds, existing/proposed trees or landscaped areas and underground utilities (including stormwater structures) are to be avoided. Where there is a conflict, this shall be resolved with Bayside Council.
55. A Landscape Maintenance Schedule to cover 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).
 56. Fire booster assemblies, electrical substations and like are to be 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. The location of, and screening treatment surrounding these utilities, is to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate.
 57. Prior to the issue of any Construction Certificate, the applicant must submit a Frontage Works Application including a public domain landscape improvements plan for assessment. 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. The landscape plan must indicate locations of lighting poles, underground services, stormwater infrastructure etc. The design shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan. Note: Only one frontage works application needs to be submitted for the development consent.
 58. All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontages and the installation of underground supplied street lighting columns is to be completed. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. All works are to be completed prior to the issue of any occupation certificate.
 59. All detailed Construction Certificate plans shall show the trees to be retained as prescribed by Council.
 60. 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 Principal Certifying Authority and the Council (if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. Specifically, this amended plan must include the following:

- a) Procedures testing of deeper soils or testing of piling spoils to allow assessment of liming requirements, instead of solely relying on contractors to visually look for potential acid sulfate soil indicators.
- b) The liming procedure to include details on how and where liming should be carried out and the associated environmental controls required during liming.
- c) Run-off control measures for the acid sulfate affected soil.

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

61. 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 (formally Section 96) application pursuant to the Environmental Planning & Assessment Act 1979 must be submitted to ensure that they form part of the consent conditions.

62. Prior to issue of a Construction Certificate for the development an application for Property Address Allocation and associated fee are required to be submitted to Council. All determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and NSW Address Policy and User Manual. The form is available for download at Bayside Council website.

The numbering (sub-addresses) of the individual units in multi-level sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Address Policy and User Manual, available for download at:
https://www.gnb.nsw.gov.au/addressing/nsw_address_policy_guidelines

DURING WORKS

- 63.
- a) 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.
 - b) 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.
 - c) 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.
64. Dewatering is not permitted on this site without NSW-EPA approval.

65.

- a) 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.
- b) 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.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) 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.

66. Demolition is to be carried out in the accordance with the following:-

- a) The approved Safe Work Method Statement required by this consent:
- b) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW) and the requirements of the Safe Work NSW.
- c) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of Safe Work NSW and the Environmental Protection Authority.
- d) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- e) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- f) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- g) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted.
- h) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the

applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.

- i) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
 - j) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with Safe Work NSW requirements. Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation and 'Waste Classification Guidelines 2008' prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.
67. Separate permits are required to be obtained and approved by Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
68. In order to ensure the design quality excellence of the development is retained:
- a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - b) 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;
 - c) Evidence of the design architect's commission is to be provided to Bayside Council prior to the issue of the Construction Certificate.
 - d) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
69. 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 made 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.
70. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the Safe Work NSW.
71. 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.

72. 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.
73. 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.
74. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Waste Management Plan, Traffic Management Plan and Construction Management Plan at all times.
75. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.

a) Level Restrictions

Construction period of 4 weeks and under:

the L_{10} 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 L_{10} 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).

b) 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.

c) Silencing

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

76. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) 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;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or

- 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 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.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
77. 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 Services NSW.

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

78. 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).
79. 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.

80. To ensure that relevant engineering and water quality provisions are met during the period of any temporary dewatering associated with construction, a permit must be obtained from Council to permit discharge to the stormwater system if temporary dewatering is proposed. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations. The water quality must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and 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.
81. 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.
82. All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and specific maintenance requirements for planting on podium areas.
83. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded 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.

- b) 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.
- c) 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.
- d) 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.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting.

84.

- a) No trenching shall occur within the TPZ and SRZ of the trees nominated for preservation. Adopt directional drilling / approved under boring techniques as per **AS-4970 CL.4.4.5** to avoid adverse impacts on tree roots.
- b) Consent is granted for Pruning of the Fig Trees so as to clear the crowns of the scaffolding to accommodate the proposed development.
- c) Pruning shall be undertaken by minimum Level 4 AQF qualified, experienced and insured Arborist in accordance with the Australian Standard **AS 4373 Pruning of Amenity Trees** and **Occupational Health and Safety Act 2011**.

85. Any material containing asbestos found on site must be removed and disposed of in accordance with:

- a) SafeWork NSW. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- b) Protection of the Environment Operations Act 1997.
- c) Protection of the Environment Operations (Waste) Regulation 2014.
- d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

86. 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. 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 council.

87. 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.
88. 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:
 - a) NSW Environmental Protection Authority (EPA) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.

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.

89. A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Occupation Certificate. A copy shall also be provided to Council if Council is not the PCA.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

90. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
91. 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.
92. Any damage not shown in the photographic survey submitted to Bayside 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 Bayside Council's satisfaction, prior to occupancy of the development and release of damage deposit.
93. Prior to the issue of any 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 and Bayside Council. Appropriate and suitable street lighting shall be provided in accordance with Bayside Council's Specification to the frontages of the site, so as to provide safety and illumination for pedestrians in the area. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
94. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Bayside Council or TfNSW:
 - a) On Coward Street and Kent Road, adjacent to development, remove redundant driveway crossovers and provide any required tree planting and

public domain improvements as specified by Bayside Council in accordance with Bayside Council's Landscape Architect, Arborist, Masterplans and Infrastructure Specifications, and

- b) On Coward Street and Kent Road, adjacent to development, demolish existing kerb and gutter and construct new kerb & gutter for the full length of the property in accordance with the relevant Bayside Council and TfNSW Infrastructure Specifications, and
- c) On Coward Street and Kent Road, adjacent to development, demolish existing footpath and construct new full width paved footpath (full width from back of kerb to property boundary) as per Bayside Council's Landscape Architect, Arborist, Mascot Station Precinct Public Domain plan and Infrastructure Specifications, and
- d) On Coward Street, adjacent to development, construct new asphalt sheeting of half road width (including reconstruction of any damaged road pavement as necessary) in accordance with Bayside Council's Infrastructure specifications, and
- e) On Coward Street and Kent Road, adjacent to development, construct new underground supplied Ausgrid lighting poles to provide suitable street lighting to the frontages of the site. All street lighting shall comply with relevant electricity authority guidelines and requirements, and
- f) On Coward Street, adjacent to development, construct new kerb inlet pit and associated stormwater pipe, connecting to existing stormwater infrastructure in Coward Street to Bayside 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.

- 95. The public footpaths on Coward Street and Kent Road shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Bayside 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).
- 96. Prior to completion of the building works, two new full width vehicular entries are to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed as per Bayside Council/TfNSW requirements.
- 97. The applicant is responsible for the protection and instatement 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. All required regulatory signage as outlined by TfNSW conditions of consent is to be installed along the frontages of the site prior to the issue of the Occupation Certificate.
- 98. Prior to the issue of any Occupation Certificate(s), inspection reports for the works on the road reserve shall be obtained from Bayside Council's engineer and submitted

to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

99. All vehicles shall enter and exit the site in a forward direction at all times. Plaques with minimum dimensions of 300mm x 200mm shall be permanently fixed to prominent locations within the loading dock and at the vehicular entrances 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".
100. The electric vehicle (EV) charging systems, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. A certificate shall be provided certifying the installation and operation of the EV charging systems.
101. Prior to the issue of the Occupation Certificate, the approved Workplace Travel Plan and Transport Access Guides (TAGs) must be prominently displayed within the communal areas within the development. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.
102. 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, approved operation hours, use of off-peak deliveries, waste collection, methods to avoid congestion of service vehicles, how the loading dock will be managed, driver safety training, pedestrian safety management, safe vehicular manoeuvres for the loading dock, forward entry and exit requirement for the site and general mitigation measures to prevent amenity impacts to neighbouring properties. The management plan shall be prepared by a suitably qualified professional traffic engineer and submitted to the Principal Accredited Certifier for approval. The management plan is to be implemented and routinely updated for the lifetime of the use of the development.
103. 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.
104. Prior to the issue of any Occupation Certificate, the Principal Accredited Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1:2004, AS2890.2:2018, AS2890.3:2015 and AS/NZS 2890.6:2009, 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. All convex safety mirrors are to be installed to the locations and design that satisfies the suitably qualified traffic engineer. Certification must be provided by a suitably qualified traffic engineer, certifying the design of the completed works.
105. Prior to the issue of any Occupation Certificate, a Chartered Professional Geotechnical Engineer 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.

106. Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) have connected for non-potable stormwater re-use including all toilet flushing on the ground floor and landscape irrigation is to be provided.
107. 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 inspection and 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 Bayside Council if Bayside Council is not the Principal Certifying Authority.
108. 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:
 - a) Positive Covenant for on-site waste collection by private commercial waste collection service.
 - b) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Bayside 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 Bayside Council prior to occupation.

109. Prior to the issue of the Occupation Certificate, a qualified practitioner shall undertake a closed circuit television (CCTV) inspection, and then report on the post construction condition of Bayside Council drainage infrastructure, adjacent to, and traversing the site. The camera and its operation shall comply with the following:
 - a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
 - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle, to view the conduit joints, and
 - c) Distance from the manholes shall be accurately measured, and
 - d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline, shall be submitted to Bayside Council for review

w. Any damage to the drainage infrastructure since the commencement of construction on the site, shall be repaired in full to the satisfaction of Bayside Council. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier.

110. Prior to the issue of any Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

111.

a) Trading shall not commence until a final fit out inspection of the food premises (cafe) has been carried out by Council's Environmental Health Officer and all health related conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.

b) The occupier of the premises where the cooling tower system is installed, shall notify particulars to Council in accordance with the provisions of the Public Health Act 2010 prior to the issue of an Occupation Certificate. A notification form is available from Council's Environmental Health Unit on request.

c) The occupier of the food premises shall provide a Food Safety Supervisor (FSS) for the business. The original FSS Certificate must be kept on the premises. For further information regarding FSS, visit the NSW Food Authority website at www.foodauthority.nsw.gov.au.

112. On completion of the installation of the mechanical ventilation systems and prior to the issue of the Occupation Certificate, a certificate of completion and performance from the design engineer shall be submitted to Council certifying that the system has been installed, inspected, commissioned, tested and performs in accordance with Australian Standards AS1668.

113. The premises shall be registered with Council's Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.

114. Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic compliance report to verify that the measures stated in Acoustic Logic – Project ID: 20191270.1, Document Reference: 20191270.1/1606A/R3/AZ, 'Noise Impact Assessment 46-50 Kent Road Mascot' dated the 16 June 2020 and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air-conditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall be prepared by a suitably

qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

115. Prior to issue of the relevant Occupation Certificate, the following must be complied with to the satisfaction of the Principal Certifying Authority:
- a) All landscape works are to be carried out in accordance with the approved construction landscape plans for the development. The landscaping is to be maintained to the approved standard at all times.
 - b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) certifying that the landscape works have been carried out in accordance with the approved plans and documentation.

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

116. 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.
117. The operation of the development and movements of vehicles shall comply with the following requirements:
- a) All vehicles shall enter and exit the site in a forward direction;
 - b) All commercial vehicles (including deliveries and garbage collection) shall enter and exit the loading dock in a forward direction;
 - c) Loading and unloading activities (including waste collection) shall take place wholly within the dedicated loading areas;
 - d) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas by a private commercial waste collection service;
 - e) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
 - f) The maximum size of vehicle accessing the site shall be limited to an 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2:2018).
118. The Workplace Travel Plan and Transport Access Guide shall be monitored, reviewed and updated annually in order to revise and improve the plan to achieve the targets on the number of occupants to travel by public transport, cycling and walking. Copy of the annual review shall be submitted to Bayside Council. In order to ensure the certainty to implement the workplace travel plan for all future tenants of the site, a copy of the workplace travel plan and transport access guide shall be part of the lease agreement for all tenants.

119. Ongoing maintenance of the road verges and footpaths on Kent Road and Coward Street shall be undertaken by the owner/operator of the development. 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.
120. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
121. No garbage collection associated with the development is permitted between 10pm and 6am.
122. 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.
123. 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*.
124. 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.
 - (a) 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).
 - (b) 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.
 - (c) 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.
 - (d) For assessment purposes, the above L_{Aeq} 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.