



**SYDNEY WEST CENTRAL PLANNING PANEL  
COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2016SYW017
<b>DA Number</b>	DA/728/2016 (formerly Auburn Council ref: DA-465/2015)
<b>LGA</b>	City of Parramatta (formerly Auburn Council)
<b>Proposed Development</b>	Demolition of existing buildings, subdivision of the site to create 4 lots and construction of a mixed use development on Block A comprising 396 residential apartments and 2 commercial tenancies with building heights ranging between 4-8 storeys and a 16 storey tower, car parking for 478 vehicles, public domain works and landscaping.
<b>Street Address</b>	6-8 Baywater Drive, WENTWORTH POINT NSW 2127 (Lot 18 DP 270113)
<b>Applicant/Owner</b>	Tier Architects / Homebush Bay Holdings Pty Ltd
<b>Date of DA lodgement</b>	22 December 2015
<b>Number of Submissions</b>	Public Submissions (20) & Public Meeting (33 attendees)
<b>Recommendation</b>	Approval subject to conditions.
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979, the development has a capital investment value of more than \$20 million.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act and Regulations</li><li>• SEPP (Building Sustainability Index: BASIX) 2004</li><li>• SEPP (Infrastructure) 2007</li><li>• SEPP (State and Regional Development) 2011</li><li>• SEPP (Sydney Harbour Catchment) 2005</li><li>• SEPP No. 55 (Remediation)</li><li>• SEPP No. 65 (Design Quality of Residential Apartment Development) &amp; Apartment Design Guide</li><li>• SREP No. 24 (Homebush Bay Area)</li><li>• Homebush Bay West DCP (as amended by Amendment 1)</li></ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"><li>• Architectural Drawings</li><li>• Landscape Plans</li><li>• Civil Plans</li></ul>
<b>Report prepared by</b>	Alex McDougall, Executive Planner, City Significant Development
<b>Report date</b>	30 November 2016

## Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## 1. Executive summary

The proposal provides for construction of a mixed use development comprising 396 residential units, 2 commercial tenancies in 4-8 storey buildings arranged in a perimeter block form with a 16 storey tower in the western corner of the site. Works also include demolition of the existing warehouse building, subdivision of the site into 4 lots, construction of the extension of 2 roads, landscaping and further public domain works surrounding the buildings. Due to site constraints including contamination and a high water table, parking for the development will be contained primarily above ground within the centre of the site across 4 levels, providing a total of 428 off-street car parking spaces.

The proposed buildings generally follow the form for the site envisaged by the Homebush Bay West Development Control Plan (HBW DCP). Liberal interpretations of some of the controls within the HBW DCP have been allowed based on their historical application by the former Auburn Council to other development in the area.

The proposal has been amended as the result of a design excellence review by City of Parramatta and is considered to provide a high quality of architectural design. The proposal is generally consistent with the requirements of the Apartment Design Guide and as such is considered to provide a high standard of accommodation for future occupants. The amenity impacts on adjoining and nearby properties are considered to be reasonable based on the high-density character of the area and the built forms envisaged by the controls. It is considered that the proposed increase in traffic would not compromise the efficient function of the local road network.

The proposed subdivision also provides a development lot for the adjoining block of land to the east (Block B) which is subject to a concurrent development application (DA/696/2016).

The application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant State and local planning controls. On balance the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval is recommended subject to conditions.

## 2. Site description, location and context

### *Statutory Context*

The Wentworth Point area is undergoing significant redevelopment. Much of the peninsula is reclaimed land historically used for industrial uses. The Homebush Bay West Development Control Plan 2004 established design controls for residential and commercial uses. The Director General subsequently adopted Amendment No. 1 to the DCP which permits additional floor space and building heights in consideration of a Voluntary Planning Agreement (VPA) between developers within the Wentworth Point Precinct and RMS to construct a pedestrian, cycle and public transport bridge across Homebush Bay to Rhodes.

### *Site*

The site is located within Precinct E as defined by the Homebush Bay West DCP (see Figure below). The precinct is comprised of 9 Baywater Drive (completed mixed use development outlined below), 6-8 Baywater Drive (the subject site) and the existing foreshore walkway. The foreshore walkway is approximately 1,700m<sup>2</sup> and has previously been dedicated to Community Title as public open space.

The land to which this development proposal relates is contained within the remaining

undeveloped stage of Precinct E known as Lot 18 DP 270113, 6-8 Baywater Drive, Wentworth Point. The subject site is approximately 28,000m<sup>2</sup>.



Figure 1. Precinct map of Wentworth Point as defined by HBW DCP (subject site in red)

#### *Nearby Applications*

DA-313/2010, adjoining completed development to the north-west at 9 Baywater Drive, was approved by the Joint Regional Planning Panel by way of Deferred Commencement on 5 May 2011. This consent was subsequently made operational on the 15 June 2011. The approval was for the construction of a residential flat building, incorporating 4 buildings with a height of 8 storeys incorporating 323 units over basement carparking & associated landscape and drainage works. The subject approval granted 24,874 square metres of residential floor space and did not provide any public open space.

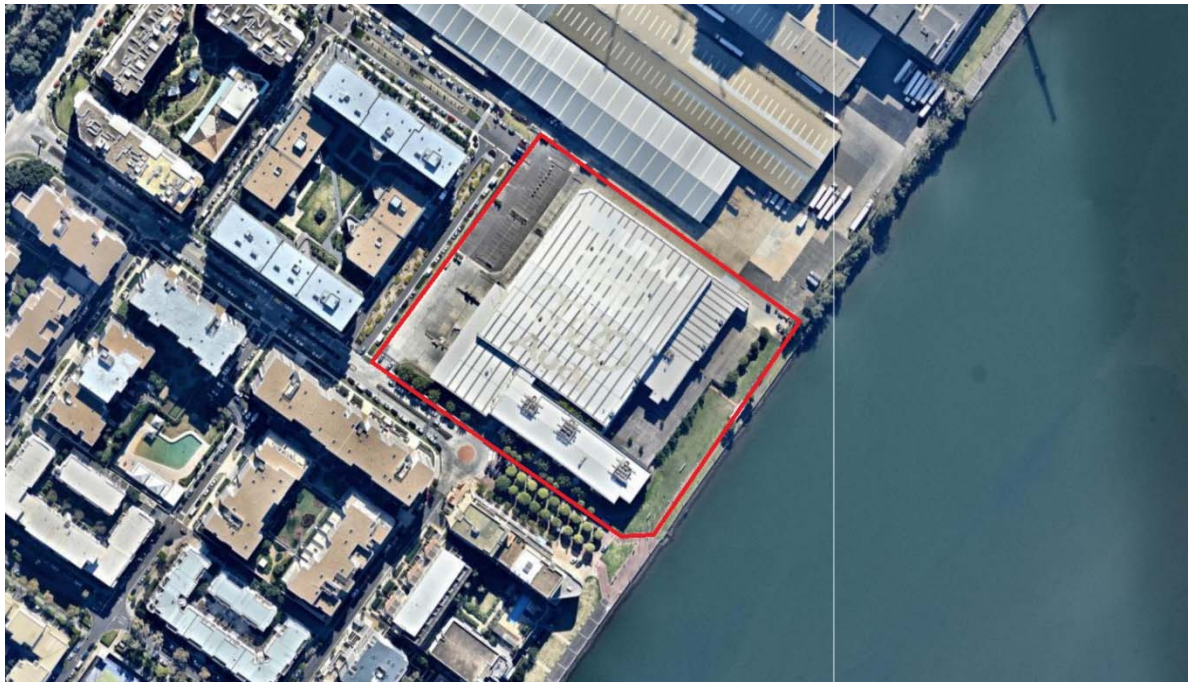
#### *Background*

The subject application was submitted to the former Auburn Council on 22 December 2015. The land the subject of this application became part of the City of Parramatta as a result of the NSW local government mergers which occurred 12 May 2016. Former Auburn Council officers continued assessment of the proposal subject to a transitional agreement with the City of Parramatta. Auburn officers recommended the application be approved and signalled their intention to send the application to JRPP for determination.

City of Parramatta officers questioned certain aspects of the scheme and formerly took over control of the assessment process. City of Parramatta officers outlined their concerns in a

briefing to the JRPP. The JRPP agreed that the application could not be determined in its current form and raised several concerns.

Subsequently the applicant submitted revised drawings, outlined below, resolving Parramatta Council officer concerns.



**Figure 2.** Aerial view of locality (subject site in red).

### *Site Improvements & Constraints*

The site is currently occupied by a large late 1990s warehouse and ancillary office building. The site is not located within the vicinity of any heritage items. The site is on land previously used for heavy industrial activities and as such is likely contaminated. The land is also likely to contain acid sulphate soils. The site is located on reclaimed land and as such is unlikely to contain items of archaeological or aboriginal significance.

## **3. The proposal**

The proposal includes the following:

- Demolition of existing commercial building and site structures;
- Subdivision of block into 4 lots:
  - Lot 34 (Development Lot 'Block A'): 8,844m<sup>2</sup>
  - Lot 35 (Development Lot 'Block B'): 9,719m<sup>2</sup>
  - Lot 36 (Right of Carriageway – Roads): 6,044m<sup>2</sup>
    - including 50 on-street car parking spaces
  - Lot 37 (Right of Carriageway – Public Open Space): 3,394m<sup>2</sup>
- Construction of mixed use development on Block A comprising 4 x 4-8 storey buildings and a 16 storey tower containing:
  - 396 residential apartments (139 x 1-bed, 228 x 2-bed and 29 x 3-bed);
  - 2 commercial tenancies;
  - 428 off-street car parking spaces;
- Landscaping.



**Figure 3.** Photomontage of proposal as viewed from corner of Baywater Drive and Monza Boulevard (left) and corner of Marine Parade and Baywater Drive (right).



**Figure 4.** Photomontage of proposed communal roof terrace.



**Figure 5.** Photomontage of proposed internal communal courtyard.

#### 4. Referrals

## Integrated Development

Water NSW	General Terms of Approval not required.
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## Internal Referrals (Former Auburn Council)

Landscape & Tree Officer	Acceptable subject to conditions.
Development Engineer	Acceptable subject to conditions.
Environmental Health	Acceptable subject to conditions.

## External Referrals

RMS	No objection.
NSW Police	Acceptable subject to conditions.
Sydney Olympic Park Authority	Acceptable subject to conditions.

## Joint Regional Planning Panel Briefing

Briefing 21/09/2016	<ul style="list-style-type: none"><li>Acknowledged that an increase in density allowed on site by Homebush Bay West DCP Amendment 1, combined with the impracticality of providing basement car parking, results in the need to provide and screen several levels of above ground parking and that this puts pressure on height and floor space.</li><li>Concern that the application had not been subject to a design excellence review.</li><li>Concern that the proposed public domain interface, which includes large blank walls directly on the boundary, was not acceptable.</li></ul>
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## Design Excellence (City of Parramatta)

In response to the JRPP concerns relating to lack of consideration of the application by a design review panel, the proposal was put to City of Parramatta's Design Excellence Review Panel (DEAP). Council's City Architect and Urban Design team met with the applicant to discuss DEAP comments. Subsequently the applicant submitted revised drawings which addressed all outstanding concerns. The modifications were as follows:

- Softening of hard edges to public domain by increasing ground level setback, introducing stepped planters, and shifting units from tower to base of East Block.
- Reduction in the number of tower units to reduce number of snorkel bedroom windows.
- Change to the form of the tower curves to provide more symmetry.
- Separation of tower element clearly from the perimeter blocks.

## 5. Environmental Planning and Assessment Act

The sections of this Act which require consideration are addressed below:

### 5.1 Section 5A: Significant effect on threatened species, populations or ecological communities, or their habitats

Council's Landscape and Tree Officer has considered the application and raises no objection to the extent of tree removal. The proposal is not considered to have a significant effect on threatened species, populations or ecological communities, or their habitats.

## 5.2 Section 79C: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

<b>Provision</b>	<b>Comment</b>
Section 79(1)(a)(i) - Environmental planning instruments	Refer to section 6
Section 79C(1)(a)(ii) - Draft environmental planning instruments	Refer to section 7
Section 79C(1)(a)(iii) – Development control plans	Refer to section 8
Section 79C(1)(a)(iiia) - Planning agreement	Refer to section 9
Section 79C(1)(a)(iv) - The Regulations	Refer to section 10
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 79C(1)(b) - Likely impacts	Refer to section 11
Section 79C(1)(c) - Site suitability	Refer to section 12
Section 79C(1)(d) – Submissions	Refer to section 13
Section 79C(1)(e) - The public interest	Refer to section 14

Table 2: Section 79C(1)(a) considerations

## 6. Environmental planning instruments

### 6.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Sydney Harbour Catchment) 2005
- SEPP No. 55 (Remediation)
- SEPP No. 65 (Design Quality of Residential Apartment Development)
- SREP No. 24 (Homebush Bay Area)

Compliance with these instruments is addressed below.

### 6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal. Nonetheless, a condition will be imposed to ensure such commitments are fulfilled during the construction of the development.

### 6.3 State Environmental Planning Policy (Infrastructure) 2007

Consistent with Schedule 3 of this Policy the application constitutes 'traffic generating development'. As such the proposal was referred to Roads and Maritime Services (RMS), who did not raise any objection, nor recommend that any conditions be imposed.

### 6.4 State Environmental Planning Policy (State and Regional Development) 2011

As this proposal has a Capital Investment Value of more than \$20 million, Part 4 of this Policy provides that the Sydney West Central Planning Panel is the consent authority for this application.

### 6.5 State Environmental Planning Policy (Sydney Harbour Catchment) 2005

This Policy, which applies to the whole of the Parramatta local government area, aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases.

## **6.6 State Environmental Planning Policy No. 55 – Remediation of land**

A preliminary site investigation report was submitted with the application which outlined the following:

- That the site had a history of land use likely to have resulted in contamination including:
  - 1959 – 1965: poor quality fill in small pockets used for land reclamation;
  - 1965 – 1994: use of the site and wider area for lumber and sawmilling operations; and
  - 1994 – 1997: use of the site for cleaning and repair of steel shipping containers, with onsite refuelling of forklifts.
- The previous contamination investigations and remediation undertaken on site.
- Mitigating factors specific to the subject application:
  - The proposal would maintain and reuse the ground level slab of the existing warehouse building on the site minimising the need to disturb the existing ground level.
  - Large portions of the site will be substantially raised with imported virgin fill material which would reduce the likelihood of contamination pathways.

The report concluded by stating that, *“Based upon the low-level contamination and the proposed high-density residential land use there should be no unacceptable risk to future occupants of the site or users of the public park, pending completion of additional coverage soil investigation at building footprint areas not previously investigated”*.

Auburn Council officers raised concern as to the management of contaminants as discovered during additional testing as required by the submitted report. In this regard, Council officers required a Remediation Action Plan (RAP) to facilitate this requirement so as to ensure compliance with Clause 7 of the State Environmental Planning Policy No. 55 – Remediation of Land.

Subsequently the applicant submitted a Remediation Action Plan which was forwarded to Council's Environmental Health Officer who raised no objection subject to the imposition of conditions. The recommendations and mitigation measures proposed within the submitted reports are considered suitable for the purposes of managing contamination on site.

Given that satisfactory evidence has been provided that the site can be made suitable for the proposed development, Council officers can be satisfied that Clause 7 of SEPP 55 has been adequately addressed. Suitable conditions will be imposed on the development to ensure that the recommendations/mitigation measures are adhered to.

## **6.7 State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)**

SEPP 65 applies to the development as the proposal is for a new building, is more than 3 storeys in height and will have more than 4 units. SEPP 65 requires that residential flat buildings satisfactorily address 9 design quality principles, be reviewed by a Design Review Panel, and consider the recommendations in the Apartment Design Guide.

### **Design Quality Principles**

A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect and submitted with the application. The proposal is considered to be consistent with the design principles for the reasons outlined below:

<b>Requirement</b>	<b>Council Officer Comments</b>
<b>Principle 1: Context and Neighbourhood Character</b>	<p>The proposed development is considered to make a positive contribution to the locality and improve the existing streetscape. The character of this locality is undergoing transition from industrial uses, to high density mixed use developments within the Wentworth Point peninsula. This proposal is consistent with that shift.</p> <p>The following can be noted;</p> <ul style="list-style-type: none"> <li>· The existing character of Wentworth Point is a mixture of industrial buildings and residential apartments. This is due to the transition of Council's desired future character for the area indicating strength in residential growth and infrastructure. The proposed development suits the future character of the area.</li> <li>· Wentworth Point Bridge is constructed connecting the peninsula to the Rhodes community. The bridge enhances cycle and pedestrian routes, and connects the site to Rhodes Railway station, only 1.2km away.</li> <li>· Two public streets are proposed to be extended increasing connectivity and accessibility with the proposed buildings and the Wentworth Point community.</li> </ul>
<b>Principle 2: Built Form and Scale</b>	<p>The height and location of the proposed building forms is generally consistent with the built form outlined under the SREP No. 24 and HBW DCP and its associated amendments.</p> <p>While the tower form is slightly larger than the tower form outlined in the DCP, the applicant has demonstrated that the form as proposed provides better solar access to the proposed units and would not result in an unacceptable impact on the solar access of adjoining and nearby units to the south of the site.</p>
<b>Principle 3: Density</b>	<p>The site forms part of a precinct with a defined allocation of floor space under the provisions of SREP No. 24 and HBW DCP and its associated amendments. As outlined below the proposal is considered to consistent with the interpretation of this floor space as realised through the Wentworth Point precinct. As such the proposed density is considered to be acceptable.</p>
<b>Principle 4: Sustainability</b>	<p>A BASIX Certificate and relevant reports have been submitted with the development application.</p> <p>The certificates require sustainable development features to</p>

Requirement	Council Officer Comments
	<p>be installed into the development.</p> <p>The proposal will incorporate features relating to ESD in the design and construction of the development inclusive of water efficient fixtures and energy saving devices.</p> <p>The development achieves a good level of cross ventilation throughout the development with a majority of the proposed units having dual aspects or diagonal cross ventilation.</p> <p>The application has given suitable provision of bicycle parking for both visitors (provided in accessible areas) and residents (provided in secure areas). Additionally, two car share spaces have been provided to allow for future use if a car share scheme is adopted for the precinct.</p>
<b>Principle 5: Landscape</b>	<p>This development proposed is consistent with the objectives of the HBW DCP and provides appropriate screen planting, street planting, private courtyards, neighbourhood park and foreshore promenade to create an appropriate landscape setting.</p>
<b>Principle 6: Amenity</b>	<p>Generally, the proposal as amended is considered to be satisfactory in this regard, optimising internal amenity through appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.</p> <p>A satisfactory wind assessment report has been provided which concludes that wind conditions around the site are expected to be suitable for pedestrian walking activities and pass the distress criterion under Lawson without any additional wind mitigation measures.</p>
<b>Principal 7: Safety</b>	<p>The proposal is considered to provide appropriate safety for occupants and the public for the following reasons:</p> <ul style="list-style-type: none"> <li>· The majority of units are orientated towards public streets creating passive surveillance.</li> <li>· New streets are pedestrian friendly and will be well lit.</li> <li>· Entry points into all buildings are clearly identifiable for ease of access with residents and visitors.</li> <li>· Security points will restrict unwanted visitors into private domain.</li> <li>· Retail components along Baywater Drive and Baywater Plaza will activate the precinct to further enforce a sense of passive surveillance.</li> </ul>
<b>Principal 8: Housing Diversity and Social Interaction</b>	<p>This principle essentially relates to design responding to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community. It is considered that the proposal satisfies these requirements, providing additional housing choice within the area in close proximity to public transport.</p>
<b>Principle 9: Aesthetics</b>	<p>The proposed development is considered to be appropriate in terms of the composition of building elements, textures,</p>

Requirement	Council Officer Comments
	materials and colours and reflect the use, internal design and structure of the resultant building. The proposed building is considered aesthetically to respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

### ***Design Review Panels***

As outlined above the application was referred to City of Parramatta's Design Excellence Review Panel in keeping with the requirements of this clause.

During the course of assessment the applicant submitted revised drawings with the following changes in response to concerns raised by the JRPP, Council's DEAP and Council officers:

- Revised tower form to reduce its bulk and improve its relationship to the perimeter blocks.
- Reduction in number of tower units to minimise bedrooms with narrow slot outlooks.
- Increased ground floor setbacks, stepping and planting to screen above ground car parking.
- Additional units on ground floor of east block to reduce blank wall to public domain.

### ***Apartment Design Guide***

The relevant provisions of the ADG are considered within the following assessment table:

Standard	Requirement	Proposal	Compliance
<b>Legend: NB – North Block, EB – East Block, SB – South Block, WB – West Block, TW - Tower</b>			
<b>Part 2</b>			
<b>2A to 2D, 2G to 2H:</b>	The primary controls were established by the Department of Planning through a site analysis of the surrounding existing buildings as well as an analysis of future desired character of Wentworth Point. The HBW DCP has set 8 storey building heights for buildings facing Monza Bld, Baywater Drive and Nuvolari PI, and a 4 storey building towards Marine Parade. A tower component of 16 storeys is indicatively located at the intersection of Monza Bld and Baywater Dr.		
<b>2E: Building Depth</b>	12-18m, glass line to glass line	<b>NB: up to 23.0m EB: up to 21.4m SB: up to 21.7m WB: up to 21.4m TW: up to 31.0m</b>	<b>No</b>
	The 3.3m ceiling heights, wall breaks and building articulation, and varying overall building heights ensure that adequate solar and natural ventilation requirements are achieved. While the tower form is particularly deep, it is noted that in accordance with 5.3.5(iii) of the HBW DCP Amd No.1, glass line to glass line distance may be greater than 18m in instances of tower forms.		
<b>2F: Building Separation</b>	NB – WB (12m) SB – EB (10.5m) EB – NB (10.5m) EB – WB (10.5m) NB – SB (12m)	<b>9.7m 9.7m 9.7m 20.5m 67m</b>	<b>Partial</b>

	While the proposal provides slightly deficient building separation the proposal is considered to be acceptable as the gaps are generally consistent with those found throughout Wentworth Point. Furthermore, the facades facing each other have been carefully designed to direct outlook away from each other.		
Part 3			
3B: Orientation	The buildings have been located in accordance with the block pattern associated with the HBW DCP Amd no. 1. The tilting of the tower form optimises solar access whilst reducing shadowing on adjoining development.		
3C: Public Domain Interface	The public domain interface is considered to positively contribute to the streetscape by providing high quality materials and distinct access to residential use foyers. The separation between the private and public domains is established by stairs, level changes, planting and paving material. The ground floor consists of two commercial tenancies and residential apartments in accordance with the topography of the land and limited excavation proposed. Setbacks are in accordance with the HBW DCP. Where solid walls project above ground level, they are appropriately set back and screened by planting.		
3D: Communal & Public Open Space	Min. 25% of site area (2,211m <sup>2</sup> )	3,466m <sup>2</sup> (39.1% of Block A) of communal open space inclusive of podium level and two roof top terraces.	Yes
	Min. 50% direct sunlight to main communal open space for min. 2hrs 9am & 3pm, June 21 <sup>st</sup> (1,106m <sup>2</sup> )	The central podium level has winter solar access for 40% of the podium for 1 hour. This is compensated by the 2 roof top terraces which have near full winter solar access 9am to 3pm.	
	The proposal includes podium roof open space accessible internally from lobbies and externally from the street as well as roof top space on the tower and northern blocks. The landscape plan outlines a variety of seating, shading structures, soft landscaping, planting and the like in these areas that will ensure they are of good amenity to residents.		
3E: Deep Soil	Min. 7% with min. dimensions of 6m for sites of 1500m <sup>2</sup> or greater (619m <sup>2</sup> )	Deep soil zone is very limited in nature as a result of the site constraints. Deep soil zones are limited to street setbacks only (~60m <sup>2</sup> ).	No
	A suitable landscaping scheme has been submitted which provides for adequate plantings including trees in the internal courtyard, building surrounds, public domain and road network to be constructed. This is seen to be consistent with the HBW DCP and other buildings within the peninsula. It is considered that the public park and foreshore promenade will facilitate a satisfactory amount of deep soil to ensure compliance for this part when considering the application as a whole (i.e. blocks A and B).		
3F: Visual Privacy	<ul style="list-style-type: none"><li>• 5 to 8 storeys: 9m (NH) - 19m (H)</li><li>• 9 storeys or more: 12m (NH), 24m (H)</li></ul> <p>*(NH) – non-habitable rooms *(H) – Habitable rooms</p>	9.7m – 19.8m	Partial

	Visual privacy between the blocks is maintained by a combination of external louvers, blade windows, offset windows, and placing secondary habitable spaces nearest to adjoining buildings. The common open space on the podium level is separated from the private terraces via the use of planter boxes and fence structures. Overall, given the scale of development that is envisaged on site, and the character of the area, the visual privacy is considered to be sufficient.		
<b>3G: Pedestrian Access and Entries</b>	<p>The proposal incorporates direct entry for most ground floor apartments, three external entrances to the central courtyard and each building block is provided with a separate entrance lobby.</p> <p>The lobby locations are differentiated with different materials from the primary facades and provided within large open spaces with void areas above to increase visibility from the street. Each lobby is serviced by 1-3 lifts/fire stairs to facilitate access to other lobby floors.</p> <p>It is considered that suitable pedestrian access will be accommodated on site and will be in the form of grade ramps, paths access ways and lifts.</p> <p>Separate entries have been provided for pedestrian and vehicles.</p>		
<b>3H: Vehicle Access</b>	<p>The proposal incorporates 2 separate vehicular entry points which will help spread out the traffic entering and exiting the site during peak periods.</p> <p>Vehicular entry points are separated from building entry points to improve pedestrian safety and comfort.</p> <p>Garbage collection is made inside the car park with the entry point at Marine Parade.</p>		
<b>3J: Bicycle and car parking</b>	The site is not located within 800m of a train station or 400m of a regional centre. As such the HBW DCP controls apply. Due to site constraints the parking is mostly above ground. The car park area is naturally ventilated, with openings appropriately screened with landscaping.		
<b>Part 4</b>			
<b>4A: Daylight / Solar Access</b>	<p>Min. 2hr for 70% of 298 out of 396 apartments Yes apartments living &amp; POS (75.3%) 9am &amp; 3pm mid-winter (&gt;277);</p> <p>Max 15% apartments 50 out of 396 apartments Yes receiving no direct sunlight (12.6%) 9am &amp; 3pm mid-winter (&lt;60)</p> <p>The facade includes operable vertical louvers which will allow occupants to manage solar gain.</p>		
<b>4B: Natural Ventilation</b>	Min. 60% of apartments naturally ventilated	271 out of 396 apartments (68.4%)	Yes
<b>4C: Ceiling heights</b>	Min. 2.7m habitable, 2.4m non-habitable for residential	3.3m	Yes
	3.3m for mixed use	4m	Yes

<b>4D: Apartment size &amp; layout</b>	Min. internal areas:		
	1B – 50m <sup>2</sup>	1B – min. 50m <sup>2</sup>	Yes
	2B – 70m <sup>2</sup>	2B – min. 70m <sup>2</sup>	
	3B – 90m <sup>2</sup>	3B – min. 100m <sup>2</sup>	
	Min. internal areas to include only 1 bathroom. Additional bathrooms must increase min. internal area by 5m <sup>2</sup> each.	Noted. Apartments that have 2 bathrooms have been accounted for and the total internal area increased accordingly.	Yes
	All rooms to have a window in an external wall with a total minimum glass area not less than 10% of the floor area of the room.	Complies	Yes
	Habitable room depths max. 2.5 x ceiling height (2.5 x 3.3 = 8.25m)	<b>Up to 9.5m</b>	<b>Partial</b>
	Max. habitable room depth from window for open plan layouts: 8m.	<b>Up to 9.5m</b>	<b>Partial</b>
	Min. area 10m <sup>2</sup> for master bedroom, 9m <sup>2</sup> for others (excl. wardrobe space).	Complies	Yes
	Min. 3m dimension for bedrooms (excl. wardrobe space).	All bedrooms have a minimum dimension of 3m excluding wardrobes.	Yes
	Min. width for living/combined living & dinning:		
	1B – 3.6m	>3.6m	<b>Partial</b>
	2B – 4m	<b>&gt;3.7m</b>	
<b>4E: Private open space &amp; balconies</b>	3B – 4m	>4 m	
	Min. area/depth:		
	1B - 8m <sup>2</sup> /2m	>8m <sup>2</sup> /2m	<b>Partial</b>
	2B - 10m <sup>2</sup> /2m	>9m <sup>2</sup> /2m	
	3B - 12m <sup>2</sup> /2.4m	<b>&gt;12m<sup>2</sup>/2m</b>	
	Ground/Podium - 15m <sup>2</sup> /3m	>12m <sup>2</sup> /3m	
Access is provided directly from living areas and where possible, secondary access is provided from primary bedrooms. Balustrades on the upper floors are see through to promote views however primary living rooms are setback from the balcony edge to maximise privacy. The separation between the private and public domains is established by stairs, level changes and paving material. While some of the 3 bed units have external open space slightly deficient in width this is considered to be acceptable given the good communal open space options available to the development.			

<b>4F: Common circulation &amp; spaces</b>	<p>Max. apartments –off circulation core on single level: 8</p> <p>10 storeys or over, max. apartments sharing single lift: 40</p> <p>Corridors longer than 12m length from lift core to be articulated.</p> <p>Absolute max. for apartments off circulation core on single level: 12.</p> <p>Where more than 8 units have been allocated off a single corridor, substantial openings have been provided to allow natural ventilation to these spaces, high floor to ceiling height, wide 2m walkways allow for interesting lobby and corridor treatments.</p> <p>While the tower core is slightly over subscribed to lifts, the 8 units on level 2 have direct access to the car park and as such will exert less demand on the lifts. Furthermore, the lower levels of the tower also have access to the lifts in West Block which will reduce demand.</p>	<p><b>NB: up to 14</b>  <b>EB: up to 10</b>  SB: 5  WB: 7  <b>TW: up to 12</b></p> <p><b>Tower 16 storey – 56 units per lift</b></p> <p>Complies.</p> <p>Max. 10 per lift core.</p>	<p><b>Partial</b></p> <p><b>No</b></p> <p>Yes</p> <p>Yes</p>
<b>4G: Storage</b>	<p>Min. storage areas:</p> <p>1B – 6m<sup>3</sup>  2B – 8m<sup>3</sup>  3B – 10m<sup>3</sup></p> <p>Min. 50% required in Basement.</p>	<p>1B min – 6m<sup>3</sup>  2B min – 8m<sup>3</sup>  3B min – 10m<sup>3</sup></p> <p>Provided.</p>	<p>Yes</p> <p>Yes</p>
<b>4H: Acoustic Privacy</b>	<p>The proposal has been designed so that like-use areas of the apartments are grouped to avoid acoustic disturbance of neighbouring apartments where possible. Noisier areas such as kitchens and laundries are designed to locate away from bedrooms when possible. Some units have been designed to have direct access to car parking areas. This is not considered to be appropriate for acoustic amenity, security, and good air quality. As such a condition is included requiring that these units have internal access to a common lobby area.</p>		
<b>4J: Noise and pollution</b>	<p>The application includes an acoustic report which recommends construction methods / materials / treatments to be used to meet the criteria for the site, given both internal and external noise sources and the proximity to Hill Road and high density residential development.</p>		
<b>4K: Apartment mix</b>	<p>The development has the following bedroom mix:-</p> <ul style="list-style-type: none"> <li>• 139 x 1 bedroom apartments</li> <li>• 228 x 2 bedroom apartments</li> <li>• 29 x 3 bedroom apartments.</li> </ul> <p>These units vary in size, amenity, orientation and outlook to provide a mix for future home owners. A variety of apartments are provided across all levels of the apartment building.</p>		

<b>4L: Ground floor apartments</b>	Ground floor units where possible have direct street access. Units facing the level 3 communal podium are also treated as if facing a street and are landscaped accordingly. Ground floor apartments incorporate raised terraces of approximately 1 – 2m to be consistent with the topography. Further detail of the planting in these terraces will be required by condition.
<b>4M: Facades</b>	The proposal provides a clear and legible distinction between the perimeter buildings and the tower element. The open balcony form of the perimeter building units and the wintergarden form of the tower units is considered to be appropriate given their relative exposure to sun and wind. The perimeter building units are well designed with a combination of planters, vertical louvers, hidden air conditioning and balustrades to provide a high level of articulation and design feature treatments resulting in a visually interesting landscape. Each block is punctuated by a recessed lobby void which reduces the horizontality of the long street elevations.
<b>4N: Roof design</b>	The proposed building is to have a flat roof which is considered to be appropriate given the horizontality of the design. Rooftop plant and lift overrun are to be suitably setback to ensure they are not visible from the street. Rooftop communal open spaces have been incorporated into the building, increasing the amenity of the building.
<b>4O: Landscape Design</b>	The application includes a landscape plan which demonstrates that the proposed building will be adequately landscaped given its high density form. The proposal includes landscaping at ground level to screen car parking areas, planter boxes integrated into the façade of the building, and well landscaped rooftop spaces which will provide ancillary open space for occupants. The proposed landscaping will also adequately provide habitat for local wildlife; contributing to biodiversity.
<b>4P: Planting on structures</b>	The drawings outline that planting on structures would have adequate soil depth to accommodate good quality planting.
<b>4Q: Universal Design</b>	20% total apartments (79) 90 adaptable apartments Yes (22.7%). The site is considered to be appropriately barrier free with wheelchair access possible from the street and lift access from the basement and to the upper residential floors of the development. Vehicular and pedestrian entries are well separated.
<b>4S: Mixed Use</b>	The proposal is considered to provide an appropriate public domain interface for commercial and residential uses at ground level, by employing clearly delineated entrances, additional landscaping and stepping for residential uses, and varying materials. All commercial parking and service areas are located at the entry level of the car park and on street.
<b>4T: Awnings and Signage</b>	Awnings are provided around the commercial activity areas of the building. No signage is proposed.
<b>4U: Energy Efficiency</b>	The BASIX Certificates demonstrates the development achieves the pass mark for energy efficiency.
<b>4V: Water management and conservation</b>	The BASIX Certificates demonstrates that the development achieves the pass mark for water conservation. All water discharged from the site will pass through a gross pollutant trap before entering the stormwater main system.

<b>4W: Waste management</b>	Waste areas have been located in convenient locations in the parking area, discreet from the external building appearance. Waste collection would occur within the parking area and via waste chutes, minimising any refuse visible from street. A waste management plan has been prepared by a qualified waste consultant adhering to council's waste controls. All units are provided with sufficient areas to store waste/recyclables.
<b>4X: Building maintenance</b>	The proposed materials are considered to be sufficiently robust, minimising the use of render and other easily stained materials. The design of the units allows access to external windows for cleaning.

## 6.8 Sydney Regional Environmental Planning Policy No. 24 (Homebush Bay Area)

The site is subject to the provisions of Sydney Regional Environmental Plan No 24—Homebush Bay Area which does not include zoning. Permissibility is subject to clause 11 which states that, *“development of land within the Homebush Bay Area may be carried out for any purpose that the consent authority considers to be consistent with any one or more of the planning objectives for the Homebush Bay Area”*.

The relevant requirements and objectives of Sydney Regional Environmental Plan Number 24 have been considered in the following assessment table.

Requirement	Comment
Clause 10 - Consent Authorities	As the cost of works (Capital Investment Value of \$101,354,750) exceeds \$20,000,000, the Joint Regional Planning Panel is the determining authority.
Clause 11 - Permissible Uses	The proposed mixed use development is considered to be permissible with consent as it satisfies the requirements of Clause 12 (See below).
Clause 12 Planning Objectives	<p>The proposal is considered to satisfy the objectives of the SREP for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development will not have any significant detrimental impact upon wetlands and woodlands.</li> <li>• The development application will facilitate mixed use development and the redevelopment of the land from industrial use to residential as per the desired future character of the area.</li> <li>• The development includes the extension of both Nuvolari Place and Marine Parade.</li> <li>• The site is well positioned to utilise existing ferry, bus and cycle routes established in the precinct.</li> <li>• Ecological sustainable development principles have been applied.</li> <li>• There are no heritage listed sites situated adjacent or adjoining to the site.</li> </ul>
Clause 16 Master plans	The development is generally consistent with the Homebush Bay West Development Control Plan as amended which has been used primarily in the assessment of the development application.
Clause 18 Services	Supporting documentation demonstrates that suitable services can be made available to the site.
Clause 19 Flood prone Land	The site is identified as being flood affected. Notwithstanding,

Requirement	Comment
	Council's Engineering Department has indicated that the development proposal is satisfactory subject to recommended conditions of consent.
Clause 20 Contaminated land	See assessment under SEPP 55 above.
Clause 20A Acid sulphate soils	<p>Given the limited soil disturbance proposed an acid sulphate plan is not considered to be necessary. The proposal has been supported by a preliminary site contamination assessment and an associated remedial action plan which nominates that if soils are to be disturbed in such a manner, a suitable plan of management of acid sulphate soils would be required to be facilitated. It is recommended that this forms part of a condition of consent to ensure that if it is determined that surface saturated natural sediments are ever excavated and disturbed, a plan of management is facilitated.</p> <p>Council's Environment and Health Unit has raised no issue or objection to the development on acid sulphate soil impacts.</p>
23 Development near an environmental conservation area	The proposal is not considered likely to result in any material impacts on the Millennium Parklands (across Hill Road).
Clause 24 Protection of heritage items and heritage conservation areas	<p>The subject site does not contain any items of heritage and is not identified as a conservation area under Schedule 4.</p> <p>The site is not listed as a heritage item under the plan and a formal and detailed heritage assessment is not required.</p>
Clause 25 Advertised Development	The subject site does not contain any items of heritage and is not identified as a conservation area under Schedule 4.
Clause 27 Development affecting places or sites of known or potential Aboriginal heritage significance	The proposed development will not have any impact upon any identified places or potential places of aboriginal significance or archaeological sites.
Clause 28 Development affecting known or potential historical archaeological sites of relics of non-Aboriginal heritage significance	The subject site is not identified as an archaeological or potential archaeological site.
Clause 29 Development in the vicinity of a heritage item	There are no items of heritage significance or conservation areas in the immediate vicinity of the subject site.
Clause 30 Development in heritage conservation areas	The subject site is not identified as being located within a heritage conservation area.

## 6.9 Local Environmental Plans

The provision of the Auburn Local Environmental Plan (ALEP 2010) is not applicable in this instance and the land falls into the "Deferred Matter" as noted on the LEP Map.

## 7. Draft Environmental planning instruments

There are no draft environmental planning instruments relevant to the subject application.

## 8. Development control plan

## 8.1 Homebush Bay West DCP (as amended)

The relevant objectives and requirements of the Homebush Bay West DCP have been considered in the assessment of the development application and are contained within the following table.

### Cumulative Gross Floor Area

As per the HBW DCP (as amended) the precinct is subject to defined floor space requirements. The total cumulative Gross Floor Area (GFA) for the site is provided in the below table to demonstrate the breakdown distribution of floor space according the requirements of Precinct E (of which the subject site is a part).

	HBWDCP Control GFA (m <sup>2</sup> )	Existing (9 Baywater)	Proposed GFA Block A (m <sup>2</sup> )	Proposed GFA Block B (m <sup>2</sup> )	TOTAL Precinct E (m <sup>2</sup> )
Commercial	Min. 330	0	90	216	306
Retail	Min. 100	122	0	159	281
Residential	Max. 73,549	24,752	28,075	20,722	73,549
<b>Total</b>	<b>Max. 73,979</b>	<b>24,874</b>	<b>28,165</b>	<b>21,097</b>	<b>74,136</b>

**Table 1.** Summary of Precinct E floor space.

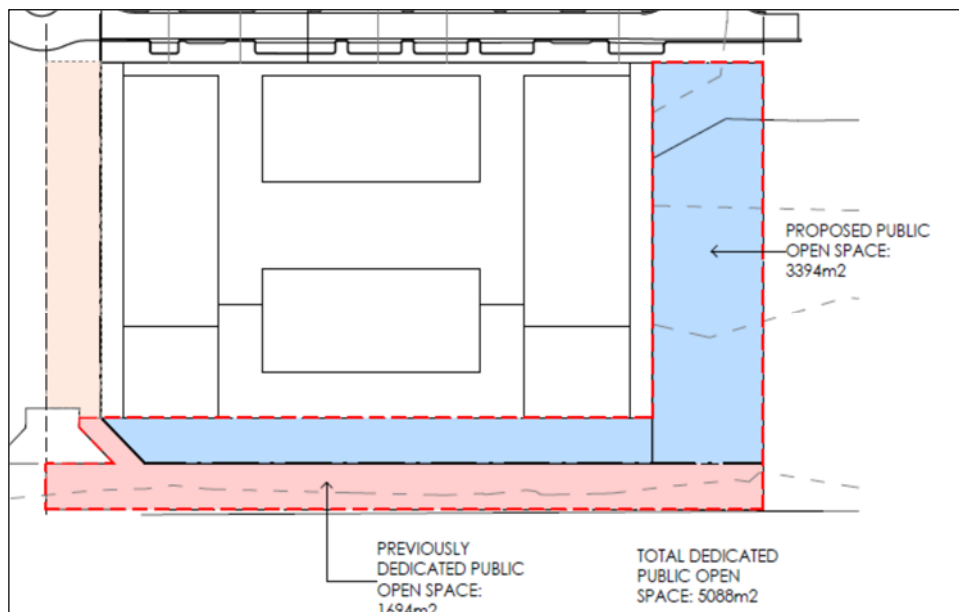
The definition of floor space in the DCP allows an exemption for “*non-habitable areas of the building which do not protrude more than 1.2 metres above ground level that are used for the purposes of:...car, coach and bicycle parking; and ... one level of above-ground car parking entirely contained within a perimeter building, as an internal podium or courtyard, where all the uses ‘wrapping’ the parking are active and have a street address*”. Based on this definition, approximately 2 levels of the proposed car parking would need to be included as floor space. Furthermore, the commercial and retail floor figures reported do not include the associated access, storage areas and bathrooms or the residential corridors as required by the DCP.

The applicant contends that the method for calculating floor space is consistent with the approach taken on other sites in the area of Wentworth Point subject to amendments 1 of the HBW DCP. Further research confirmed that this was the case<sup>1</sup>. Furthermore, the increase in floor space, and associated increase in required car parking under the DCP, coupled with the limited ability to excavate in the area (water table, contamination), restrict the ability of the applicant to provide the required car parking underground. As such the method used to calculate floor space is considered to be acceptable in this instance.

### Public Open Space

The HBW DCP requires that Precinct E provide 5,075m<sup>2</sup> of public open space in the form of a foreshore promenade and an ‘urban plaza’ at the terminus of Nuvolari Place. Concern was raised as to the ability of Block B being able to achieve the Public Open Space area for the entirety of Precinct E, given that the existing Baywater site and subject application do not incorporate any public open space. The applicant has provided a diagram, below, which demonstrates that the proposed urban plaza and foreshore promenade (being 3394m<sup>2</sup>) and the existing foreshore walkway (already dedicated as public open space 1694m<sup>2</sup>) will be sufficient to cater for the public open space area required for the precinct.

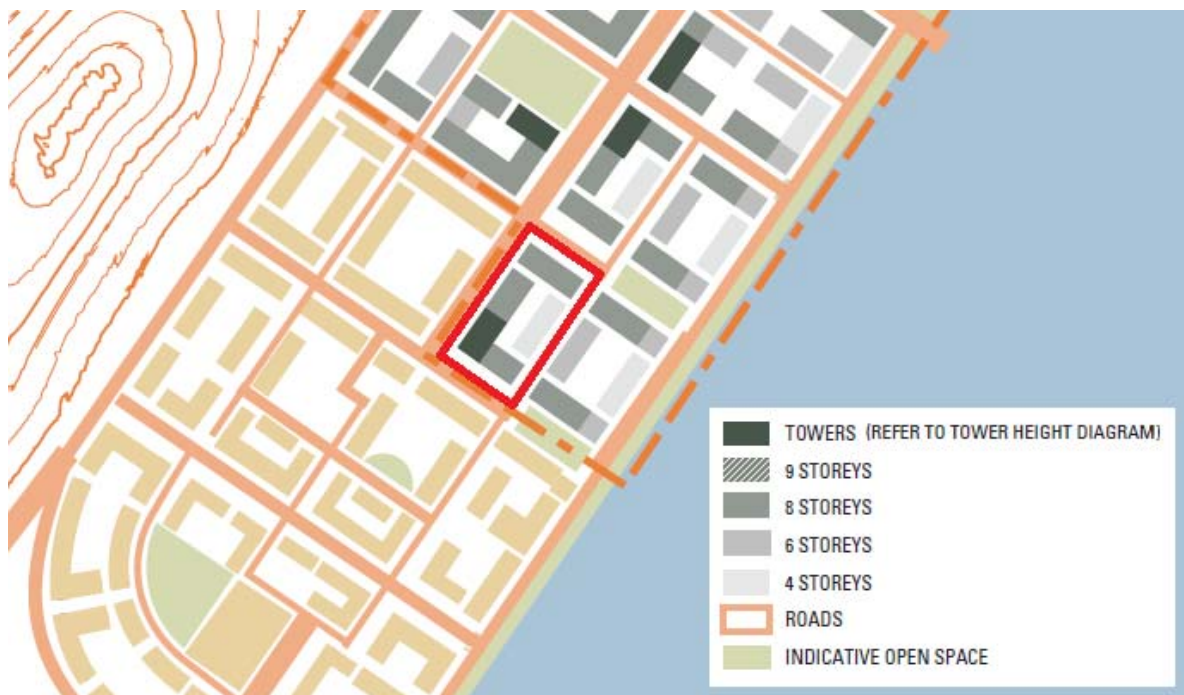
<sup>1</sup> See DA-268/2014 (Precinct B, Block C); DA-437/2014 (Precinct B, Block E); DA-263/2013 (Precinct B, Block G); DA-350/2012 (Precinct C, Block A); DA-400/2013 (Precinct C, Block B); and DA-399/2013 (Precinct C, Block C).



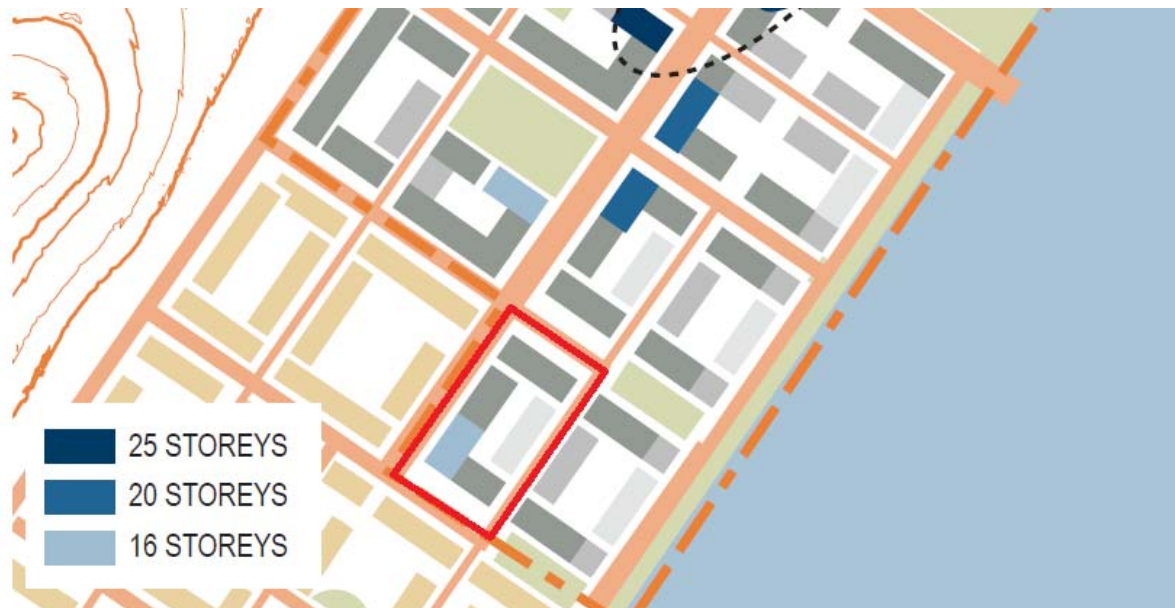
**Figure 6. Dedication of open space as part of Block B.**

The proposal does not provide detail of how the new public domain areas will be landscaped. The foreshore promenade was not upgraded to the standard outlined in the current DCP at the time it was dedicated to community title. This information has been provided as part of the concurrent application for development of Block B. Conditions of consent will be included in that consent to ensure the public domain areas are appropriately landscaped and upgraded.

### Building Height



**Figure 7. Extract from Homebush Bay West DCP 2004 Amendment 1 (subject site outlined in red).**



**Figure 8.** Extract from Homebush Bay West DCP 2004 Amendment 1 (subject site outlined in red).

Clause 5.3.2 of Homebush Bay West DCP Amendment 1 outlines the allowable building heights for the site. The DCP allows 4-16 storeys on the site in accordance with the figures above.

The definition of storeys in the DCP states that, “*Storey is a level in a development. This includes attic spaces with habitable rooms. It does not include space used for car parking, laundries or storeroom if the ceiling above the space is not more than 1200mm (measured from the lowest point on the development site) above ground level*”.

Based on the definition of storeys in the DCP and the proposed site levels the proposal breaches the height limit in several locations (see table below).

DESIGN CRITERIA	REQUIRED	PROPOSED	COMPLY?
West Block	8	9	NO
East Block	4	5	NO
North Block	8	8 – 9	NO
South Block	8	9	NO
Tower	16	17	NO

The ground floor level, which is composed primarily of car parking, is more than 1200mm above ground level and as such counts as a storey in the above table. While this breach of the control could be resolved by setting the parking level further underground that is not possible on the site due to contamination and water level constraints. While not as wide spread as the alternative floor space interpretation outlined above, there are several examples of development applications in the area in which such ground levels were not included in the height assessment<sup>2</sup>. For these reasons, and as the breach also arises out of the increased parking obligations resulting from Amendment 1 to the HBW DCP, the non-compliance is considered to be justified.

### Building Bulk and Pattern

The proposal provides buildings generally of the form and in the location identified for Precinct E in the HBW DCP.

<sup>2</sup> See DA-350/2012/A (Precinct C, Block A); DA-400/2013/A (Precinct C, Block B); and DA-308/2010/E (Precinct C, Block D).

However, the tower element proposed is larger than outlined in the DCP, ostensibly to improve the amenity of the proposed units by achieving a better outcome with regard to SEPP 65 and the ADG relating to solar access, as well as to improve access to views. The floor plate of the tower is 1050m<sup>2</sup>, which is slightly in excess of the maximum 950m<sup>2</sup> floor plate requirement as per 5.3.3 (i) of the HBW DCP.

The application has been supported by further diagrams which demonstrate that the angling of the subject buildings would still achieve suitable building separation and have minimal impact of overshadowing on adjoining developments (see Separation section below).

### **Building Setbacks**

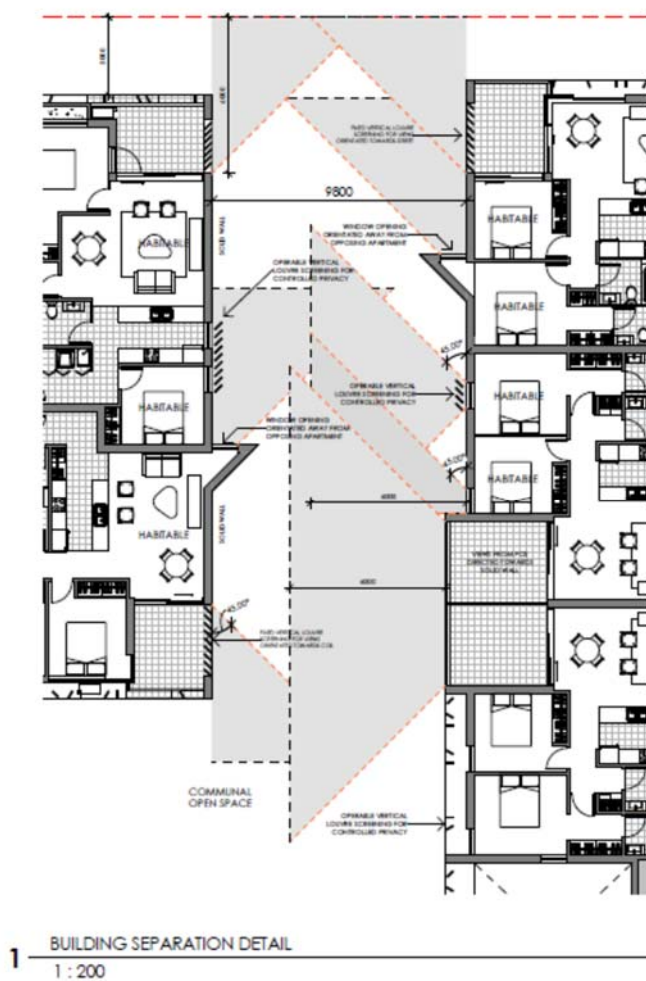
The proposal incorporates a built form setback of 3 metres for Monza Drive, 3 metres for Marine Parade and 5 metres for both Baywater Drive and Nuvolari Place with the exception of the ground floor, where in some instances a setback of 0 metres is provided to ground floor terraces. The applicant has noted that, although strict numerical compliance is not achieved with the amended plans, they are consistent with the existing context and built forms in the locality. The amended plans show a suitable interface with the public domain, with the provision of stepped planter boxes provided between private entries to ground floor units for the majority of the street frontage

Suitable documentation has been provided to demonstrate that encroachments on the ground floor have been consistent within the locality. Given that the encroachment relates to the ground floor terraces only (being softened by a 1-2m landscaped buffer) and not the main building form, it is considered that this minor departure is considered acceptable in this instance.

### **Separation**

Visual privacy has also been addressed by the applicant internally of the site, where the following design features have been provided to optimise privacy:

- Angled bay windows direct views away from opposing apartments
- Operable vertical louvres control visual privacy dependant on the function of the room
- Solid walls to allow larger openings on the opposing apartments dependant on the function
- Fixed vertical louvres direct views from opposing apartments without compromising other
- Private open spaces orientated towards the street for passive surveillance


$$M_1 = \frac{1}{2} M_2 = \frac{1}{4} M_3 = \frac{1}{8} M_4 = \frac{1}{16} M_5$$

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The local roads to be constructed as part of the subject development, comprising the extension of Nuvolari Place and Marine Parade, are generally consistent with that identified within HBW DCP 2004 with respect to the creation of a hierarchy of major and minor streets and corresponding intersection hierarchy.

The proposed roads generally conform to the HBW DCP with the exception of a minor variation with respect to the location of the extension to Marine Parade. It is proposed that the alignment of this road be slightly shifted to the east to facilitate a sufficiently sized development lot. The abovementioned realignment has already been formally approved under DA-19/2015 (Precinct D) to facilitate a continuous road network. An assessment of the impact of the realignment on the ultimate design of the roundabout controlled intersection of Marine Parade and Bayswater Avenue was undertaken in association with the Stage 1 DA of the adjoining Lot 8 (DA-19/2015) and found to be satisfactory. The roundabout at Bayswater Drive and Marine Parade is large enough to accommodate the changed alignment with no impact on traffic or pedestrian safety.

It should be noted that the application is accompanied by a Traffic Impact Assessment prepared by Thompson Stanbury which concludes that the proposal will function satisfactorily.

A condition is included that the roads be provided prior to occupation.

### Foreshore Street

The proposed development does not provide a foreshore road, as envisaged by the DCP. DA-19/2015 approved a stage 1 concept plan for the adjoining site, precinct D, that was not inclusive of a foreshore street. Given the requirement for a Public park between Precincts D and E and no continuity of the foreshore road across precinct D, there is no opportunity for Precinct E to provide a foreshore street.

### Footpaths

The proposed footpaths bounding Block A comply with the requirements outlined in the HBW DCP (see table below).

	Required	Proposed	Comply?
Major E/W Street (Baywater Drive)	3.5m	4.1m	Yes
Secondary N/S Street (Marine Parade)	2.5m	2.5m	Yes
Major N/S Street (Monza Boulevard)	2.5m	2.7m	Yes
Major E/W Street (Nuvolari Place)	3.5m	3.5m	Yes

### **Parking**

The proposed parking for Block A generally complies with the requirements outlined in the HBW DCP (see table below). While the number of cycle parking spaces is slightly deficient, this is considered to be acceptable given ground floor units have large open space areas with direct access to the street which will off-set some of the storage needs of the development.

	Required	Off-street	On-street	Total	Comply?
Residential	396-539	370 regular + 46 disabled + 1 car wash	2 car share	419	Yes
Residential Visitor	Max 79	7	44	51	Yes
Commercial Employee	Min 2	4	0	4	Yes
Commercial Visitor	0	0	3 + 1 disabled	4	Yes
<i>Car Parking Total</i>	<i>398-618</i>	<i>428</i>	<i>50</i>	<i>478</i>	Yes
Motorcycle	1 / 25 car parking space (19)	21	0	21	Yes
Bicycle	157	126	28	154	No

### **Overshadowing**

The proposal will at times overshadow the adjoining residential buildings on the south side

of Baywater Drive. The proposal is accompanied by shadow diagrams which demonstrate that the majority of adjoining and nearby dwellings will achieve 2 hours of sunlight in accordance with the requirements of the ADG and HBWDGP as amended. There are 4 neighbouring apartments, however, which would not receive the minimum 2 hours of sunlight in mid-winter. These 4 units do however receive 1.25 hours of sunlight on the 21st of June. As per the planning principle outlined in NSW Land and Environment Court case *The Benevolent Society v Waverley Council [2010]*, this level of non-compliance is considered to be acceptable for the following reasons:

- Wentworth Point is a high-density residential area and as such it is less reasonable to expect that a high level of solar access will be maintained to all dwellings.
- The proposal is reasonable in that it is generally in keeping with the location and built form envisaged by the planning controls.
- It is not clear that a more sensitive design would greatly improve the solar access of the affected units.

### **View Loss**

The proposal will result in loss of water views for several of the adjoining residential occupiers to the west of the subject site. As per the planning principle outlined in NSW Land and Environment Court case *Tenacity Consulting v Waringah [2004]*, this view loss if considered to be acceptable as the view loss results from elements of the proposal that comply with the relevant planning controls. The upper level units in the adjoining building will maintain filtered views through the proposed buildings.

### **Air Quality**

It is considered that the proposed units would be satisfactorily setback from the road, and the roads of satisfactorily low use, to ensure the proposed units would not be subject to poor air quality.

### **Privacy**

As the proposed units would be separated from all existing units on adjoining and nearby sites by roadways it is considered that the proposal would not result in the unacceptable loss of privacy to any existing residential occupants in the area.

The proposed development is consistent with the relevant requirements and therefore considered to perform satisfactorily with regard to the HBWDGP 2004 as amended.

## **9. Planning Agreements**

The subject application is not subject to a new planning agreement. The planning agreement which provided the uplift in floor space on the site in exchange for contribution towards provision of the Homebush Bay bridge has been completed.

## **10. The Regulations**

The recommendation of this report includes conditions to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

## **11. The likely impacts of the development**

The likely impacts of the development have been considered in this report.

The proposal does not include an erosion and sediment control plan. As such, appropriate conditions are included to reduce the impact of the proposal on local water conditions.

Fire safety will be addressed by way of appropriate conditions.

## 12. Site Suitability

The subject site and locality is affected by flooding. Council's Engineering Department have assessed the application and have considered the proposal to be satisfactory, subject to further assessment in later built stages, in relation to flooding.

The subject site is also known to contain reclaimed land and imported fill. Investigations into site conditions identify that ground material contains contamination arising from a number of past industrial uses and acid sulphate soils. Further details on the site history are provided in the SEPP 55 assessment above. Suitable investigations and documentation has been provided to demonstrate that the site is or can be made suitable for the proposed development in terms of contamination and acid sulphate soils. This would be facilitated in further investigations for each developed stage.

No other natural hazards or site constraints likely to have a significant adverse impact on the proposed development. Accordingly, the site is considered to be suitable for the proposed development. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

Subject to the conditions provided within the recommendation to this report the site is suitable for this development given:

- It is an appropriate "fit" for the locality given the preceding analysis which demonstrates a lack of adverse built form and operational impacts; and
- The site attributes are conducive noting natural constraints/hazards; ecological and heritage impacts are able to be properly managed.

## 13. Submissions

The application was notified and advertised in accordance with the former Auburn Council's Notification Policy for a 30 day period between 17 February and 21 March 2016. The notification generated 20 submissions in respect of the proposal. A public meeting was also held on the 14 March 2016 with a total of 33 participants in attendance.

In summary, the issues raised in the public submissions and meeting relate to overdevelopment, lack of parking, impacts on traffic, lack of community facilities, glare, lack of setback to tower, overshadowing, view loss, design, and damage to infrastructure.

Submission and meeting issues are summarised and commented on as follows:

Issues Raised	Comment
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<i>Concern is raised as to overdevelopment (increases to population and impacts on existing infrastructure of the locality) of the site in context with surrounding uses and its impact on the streetscape.</i>	The proposed development is consistent with the strategic objectives of converting the precinct into a high density residential area. The scale of the development is consistent with that envisaged in the relevant planning controls.
<i>Concern is raised as to the insufficient street width, provision of parking and impacts on traffic within the Wentworth Point Locality.</i>	The proposed roads are consistent with the existing layout in Wentworth Point and those envisaged by the applicable planning controls. The proposed level of car parking is consistent with the Homebush Bay West DCP. As outlined in the report, the proposal is not considered to have an unacceptable impact on traffic in the locality.
<i>Concern is raised as to the lack of community facilities provided within the development including public open space.</i>	The proposal provides the public open space required by the applicable planning controls. The controls do not require the provision of any other community facilities.
<i>Concern is raised as to the potential inconsistency with the road designs with the adjoining allotment (Lot 8) as approved.</i>	As outlined above, the proposed roads are considered to be in keeping with the HBW DCP, and capable of accommodating the likely increase in traffic. The transition between Block E and Block C will be bridged by the detailed design of Block D.
<i>Concern is raised regarding potential reflectivity/glare issues, in addition to the appearance of this element as viewed from surrounding developments.</i>	The BASIX certificate requires all the external glazing to have a Solar Heat Gain Coefficient (SHGC) of 0.7. As SHGC is a measurement of how readily direct sunlight flows through a window system, and as 0.7 is a high value, the reflectivity/glare of the specified glazing system will not have a large impact on the surrounding developments. In conjunction with this, bronze/amber glazing systems generally have a low value of reflective glare.
<i>Concern is raised as to setbacks provided where larger setbacks should be considered for tower forms.</i>	The setbacks provided within the concept plan are consistent with that required by the HBWDGP as amended. It is noted that the ground floor associated with each street level incorporates a minor departure to allow for ground floor terraces. It is noted that the setbacks required by the HBWDGP are consistent above the ground floor.
<i>Concern is raised as to the overshadowing and visual intrusion generated by the proposed development.</i>	As outlined above the proposal is considered to have an acceptable impact on the solar access of adjoining and nearby properties.

<i>Concern is raised as to the height of the tower, location and it being inconsistent with the established built form within the locality.</i>	The height and location of the tower is defined by HBW DCP Amendment No. 1 as depicted within this report. The development controls specifically nominate the towers location and height limitation. The tower will be consistent with the tower forms envisaged throughout the northern part of Wentworth Point. The non-compliances related to the tower have been addressed in this report and are considered to be acceptable.
<i>Concern is raised as to the view loss experienced by existing developments.</i>	As outlined above the proposal is considered to have an acceptable impact on the views of adjoining and nearby properties.
<i>Concern is raised as to the design of buildings</i>	The application was reviewed by Council's City Architect and Urban Design team who worked with the applicant to revise the design to ensure that it was of a high architectural quality.
<i>Concern is raised as to the raising of Marine Parade and Nuvolari Place.</i>	Marine Parade and Nuvolari Place have been raised to support the topography of the area and so as to limit excavation of the site to allow parking in an above ground podium manner. It is noted that the roads have been designed so as to join those of adjoining precincts. It is noted that Marine Parade of Lot 8 is also substantially raised to be consistent with that of Lot 9 (north of the site).
<i>Concern is raised as to damage to existing infrastructure (roads/pathways etc) during construction phases.</i>	Suitable conditions will be imposed on the development to ensure that the developments existing infrastructure is maintained and kept in good condition during all phases of construction.
<i>Concern is raised as to damage to the established seawall associated with the precinct.</i>	The proposal will be conditioned to incorporate a dilapidation report and as such should extend to the protection of the associated seawall. It is noted that the development associated with Block B (waterfront block) will impact upon this area to a greater extent. Nevertheless, suitable conditions will be imposed on the development to ensure that the seawall is maintained.

The proposal was also the subject of a public meeting held on Tuesday 14 March 2016, 6.00pm – 7.30pm, where 33 people attended. The applicant issues raised at the meeting are as follows:

Issues Raised	Comment
<b><i>Traffic, parking and access</i></b>	
<i>Request was made as to intersection upgrades within the Wentworth Point locality, including, but not limited to, Bennelong Parkway/Hill Road intersection and Burroway Road/Hill Road intersection and if these upgrades would incorporate public exhibition/public input.</i>	RMS do not consider that the proposal would require the upgrading of any of these intersections.
<i>Concern was raised as to the amount of parking the development would provide and its potential overflow onto surrounding streets. It was noted that on street parking is already a concern held by residents and that the subject development would exacerbate the issue. Question as to whether the development would cater for any public parking to facilitate access to the public open space.</i>	The applicant has provided that the development caters for 478 spaces which is 80 more than the minimum required by the HBW DCP. The recently completed bridge provides additional connectivity to public transport which will reduce the dependency on private vehicles.
<i>Concern was raised as to parking arrangements during construction of the development and where associated vehicles would be organised. A traffic management plan should be prepared in order to keep unnecessary vehicles away from the area (e.g. transport workers to the site through a chartered bus).</i>	<p>The applicant has provided that all reasonable efforts will be made to reduce the number of unnecessary vehicles associated with the development. Given that the development will occur in stages, Block A (being the subject development) will be able to take advantage of the Block B area to assist in parking of vehicles related to construction works. It is noted that Block B will be vacant given the demolition of buildings.</p> <p>The applicant has submitted additional information in respect of these matters that has been reviewed and no objection has been raised by Council's Traffic Engineer. The amount of additional traffic generation is considered satisfactory to Council's Traffic Engineer and the conceptual street design, provision of parking and loading facilities (including waste) being located wholly within the site, are sufficient to meet the requirements of the HBW DCP amendment No. 1.</p> <p>In this regard, the development is considered suitable to meet the parking demand and traffic changes in accordance with statutory requirements.</p>

<b>Amenity and design</b>	
<i>Concern is raised as to the subject development being an overdevelopment of the site in regards to the intensification of density and the height of the development.</i>	As discussed within this report, it is considered that the proposal provides an appropriate density in keeping with the relevant controls and existing development in the locality.
<i>Concern was raised as to the details associated with the heights, where 8 storey buildings appear to contain 9 storeys. Clarification is required.</i>	As discussed elsewhere in this report the building does technically breach the height limit due to limitations with excavation on site. However, for the reasons outlined above it is considered to be acceptable.
<i>Concern was raised that the green space within the site is not enough. Additionally, concern was raised as to how access to this park would be achieved.</i>	The proposal provides public open space in keeping with the requirements of the HBW DCP. These spaces will be directly accessible from Nuvolari Parade and the existing foreshore promenade.
<b>Notification and Application Procedures</b>	
<i>Request was made for Council to provide online packages for development applications including an overview of the development and associated notification material.</i>	The site is now under the authority of the City of Parramatta who exhibit drawings online.
<b>Miscellaneous Enquiries</b>	
<i>Question was asked as to timing of processes/completion associated with the development.</i>	The timing is difficult to determine, although it is anticipated that the completion of works set out within the development application should be completed at the end of 2019.
<i>Question was posed as to when and how Section 94 contributions collected from the subject development and adjoining developments within the Wentworth Point Locality will be spent.</i>	The s94 contributions will be spent in accordance with the Wentworth Point Development Contribution DCP.
<i>Question posed as to who is responsible for the maintenance of Baywater Drive and why has Council not taken ownership of this road.</i>	The community association is responsible for the upkeep of Baywater Drive. Council has not taken ownership of this road as it is a community road.
<i>Question posed as to why the peninsula park and foreshore not developed in a similar fashion as done in Canada Bay precinct.</i>	The public domain strategy for Wentworth Point is of different character than that in the Canada Bay precinct.

## **14. Public interest**

Subject to resolution of the issues of concern as addressed by the recommendation of this report, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

## **15. Disclosure of Political Donations and Gifts**

No disclosures of any political donations or gifts have been declared by the applicant or any organisation / persons that have made submissions in respect to the proposed development.

## **16. S94 development contributions plan**

The development would require the payment of contributions in accordance with Auburn Development Contributions Plan 2007 (as amended). The Section 94 Contributions will be based upon the following criteria:-

- 139 x 1 bedroom apartments (\$2,839.02) = \$394,622.39
- 228 x 2 bedroom apartments (\$4,261.67) = \$971,660.76
- 29 x 3 bedroom apartments (\$5,479.28) = \$158,899.12

Total: \$1,525,182.27 (396 residential units) as at 26/10/2016.

This figure is subject to the consumer price index as per the relevant plan and will be imposed under the subject application.

## **17. Summary and conclusion**

The application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval of the development application is recommended.

The proposed development is appropriately located within a locality earmarked for high-density residential redevelopment, however some variations (as detailed above) in relation to State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development and the Homebush Bay Development Control Plan are sought.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.

## **18. Recommendation**

- A. **That** the Sydney West Central Planning Panel as the consent authority grant consent to Development Application No. DA/728/2016 for demolition of existing buildings, subdivision of the site to create 4 lots and construction of a mixed use development on Block A comprising 396 residential apartments and 2 commercial tenancies with building heights ranging between 4-8 storeys and a 16 storey tower, car parking for 478 vehicles, public domain works and landscaping at Nos. 6-8 Baywater Drive Wentworth Point, being Lot 18 DP 270113 for a period of five (5) years for physical commencement to occur from the date on the Notice of Determination subject to the conditions in Attachment 1.