



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

Panel Reference	2016SYW157 DA
DA Number	DA/696/2016
LGA	City of Parramatta
Proposed Development	Construction of a mixed use development comprising 275 residential apartments and 7 commercial tenancies with building heights ranging between 4 to 10 storeys, 370 car parking spaces, public domain works and landscaping.
Street Address	6-8 Baywater Drive, WENTWORTH POINT NSW 2127 (Lot 18 DP 270113)
Applicant/Owner	Tier Architects / Homebush Bay Holdings Pty Ltd
Date of DA lodgement	2 August 2016
Number of Submissions	Public Submissions (3)
Recommendation	Deferred Commencement Consent
Regional Development Criteria (Schedule 4A of the EP&A Act)	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.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• 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) & Apartment Design Guide• SREP No. 24 (Homebush Bay Area)• Homebush Bay West DCP (as amended by Amendment 1)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none">• Architectural Drawings• Landscape Plans• Alignment Plans
Report prepared by	Alex McDougall Executive Planner City Significant Development
Report date	3 April 2017

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
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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?	N/A
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Special Infrastructure Contributions

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

Have draft conditions been provided to the applicant for comment?	No (will be provided prior to meeting)
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1. Executive summary

The proposal provides for construction of a mixed use development comprising 275 residential units and 7 commercial tenancies in 4 - 10 storey buildings arranged in a perimeter block form. Works also include public domain upgrades including a new urban plaza (park), foreshore linear park, and upgrade to the existing foreshore walkway. 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 3 levels. The proposal includes a total of 370 car parking spaces (including on-street 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. However, a deferred commencement condition requiring removal of the top storey from the North Block is considered to be necessary to ensure that the proposal, on balance, respects the desired future character envisaged by the HBW DCP and provide appropriate amenity for future occupants.

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 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, deferred commencement approval is recommended.

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 1 below). The precinct is comprised of 9 Baywater Drive (completed mixed use development outlined below), 6-8 Baywater Drive and the existing foreshore walkway. The foreshore walkway is approximately 1,700m² 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 6-8 Baywater Drive, Wentworth Point. Block A (Stage 1) was approved by Sydney West Central Planning Panel on 14 December 2016. Block B, the subject of this application, has a total area of 13,113m² composed of 9,719m² developable area with 3,394m² rights of carriageway (1,950m² public plaza and 1,450 m² public foreshore).

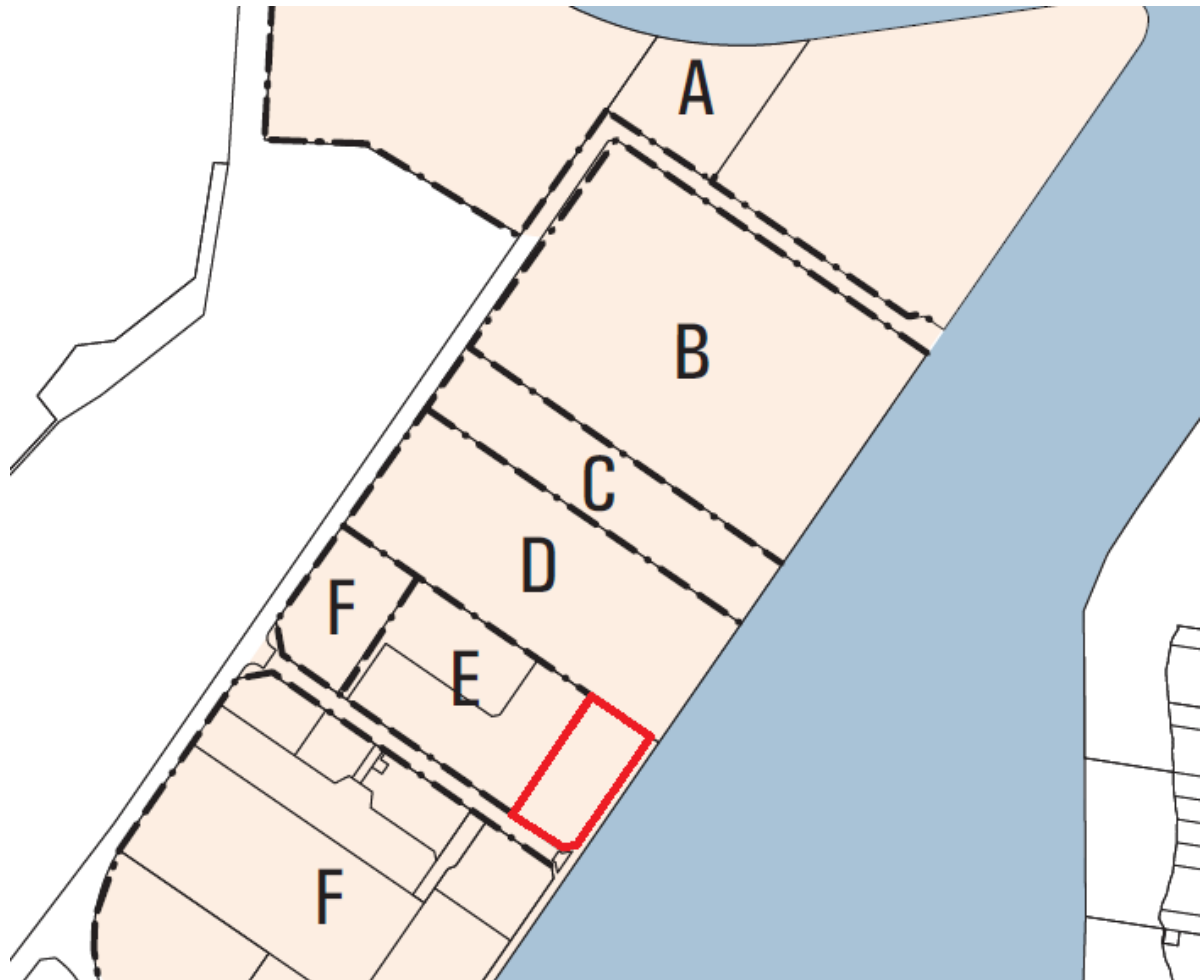


Figure 1. Precinct map of Wentworth Point as defined by HBW DCP (subject site in red)

Nearby Applications

DA-313/2010, 9 Baywater Drive, north-west corner of Precinct E, 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 24,874m² of residential floor space and did not provide any public open space.

DA/728/2016, 6-8 Baywater Drive (Block A), middle of precinct E, was approved by the Sydney West Central Planning Panel on 14 December 2016. The approval was 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. The subject approval granted 28,075m² of residential floor space, 90m² of commercial floor space and did not provide any public open space.



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:

- Construction of mixed use development comprising 4 x 4 - 10 storey buildings containing:
 - 275 residential apartments (85 x 1-bed, 151 x 2-bed and 39 x 3-bed);
 - 7 commercial tenancies (3 office, 2 retail, 2 café); and
 - 370 car parking spaces.
- Public domain works including dedication of following to community title:
 - 1,949sqm of land for public urban plaza to north of buildings; and
 - 1,450sqm of land on foreshore.
- Landscaping.

The application is identified as Nominated Integrated Development for the purposes of the Water Management Act 2000.

Note: Demolition of the existing building was approved under DA/728/2016 (CoP Ref).



Figure 3. Photomontage of proposal as viewed from the corner of Nuvolari Place and Marine Parade.



Figure 4. Photomontage of proposal as viewed from foreshore footway to south of site.



Figure 5. Photomontage of proposed internal communal courtyard.

During the course of assessment the applicant submitted revised drawings in response to concerns raised by Council officers including, but not limited to, the following changes:

- Study rooms without windows reduced in size and fitted with joinery to minimise potential use as bedrooms;
- 'Snorkel' bedrooms redesigned to have better amenity;
- Stepped landscaping applied to above ground car parking areas;
- Introduction of corridors between units and car park;
- Consolidated pedestrians access from ground floor East Block units to Foreshore Promenade;
- Additional planting and communal facilities in public open space areas;
- Revision of unit layouts to decrease prevalence of sensitive rooms adjoining primary living spaces;
- Additional waste storage room in basement;
- Parking and vehicular access layout improved;
- End-of-trip facility provided;
- Additional communal facilities on East Block communal roof terrace;
- Units facing into space between blocks reoriented to face outwards;
- Details of upgrade to foreshore promenade;
- Additional detail of materials;
- Reduction in driveway widths;
- Block B ground floor raised 1m; and
- Details of kerb ramps.

4. Referrals

Integrated Development

Water NSW	General Terms of Approval not required.
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Internal Referrals

Landscape & Tree Officer	No objection subject to conditions.
Development & Catchment Engineer	No objection subject to conditions.
Traffic and Transport	Not expected to have significant impact on traffic network. No objection subject to conditions.
Waste Management	No objection subject to conditions.
Environmental Health (Acoustic)	No objection subject to conditions.
Environment Health (Contamination)	No objection subject to conditions.
Open Space & Natural Resources	Generally supportive.
Urban Design (Public Domain)	No objection subject to conditions.
City Architect	No objection subject to conditions

External Referrals

Ausgrid	No objection.
NSW Police	No response received.
RMS	No objection.
Sydney Olympic Park Authority	No objection subject to conditions.
Sydney Water	No objection.

Joint Regional Planning Panel (JRPP) Briefing

The application was presented to the panel on-site 26/10/2016. A summary of the JRPP's concerns and recommendations and the applicant's response are provided in the table below:

JRPP Recommendation	Applicant Response / Officer Comments
<i>Noted breach of floor space and height controls. However, given problems caused with uplift in floor space, and subsequent requirement for more above-ground car parking, more concerned with streetscape appearance.</i>	Noted.
<i>Concern raised with DEAPs proposal to move East Block east to boundary and add additional storeys. Same goal, of increasing solar access to and width of communal open space, could be achieved by decreasing the width of East and West Blocks, moving East Block forward 5m, and (if solar access requirements not achieved / subject to shadow diagrams) transferring height from North Block to South Block.</i>	Ultimately the applicant took up neither recommendation. A deferred commencement condition is included requiring removal of the top level of North Block which will serve to increase solar access to the communal space.
<i>Concern raised with width of buildings and impact on depth of units and rooms without windows.</i>	While the building widths have not been reduced, the rooms without windows have been reduced in size and fit with study joinery (i.e. desk, cupboards) to minimise the chance that they be used as bedrooms.

<i>Concern raised with excessive units on each corridor and amenity impact on occupiers.</i>	The number of units on each floor has not been reduced. However, it is considered that sufficient amenity is provided to the corridors due to their width, height, and natural light and ventilation.
<i>Agree with DEAP's comments re: 1m elevation of East Block units for privacy and to include stepped planting.</i>	The applicant has taken up this recommendation.
<i>Concern raised with public domain interface, harsh car parking treatment on boundary. However, do not want to lose too much off-street car parking given close to minimum.</i>	The applicant has introduced stepped planters to minimise the impact of the above ground parking areas on the streetscape.
<i>Need more certainty on upgrade to foreshore promenade, landscaping of foreshore setback area, and alignment with other buildings to south/north.</i>	The applicant has provided a detailed alignment plan outlining upgrades to the foreshore promenade and a detailed landscape plan outlining upgrade of the public open space areas.

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:

Provision	Comment
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 does not constitute ‘traffic generating development’. Notwithstanding, 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”*.

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:

Requirement	Council Officer Comments
Principle 1: Context and Neighbourhood Character	<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"> • 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. • 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. • Landscaped public open spaces are proposed increasing opportunities for recreation, connectivity and accessibility.

Requirement	Council Officer Comments
Principle 2: Built Form and Scale	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.
Principle 3: Density	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, subject to a deferred commencement condition, with the interpretation of this floor space as realised through the Wentworth Point precinct. As such the proposed density is considered to be acceptable.
Principle 4: Sustainability	<p>A BASIX Certificate and relevant reports have been submitted with the development application.</p> <p>The certificates require sustainable development features to 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>
Principle 5: Landscape	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.
Principle 6: Amenity	<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 provides 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>
Principal 7: Safety	<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"> · The majority of units are orientated towards public streets creating passive surveillance. · Entry points into all buildings are clearly identifiable for ease of access with residents and visitors. · Security points will restrict access to private domain. · Retail components along Baywater Drive and the new urban plaza will activate the precinct to further enforce a sense of passive surveillance. <p>Conditions will be included to ensure the new public open spaces are appropriate lit.</p>

Requirement	Council Officer Comments
Principal 8: Housing Diversity and Social Interaction	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.
Principle 9: Aesthetics	The proposed development is considered to be appropriate in terms of the composition of building elements, textures, 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. DEAP's comments and the applicant's response are provided in the table below:

DEAP Recommendation	Applicant Response / Officer Comments
<i>The central elevated courtyard is too narrow and substantially overshadowed by the block to the north.</i>	A deferred commencement condition is included requiring removal of the top level of North Block which will serve to increase solar access to the communal space.
<i>There is no sunlight access to the lower level units facing into the courtyard in winter.</i>	The proposal complies with the ADG solar access requirements.
<i>The central building facing the water should be moved forward towards the water to increase the width of the central courtyard;</i>	The central block complies with the separation requirements in the ADG. The HBW DCP requires a 30m setback from the foreshore; moving the building forward would breach this control.
<i>Ground floor units facing east towards the promenade should be elevated around 1m above natural ground to ensure greater privacy;</i>	The application has been revised to comply with this recommendation.
<i>The entrance to the building into long internal corridors behind the car parking is unsatisfactory. The applicant is encouraged to find creative ways of widening the corridors in strategic locations and getting natural light into these spaces;</i>	The corridors are 2m wide, naturally illuminated and ventilated and as such are considered to be of sufficient amenity.
<i>The depth of the building facing north with back to back apartments adds to the problem of overshadowing of the courtyard. The Panel recommend deleting or relocating some or all of the south facing units in that building to more suitable locations within the development. This should result in a more slender building with greater setbacks from the courtyard and from the building facing east;</i>	The form of development envisaged for the site in the HBW DCP is prescriptive in terms of building alignment and relative heights. The other development within Wentworth Point has generally complied with these requirements. Given the proposal complies with the ADG solar access requirements it is not considered appropriate to vary the plan in this case.

<i>Snorkels used for bedrooms in the central east building on the courtyard side should be avoided;</i>	The snorkels are not considered to be so deep as to compromise the amenity of the rooms. Furthermore, they apply to only 8 apartments.
<i>The opportunity to shift floor space around by moving south facing units from the north block to the east block should be investigated in order to mitigate some of the concerns raised by the Panel.</i>	As outlined above there is not considered to be sufficient justification to enforce this requirement on the applicant in this instance.
<i>Figure 5 in the West Homebush Bay DCP 2004 shows a typical diagrammatic layout for the site with narrow perimeter blocks and with the east facing block aligned at the front with the ends of the north and south blocks. This provides for a larger central courtyard and more urban approach with regard to the relationship of the central east facing block to the public domain. The Panel recommends a closer alignment with the diagram in the DCP.</i>	As outlined above, the HBW DCP requires a 30m setback from the foreshore; moving the building forward would breach this control.
<i>The applicant is encouraged to plant evenly spaced large trees around the site within the public domain area including the Eastern Boulevard side.</i>	The application has been revised to comply with this recommendation.

Apartment Design Guide

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

Standard	Requirement	Proposal	Compliance
Legend: NB – North Block, EB – East Block, SB – South Block, WB – West Block			
Part 2			
2A to 2D, 2G to 2H:	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.		
2E: Building Depth	12-18m, glass line to glass line	NB: up to 23.3m EB: up to 24.0m SB: up to 23.2m WB: up to 23.3m	No
2F: Building Separation	WB – NB (12m) NB – EB (12m) EB – SB (12m) SB – WB (12m) EB – WB (18m) NB – SB (24m)	9.3m 9.0m 9.7m 9.7m 18.0m 67.8m	Partial
The building depths and separation are significantly non-compliant. The 3.3m ceiling heights, wall breaks and building articulation go some way to assist in providing solar access and natural ventilation to units. However, it is considered that the internal facing units, onto the courtyard, will have compromised solar access and ventilation. The North Block is the tallest element of the proposal and significantly overshadows the courtyard space. The applicant has demonstrated that the proposal is borderline compliant with solar access and just under on ventilation. Removal of the top floor of the north block will provide additional solar access and ventilation to the central courtyard and the units that face it. As such a deferred commencement condition is included to this effect.			

Standard	Requirement	Proposal	Compliance
Part 3			
3B: Orientation	The buildings have been located in accordance with the block pattern associated with the HBW DCP Amd No. 1.		
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 7 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 (2,430m ²)	2,630m ² of communal open space not including level 8 roof top terrace which is deleted via condition.	Yes
	Min. 50% direct sunlight to main communal open space for min. 2hrs 9am & 3pm, June 21 st (1,215m ²)	1,305m ² of communal open space inclusive of 3 roof top terraces	Yes
	The proposal includes podium roof open space accessible internally from lobbies and externally from the street as well as roof top space on the west, north and eastern blocks. The landscape plan outlines a variety of seating, shading structures, soft landscaping, a pool and 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 ² or greater (680m ²)	0m ² (that meet min 6m dim.), ~680m ² (total exclusive of min dim.)	No
	A suitable landscaping scheme has been submitted which provides for adequate plantings including trees in the internal courtyard, building surrounds, and public domain. This is seen to be consistent with the HBW DCP and other buildings within the peninsula.		
3F: Visual Privacy	<ul style="list-style-type: none"> • 5 to 8 storeys: 9m (NH) - 19m (H) • 9 storeys or more: 12m (NH), 24m (H) <p>*(NH) – non-habitable rooms *(H) – Habitable rooms</p> <p>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.</p>	9.3m – 18.0m	Partial
3G: Pedestrian Access and Entries	The proposal incorporates direct entry for most ground floor apartments, 2 external entrances to the central courtyard and each building block is provided with a separate entrance lobby.		

Standard	Requirement	Proposal	Compliance
	<p>The lobby locations have contrasting materials from the primary facades and large open spaces with void areas above to increase visibility from the street. Each lobby is serviced by 1-2 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>		
3H: Vehicle Access	<p>The proposal incorporates 2 separate vehicular entry points from Marine Parade, the southern entry directly accesses ground floor parking and the northern entry directly accesses the first floor parking (3rd level and top level of parking) 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 ground floor car park from the southern vehicular entry point on Marine Parade.</p>		
3J: Bicycle and car parking	<p>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.</p>		
Part 4			
4A: Daylight / Solar Access	<p>Min. 2hr for 70% of apartments living & POS 9am & 3pm mid-winter (>193);</p> <p>Max 15% apartments receiving no direct sunlight 9am & 3pm mid-winter (<41)</p>	<p>196 out of 275 apartments (71.2%)</p> <p>44 out of 275 apartments (16.0%)</p>	<p>Unverifiable</p> <p>No</p>
	<p>The applicant has demonstrated that enough units would have an aspect that, unencumbered by other building elements of the development, would receive sunlight for the required time. However, several units facing into the courtyard are likely to have other building elements restricting the solar access to less than the required time. As discussed above, a deferred commencement condition requiring removal of the top floor of the northern block would provide additional light into the central courtyard, and the units that face it, sufficient to render the proposal acceptable in this regard.</p> <p>The northern facades of NB and SB include operable vertical louvers which will allow occupants to manage solar gain. While the proposal would result in a minor non-compliance relating to units that receive no direct solar sunlight this is not considered to be reason to refuse the application as 6 of the non-compliant units would also have sunrise views across the bay offsetting the lost amenity.</p>		
4B: Natural Ventilation	<p>Min. 60% of apartments naturally ventilated (165)</p>	<p>162 out of 275 apartments (58.9%)</p>	<p>No</p>
	<p>While the proposal would result in a minor non-compliance with natural ventilation this is considered to be acceptable as the units have high floor to ceiling heights, particularly those on the ground floor.</p>		

Standard	Requirement	Proposal	Compliance
4C: Ceiling heights	Min. 2.7m habitable, 2.4m non-habitable for residential	3.3m -5.5m	Yes
4D: Apartment size & layout	3.3m for mixed use	5.5m	Yes
	Min. internal areas:		
	1B – 50m ²	49m ² -93m ² (1 under)	Partial
	2B – 70m ² (+5m ² 2nd bath)	70m ² -112m ² (14 under)	Partial
	3B – 90m ² (+5m ² 2nd bath)	91m ² - 128m ² (9 under)	Partial
	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.	Some units have study rooms without windows	Partial
	Habitable room depths max. 2.5 x ceiling height (2.5 x 3.3 = 8.25m)	Up to 9.2m	Partial
	Max. habitable room depth from window for open plan layouts: 8m.	Up to 7.0m	Yes
	Min. area 10m ² for master bedroom, 9m ² for others (excl. wardrobe space).	Complies	Partial
	Min. 3m dimension for bedrooms (excl. wardrobe space).	All bedrooms have a minimum dimension of 3m excluding wardrobes.	Yes
4E: Private open space & balconies	Min. width for living/combined living & dining:		
	1B – 3.6m	>3.6m	Yes
	2B – 4m	>3.8m	Partial
	3B – 4m	>4 m	Yes
	Min. area/depth:		
	1B - 8m ² /2m	>8m ² /2m	Partial
	2B - 10m ² /2m	>9m ² /2m	
	3B - 12m ² /2.4m	4 units @ 11m², remainder >12m² / 2.4m	
	Ground/Podium - 15m ² /3m	>15m ² /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 area this is considered to be acceptable given the good communal open space options available to the development.		
4F: Common circulation & spaces	Max. apartments off circulation core on single level: 12	NB: 14 EB: 18 SB: 15 WB: 10	Partial
	Corridors longer than 12m length from lift core to be articulated.	No	No

Standard	Requirement	Proposal	Compliance
	Where more than 12 units have been allocated off a single corridor, openings have been provided to allow natural light and ventilation to these spaces, they have 3.3m floor to ceiling heights, and wide 2m walkways allow for interesting lobby and corridor treatments.		
4G: Storage	Min. storage areas:		
	1B – 6m ³	1B - >6m ³	Yes
	2B – 8m ³	2B - >8m ³	Yes
	3B – 10m ³	3B – 6 units @ 8.6m³, remainder >10m³	Partial
	Min. 50% required in Basement.	Provided.	Yes
	It is considered that there is sufficient space in the basement to provide the above 6 non-compliant units with an additional 1.4m ³ of storage. A condition is included to this effect.		
4H: Acoustic Privacy	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.		
4J: Noise and pollution	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.		
4K: Apartment mix	<p>The development has the following bedroom mix:-</p> <ul style="list-style-type: none"> • 85 x 1 bedroom apartments (31%) • 151 x 2 bedroom apartments (55%) • 39 x 3 bedroom apartments (14%) <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>		
4L: Ground floor apartments	Ground floor units where possible have direct street access. Units facing the level 2 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.		
4M: Facades	The open balcony form is considered to be appropriate given their exposure to sun and wind. The 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. The north and west blocks are punctuated by a recessed lobby void which reduces the horizontality of the long street elevations.		
4N: Roof design	The lower building elements have flat roofs which are considered to be appropriate given the horizontality of the design and the requirement to provide communal open space. The north and south building forms have curved skillion roof elements which add to the visual interest of the building. Rooftop communal open spaces have been incorporated into the building, increasing the amenity of the building.		
4O: Landscape Design	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.		

Standard	Requirement	Proposal	Compliance
4P: Planting on structures	The drawings outline that planting on structures would have adequate soil depth to accommodate good quality planting.		
4Q: Universal Design	20% total apartments (55)	57 adaptable apartments (20.7%).	Yes
	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.		
4S: Mixed Use	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.		
4T: Awnings and Signage	Awnings are provided around the commercial activity areas of the building. No signage is proposed. A condition is included requiring separate consent for signage.		
4U: Energy Efficiency	The BASIX Certificates demonstrates the development exceeds the pass mark for energy efficiency.		
4V: Water management and conservation	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.		
4W: Waste management	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.		
4X: Building maintenance	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 \$73,305,404) exceeds \$20,000,000, the Sydney West Central 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).

Requirement	Comment
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"> • The proposed development will not have any significant detrimental impact upon wetlands and woodlands. • 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. • The development includes new public open space. • The site is well positioned to utilise existing ferry, bus and cycle routes established in the precinct. • Ecological sustainable development principles have been applied. • There are no heritage listed sites situated adjacent or adjoining to the site.
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, 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	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. Council's Environment and Health Unit has raised no issue or objection to the development on acid sulphate soil impacts.
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	The proposed development will not have any impact upon any identified places or potential places of aboriginal significance or archaeological sites.

Requirement	Comment
heritage significance	
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

The HBW DCP (as amended) sets floor space limits for each precinct. The total cumulative Gross Floor Area (GFA) for Precinct E, as quoted by the applicant, is provided in the below table.

	HBWDCP Control GFA (m ²)	Existing (9 Baywater)	Approved GFA Block A (m ²)	Proposed GFA Block B (m ²)	TOTAL Precinct E (m ²)
Commercial	Min. 330	0	90	216	306
Retail	Min. 100	122	0	159	281
Residential	Max. 73,549	24,752	28,075	20,716	73,543
Total	Max. 73,979	24,874	28,165	21,091	74,130

Table 1. Summary of Precinct E floor space *(as quoted by applicant)*.

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 1.5 levels of the proposed car parking count as floor space.

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 amendment 1 of

the HBW DCP. Further research confirmed that above ground car parking was often not included in the assessed floor space figures¹. The increase in floor space allowed under DCP Amendment 1, and associated increase in required car parking, 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 it is considered, on balance, acceptable to not include the car parking floor space in the calculation.

The floor space figures quoted by the applicant also do not include the residential corridors. These areas are not excluded from the definition of floor space in the HBW DCP. Similarly to above, corridors have not always been included in the floor space figures quoted by applicants at other sites in Wentworth Point. However, there is not considered to sufficient 'site constraint' justification for continuing this approach, as there is for the car parking issue outlined above.

Including corridors adds approximately 2,300m² to the quoted floor space of the proposal, resulting in a 2,294m² breach of the HBW DCP Amendment No. 1 control. The additional floor space is expressed in additional storeys and wider buildings resulting in overshadowing, affecting the amenity of the proposed units, particularly those which face into the courtyard. As such it is considered that the proposal represents overdevelopment. A deferred commencement condition, discussed below, is considered to be sufficient to overcome this concern.

Building Height

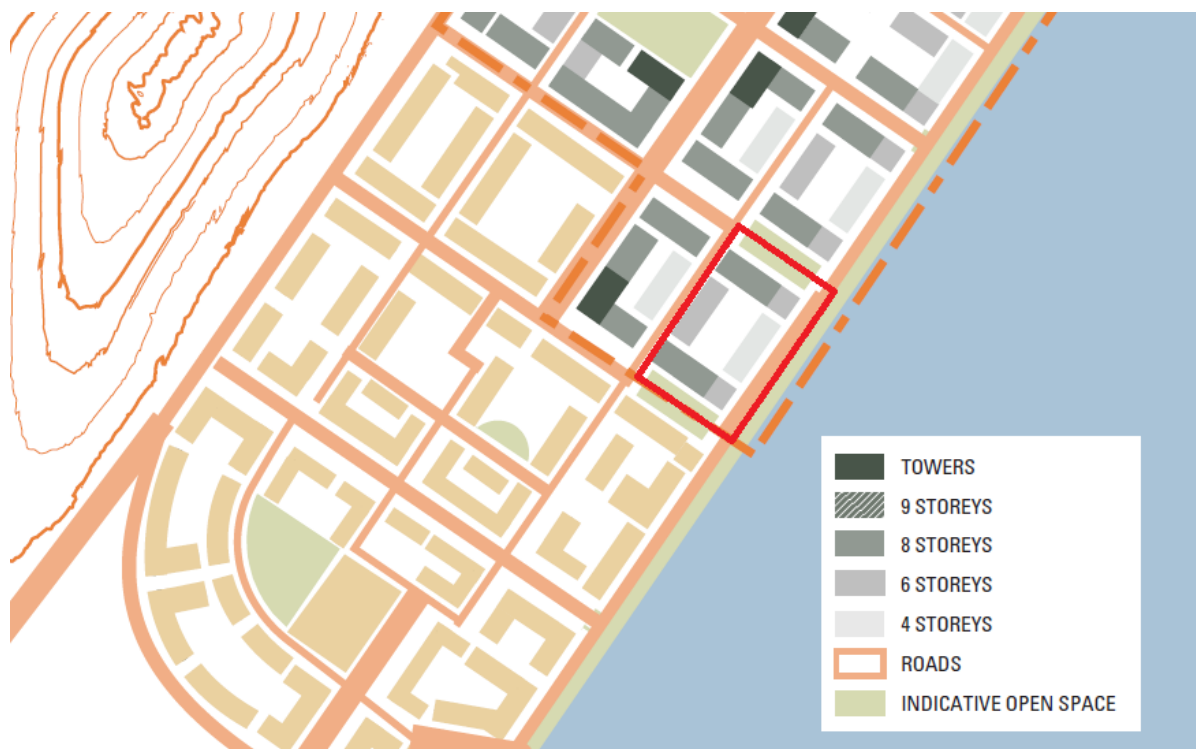


Figure 6. Extract from Homebush Bay West DCP 2004 Amendment 1 (subject site outlined in red).

Clause 5.3.2 of Homebush Bay West DCP Amendment 1 outlines the allowable building heights for the site. The DCP allows 4 - 8 storeys on the site in accordance with the figure above.

¹ 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).

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	ALLOWED	PROPOSED	COMPLY?
West Block	6	6 - 7 (inc. parking levels)	Part
East Block	4	4	Yes
North Block	6-8	6 – 10 (inc. parking levels)	Part
South Block	6-8	6 – 8	Yes

The ground floor level, which is composed primarily of car parking, is more than 1200mm above ground level for some of the blocks 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 assessment².

The breach of the height limit on the western block is considered to be acceptable as the proposal will still generally read as a 6 storey building due to the Marine Parade reaching a high point to the front of the block. However, the North Block will appear up to 10 storeys in height when viewed from the north (see Figure 7 below) with the top floor sitting a full storey higher than south block. The HBW DCP clearly anticipated north/south symmetry on the site (See Figure 6 above).

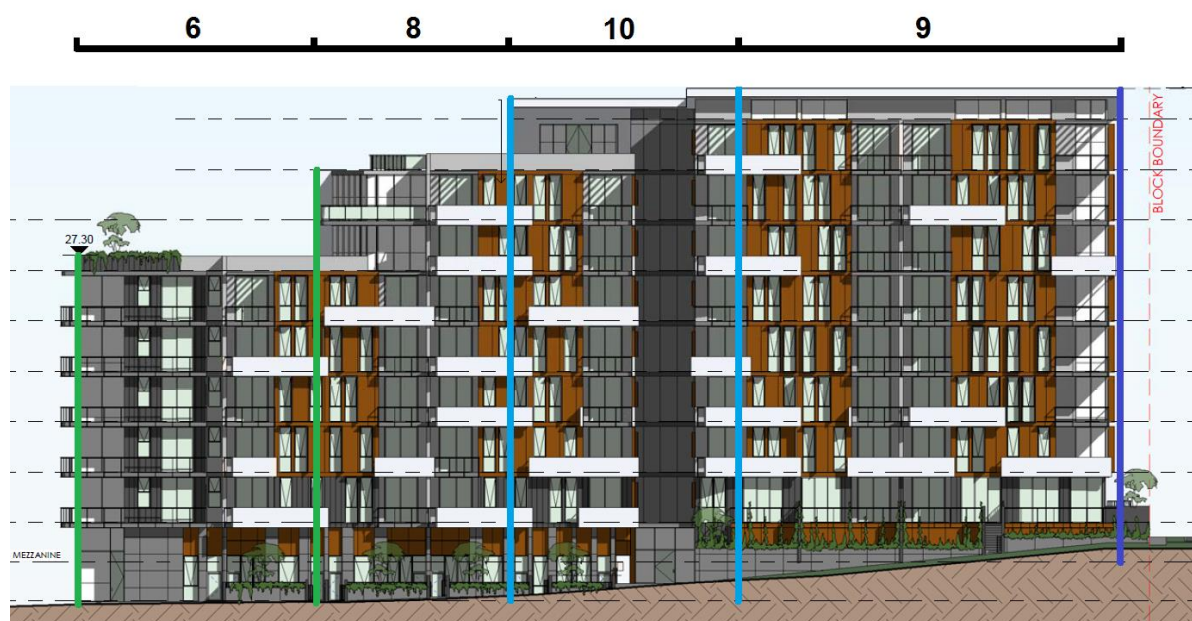


Figure 7. Proposed Northern Elevation with number of storeys above ground level as defined by HBW DCP.

Subject to removal of the top floor of North Block the proposal is considered, on balance, to be in keeping with the density of development anticipated for the site for the following reasons:

- Removing the top floor would reduce the level of non-compliance with the floor

² 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).

space control arising from the exclusion of residential corridors (reduction of 660m² of floor space). While the proposal would still be approximately 1,600m² non-compliant with the total allowable floor space available for the site, it is considered to be acceptable on balance as the additional 1,600m² is generally in keeping with the amount of floor space, in total, the proposed units are above the minimum size requirements in the ADG. In other words, the proposal does not add significant yield or capacity to the development envisaged but provides higher quality units.

- Removing the top floor would be more in keeping with the block pattern anticipated for the site in the HBW DCP (see Figure 6 above).
- Removing the top floor would reduce overshadowing of the central courtyard and units facing it which have limited solar access. This issue was raised as a concern by both DEAP and JRPP.

As such a deferred commencement condition is included requiring the top level of North Block be removed. The condition will require that the resulting roof form be generally in keeping with the roof form of the top level of the South Block.

Building Bulk and Pattern

Subject to the condition requiring removal of the top floor from North Block, the proposal provides buildings generally of the form and in the location identified for Precinct E in the HBW DCP.

Public Open Space

The HBW DCP requires that Precinct E provide 5,075m² of public open space in the form of a foreshore promenade and an 'urban plaza' at the terminus of Nuvolari Place. The applicant has provided a diagram, below, which demonstrates that the proposed urban plaza and foreshore promenade (being 3394m²) and the existing foreshore walkway (already dedicated as public open space 1694m²) will be sufficient to cater for the public open space area required for the precinct.

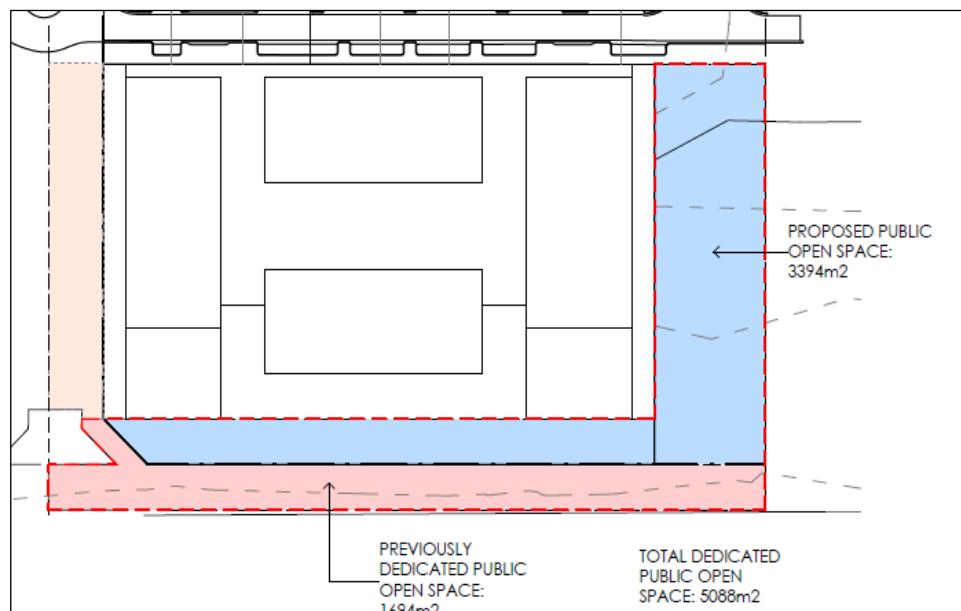


Figure 8. Dedication of open space.

The proposal provides detail of how the new public domain areas will be landscaped.

Urban Plaza

The northern urban plaza to the north of the proposed buildings would comprise a gently sloping grassed open space with scattered tree planting, a children's play area at the western end, a gazebo and bbqs to the southern end, a bicycle path and a footpath. Council's Public Domain team consider the proposal to be acceptable in principle, but believe that the design can be further refined to provide a higher quality open space. The adjoining property developer to the north has also requested consultation on the final design of the space. As such a condition is included outlining that the approval for this space is outline only and that further details will need to be submitted to the satisfaction of Council.

Foreshore Linear Park

The foreshore linear park to the east of the proposed buildings would comprise a generally flat grassed open space with a row of consistently spaced large canopy trees with a footpath bordering the development site and connecting footpaths to the foreshore promenade. The park would be approximately 50% soft landscaping, exceeding the requirements of the HBW DCP.

The HBWDGP requires a minimum 20m wide continuous public access way along the foreshore. The proposal would provide approximately a 17.5m – 22.5m wide public access way, including the foreshore promenade. The existing foreshore parks to the south of the site vary in width from 16.3m – 21.5m. As such the proposal is generally considered to be in keeping with the control and existing linear park.

Council Public Domain team consider the proposal to be generally acceptable and in keeping with the recommendations of the HBW DCP.

Foreshore Promenade

The applicant has provided a detailed alignment plan outlining upgrades to the foreshore promenade. The design is in keeping with the adjoining and nearby sections of the promenade.

Conditions of consent are recommended to ensure the public domain areas are appropriately landscaped and upgraded.

Building Setbacks

The proposed building setbacks are summarised in the table below:

	Required	Proposed	Comply?
Major E/W Street (Baywater Drive)	5m	5m	Yes
Secondary N/S Street (Marine Parade)	3m	Parking/Ground: 0m Above: 3m – 4m	No Yes
Major E/W 'Street' (Urban Plaza)	5m	Parking/Ground: 0m Above: 5m	No Yes
Waterfront (Generally)	30m	28.5m – 30.0m	Part
Waterfront (adjacent to Foreshore Plazas)	20m	20m	Yes

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 parking/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.

The encroachment into the waterfront setback is minor and relates only to articulation of balconies above ground level and as such is considered to be acceptable.

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

This is demonstrated below in further detail;

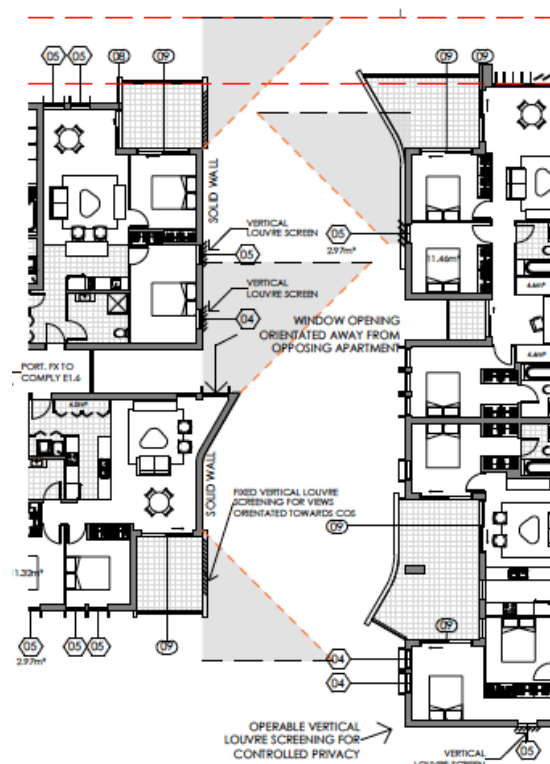


Figure 9. Diagram representing how privacy is maintained.

Street Layout and Transport

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 are summarised in the table below:

	Required	Proposed	Comply?
Major E/W Street (Baywater Drive)	3.5m	1.5m – 3.3m	No
Secondary N/S Street (Marine Parade)	2.5m	Provided as part of Block A	Yes
Major E/W (Urban Plaza)	3.5m	2 paths (2.5m + 1.5m)	Yes
Foreshore (adjacent to East Block)	3m	1.5m	No
Foreshore Promenade	5m	8.2m	Yes

While the proposal does not provide compliant footpath widths to Baywater Drive, this is considered to be acceptable as the section of Baywater Drive that fronts the site is a shared zone providing additional space for pedestrians.

While the proposal does not provide a compliant footpath width adjacent to the eastern side of the proposed buildings, this is considered to be acceptable as this is a secondary path to the primary foreshore promenade walkway which well exceeds the minimum requirements.

Parking

The proposed parking for Block B generally complies with the requirements outlined in the HBW DCP (see table below). Given the retail units are intended to service those using the foreshore walk way and residents it is considered acceptable that the visitor parking spaces are off-street as opposed to on-street.

	Required	Off-street	On-street	Total	Comply?
Residential	275-390	291 regular + 28 accessible + 1 car wash (320)	2 car share	291 regular + 28 accessible+ 2 car share + 1 car wash (322)	Yes
Residential Visitor	Up to 55	55	0	55	Yes
Retail Visitor	Managed on-street parking	3	0	2 + 1 accessible	Part
Retail Employee	4	4	0	4	Yes
Café Employee	4	4	0	4	Yes
Café Visitor	10	0	10	10	Yes
Commercial Employee	4	4	0	4	Yes
Commercial Visitor	0	0	0	0	Yes
Car Parking Total	297-467	358	12	370	Yes
Motorcycle	15	20	0	20	Yes
Bicycle Residential	95	95	0	95	Yes
Bicycle Visitor	19	7	14	21	Yes
Bicycle Office	1				

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 all adjoining and nearby dwellings will achieve 2 hours of sunlight in accordance with the requirements of the ADG and HBWDCP as amended.

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 Warringah [2004]*, this view loss is 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 HBWDCP 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 not affected by 1:100 year flood risk. Notwithstanding, conditions requiring the building be built to withstand flooding and an evacuation plan be prepared are included to guard against the Probably Maximum Flood. Council's Engineering Department have assessed the application and have considered the proposal to be satisfactory.

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 are 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 Council's Notification Policy for a 30 day period between 18 August and 19 September 2016. Two submissions have been received.

In summary, the issues raised in the public submissions relate to building height, building width, view loss and integration with adjoining development to the north.

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

Issues Raised	Comment
<i>A condition should be included requiring the public domain works be of a high standard</i>	The draft conditions include the requirements that public domain work be designed and supervised by a suitably qualified landscape architect.
<i>A condition should be included requiring that the applicant consult with the adjoining land owner to the north when preparing detailed public domain drawings for the proposal (in particular the urban plaza and foreshore area)</i>	The adjoining land owner is currently preparing detailed design for redevelopment of formerly industrial land for residential development. It is considered appropriate that the design be coordinated at this stage. As discussed above, a condition is included to this effect.

<i>Consideration of the appropriate boundaries need to be clearly defined between the site and that of the water line to denote public land from that of the site itself</i>	As discussed above, the proposal is considered to provide appropriate delineation between public and private areas through design and materials.
<i>The proposed public open space should include a designated off-leash dog area</i>	The HBW DCP does not require the provision of any designated off-leash dog areas. As the land will be dedicated to Community Title it would be up to the owner's corporation to fund and deliver such an initiative.
<i>The proposal would result in view loss for adjoining and nearby properties due to its height and width.</i>	As outlined above the proposal is considered to have an acceptable impact on the views of adjoining and nearby properties.

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 (which takes into account the reduction in units resulting from removal of the top level):-

- 82 x 1 bedroom apartments (\$2,853.08) = \$233,952.56
- 147 x 2 bedroom apartments (\$4,282.77) = \$629,567.19
- 39 x 3 bedroom apartments (\$5,506.40) = \$214,749.60

Total: \$1,078,269.35 (268 residential units) as at 29/03/2017.

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 deferred commencement consent to Development Application No. DA/696/2016 for construction of a mixed use development comprising 268 residential apartments and 7 commercial tenancies with building heights ranging between 4 to 9 storeys, 370 car parking spaces, 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 from the date on the Notice of Determination subject to the conditions under Schedule 1 of Appendix 1.