

## SYDNEY CENTRAL PLANNING PANEL

SCPP No	2017SCL019
DA Number	2017/1022
Local Government Area	Bayside Council
Proposed Development	Integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development will accommodate 167 apartments and a child care centre.
Street Address	130-150 Bunnerong Road, Pagewood NSW 2035
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
No. of Submissions	Five (5) objections
Regional Development Criteria	Development with a CIV of \$56,506,462
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils</li> <li>• Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy 2004 (BASIX);</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• Botany Bay Local Environmental Plan 2013</li> <li>• Botany Development Control Plan 2013</li> </ul>
Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>• Report and Annexure A- SEPP 65 and ADG compliance table;</li> <li>• Architectural Plans and Survey Plan– Nettleton Tribe;</li> <li>• Landscape Report – Urbis;</li> <li>• Clause 4.6 variation.</li> </ul>
Recommendation	<p>The Sydney Central Planning Panel, as the Determining Authority resolve to:</p> <p><i>a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 28.8m (RL 50.8m) for the height of building;</i></p> <p><i>b) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a</i></p>

	<p><i>maximum floor space ratio (FSR) of 2.3:1; and</i></p> <p><i>c) Grant approval of Development Application No. 2017/1022 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development will accommodate 167 apartments and a child care centre.</i></p>
Report by	Angela Lazaridis – Senior Development Assessment Officer
Annexure A:	SEPP 65 Assessment: Apartment Design Guide

## RECOMMENDATION

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

- a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 28.8m (RL 50.8 m) for the height of building;
- b) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum floor space ratio (FSR) of 2.3:1; and
- c) Grant approval of Development Application No. 2017/1022 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development will accommodate 167 apartments and a child care centre.

## EXECUTIVE SUMMARY

Council received Development Application No. 2017/1022 on 13 February 2017 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys which will accommodate 167 apartments and a child care centre at Urban Block 4 of 130-150 Bunnerong Road, Pagewood.

The Development Application is required to be referred to the Sydney Central Planning Panel (SCPP) pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the Capital Investment Value of the proposal is greater than \$20,000,000.

The Development Application was originally notified as Integrated Development under Section 91 of the EP&A Act as the development is deemed to be an aquifer interference activity as part of the development intercepts or extracts groundwater. Water NSW has no objection to the proposal subject to conditions of consent.

The application is a Stage 2 application. The Stage 1 application (DA-14/96) was received by Council on 5 May 2014, the applicant filed a Class 1 Appeal. The application was considered at a series of Section 34 conferences, whereby a series of amended plans were considered. Council and the applicant reached a Section 34 agreement and the appeal was

upheld with court orders issued on 7 August 2015. The Stage 1 consent is a concept approval for the overall site including an indicative 2,223 apartments across 7 urban blocks.

Prior to lodgement, the application underwent an Architectural Design Competition. The successful Architect has prepared the design forming this development application.

The Development Application was advertised from 22 March to 27 April 2017. Five (5) submissions were received which generally raised issue with the scale of the overall Stage 1 development site in particular to the height, bulk, overshadowing, impact of vibration and on the surrounding infrastructure, and visual privacy. These issues have been discussed in detail throughout the report.

Key issues that were raised in the assessment of the proposal include non-compliances in building height and FSR, non-compliances with the Stage 1 consent in regards to building separation, podium and tower articulation and unit mix, ADG non-compliances relating to location of storage and DCP non-compliances relating to family friendly apartments and apartment layouts.

The development proposes a maximum building height of 28.8m (RL 50.8m) at its highest point. This departs from the maximum building height of 11m to 22m under the BBLEP 2013. The proposal is consistent with the Stage 1 consent in particular to Condition No. 15 which relates to the maximum building heights. Both towers comply with the Stage 1 requirements therefore the proposal is consistent with the masterplan. This is similar to the FSR requirements under the BBLEP 2013 which is a FSR range between 1:1 and 3:1. The proposal has a FSR of 2.3:1 which surpasses the FSR of 1:1 under the BBLEP 2013. The proposal is consistent with the Stage 1 consent particularly to Condition No. 12 relating to the maximum FSR for the site at 2.3:1. Therefore both the FSR and heights of building is acceptable.

The Stage 1 consent set parameters for any future development on the site. The proposal does not comply with Condition No. 18 relating to separation distances and Condition Nos. 24 and 25 relating to tower and podium articulation. The non-compliance in the building separation results in a shortfall of 1 metre between balconies and some of the bedrooms within the units on Levels 1-4 and Level 5. There is also concern that the internal corners of the development would overlook each others living areas and balconies. The Stage 1 consent required a 28 metre setback. It is considered that the departure is linked predominately to the balconies which under Condition No. 24 and 25 allow for a 500mm protrusion into the setback zone. In regards to the internal corners of the development, the applicant has provided a privacy treatment plan which demonstrates that privacy screens have been installed on balconies to mitigate direct overlooking. The non-compliances with Condition Nos. 24 and 25 relating to articulation encroachments are considered acceptable as the average protrusion for the development continues to be less than 50%. Protrusion is majorly limited to the balconies and the proposal demonstrates that there are greater recessive areas within the internal corners of the development. These points are discussed in greater detail in Notes 1 and 2.

In regard to unit mix, the development is slightly over the Stage 1 consent requirement which proposed 23% 1 bedroom units, 49% 2 bedroom units and 28% 3 bedroom units. The non-compliance is supported as the 1 bedroom unit mix is minor and the development provides a large proportion of 3 bedroom apartments that is greater than the minimum unit size requirement outlined in Condition No. 33 of the Stage 1 consent.

The non-compliance in the storage area results in storage being predominantly found within the basement car parking area for a number of units. A condition has been imposed in the consent requiring compliance with the ADG controls and providing 50% of the storage within the apartments.

In regards to the DCP family friendly apartment controls, the proposal does not comply with the requirement for separate study rooms for 2 or more bedroom units. The apartment sizes allow for space to provide for a separate study nook which has been conditioned in the consent. Other non-compliances with the DCP family friendly controls have been conditioned in the consent. Finally, the proposed development does not comply with the apartment layouts provided. Due to the orientation of the furniture, the living and dining areas could be considered as separate spaces therefore Council is satisfied with this arrangement. The study rooms that are provided are not larger than 9sqm and cannot be considered as bedrooms. Regardless, a condition has been recommended that the study rooms are not to be used as bedrooms.

In summary, the proposed DA has been assessed against the relevant controls and on balance, Council is generally supportive of the proposal. However, issues relating to landscaping and tree management had not been resolved at the time of compiling the report.

It is recommended that the application be issued with a deferred commencement, in order to enable the applicant to resolve the remaining outstanding issues.

## **BACKGROUND**

### ***Stage 1 – Master Plan (DA-14/96)***

Integrated Development Application No. 14/96 was received by Council on 5 May 2014 for the redevelopment of the site for a staged mixed use development involving subdivision and concept approval for the location of public road network, private access ways through the site, on-site stormwater detention including water sensitive urban design (WSUD), Building Envelopes and Building Heights facilitating approximately 2,733 dwellings on site, parking spaces in above ground and basement facilities, and provision of 8,000sqm of public open space. The Capital Investment Value CIV for these works was \$128,431,190.00, therefore the former Joint Regional Planning Panel (JRPP) was the consent authority. On 28 August 2014, this application was referred to the JRPP in accordance with Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act) as it has a CIV in excess of \$20 million (Reference No. 2014/SYE/105).

On 12 September 2014, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's 'deemed refusal' of the application. The application was considered at a series of Section 34 conferences, whereby a series of amended plans were considered. Council and the applicant reached a Section 34 agreement and the appeal was upheld. On 7 August 2015 the development consent was issued.

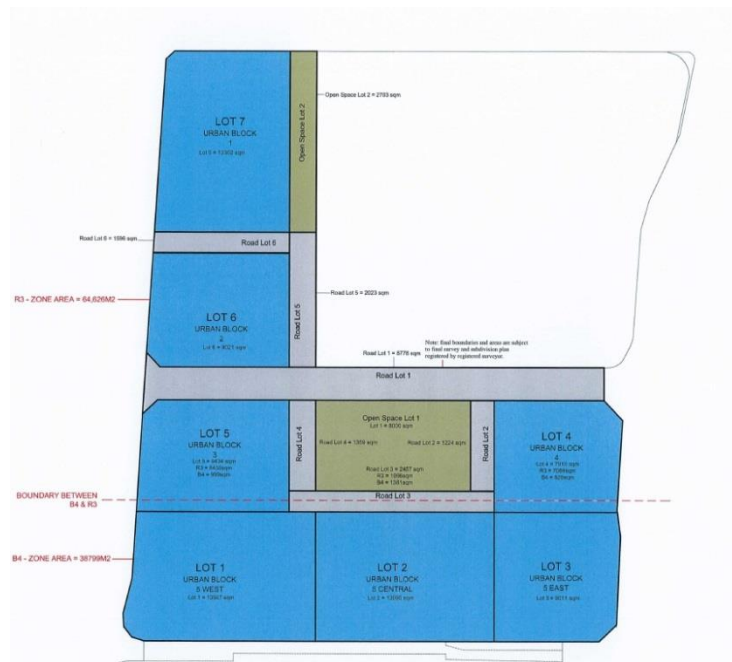
The Stage 1 Masterplan consent is a concept approval and does not grant consent for any demolition, remediation, excavation or building works. It is noted however that remediation works have commenced on-site as Category 2 works under the State Environmental Planning Policy No. 55 – Remediation of Land. The approval is limited to the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum GFA, uses, maximum FSR, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers, and minimum car parking provisions.

The key details of the approved Masterplan are as follows:

- The applicant must enter into a Planning Agreement including the following:
  - Central Park embellished and dedicated to Council,
  - Roads within the site constructed, embellished and dedicated to Council,
  - Traffic lights and any other necessary traffic control systems constructed,

- Monetary contribution of \$10.5 million towards the cost of providing transport infrastructure in the form of upgrade to the intersection of Page Street and Wentworth Avenue.
- Concept subdivision of the site
- Central Park of 8,000sqm.
- Linear Park of 2,703sqm.
- Building envelopes, setbacks, maximum GFA and FSR for each urban block.
- Indicative maximum of 2,223 residential apartments, up to 5,000sqm of retail space and four child care centres.
- Residential unit mix – max 20% 1 bedroom, 50% 2 bedroom, min 30% 3 bedroom.
- Residential unit sizes.
- Car parking rates including an indicative minimum number of 3,693 spaces.

The VPA has been entered into and currently the applicant seeks an amendment to it. It is noted that Part 9D of the BBDP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Pagewood, and guided the Stage 1 consent. The Stage 1 consent includes conceptual details of the proposed buildings which have been altered from the provisions of Part 9D. Accordingly, the Stage 1 consent now contains the relevant provisions for the subject Stage 2 application for UB5E.



**Figure 1: Approved Master plan concept subdivision plan DA-14/96**



**Figure 2: Approved Building Envelope Plan DA-14/96**

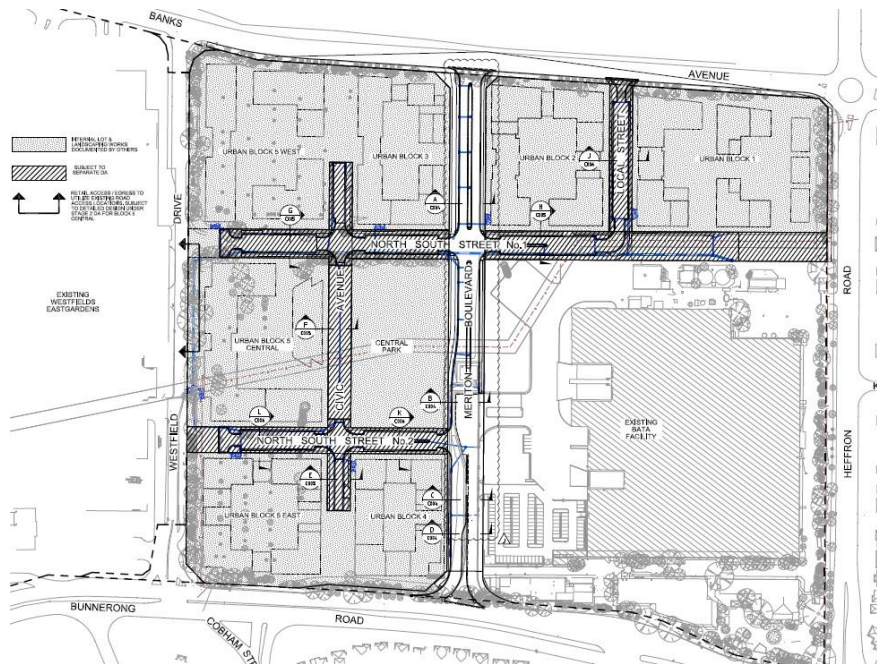
### ***Stage 2 – East-West Boulevard and realignment of Sydney Water Stormwater Culvert (DA-14/159)***

On 15 July 2014, Council received a Stage 2 Development Application (DA-14/159) which originally was for the construction of the entire road network and civil works associated with the Stage 1 DA. Over subsequent amendments, the proposed development was reduced to only include the kerb-to-kerb construction of East-West Boulevard and the realignment of the existing Sydney Water stormwater channel.

The application was determined by Council on 4 March 2015 by way of refusal. The reasons for refusal were as follows:

- The proposed development is not appropriate in the absence of an approved Master plan;
- It is not in the public interest to approve an aspect of a Master plan proposal when all other parameters are in dispute;
- A commitment to an aspect of the Master plan as a fixed point does not allow for the orderly and economic development of land.

On 9 March 2015, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's refusal of the application. The application was considered in conjunction with the ongoing Section 34 conferences for the Stage 1 DA. Council and the applicant reached a Section 34 agreement and on 7 August 2015 the development consent was issued in conjunction with the Stage 1 (Master plan) consent.



**Figure 3: Approved Site Plan DA-14/159**

***Stage 2 – Subdivision of the site and construction of the road network (excluding East-West Blvd and the private access ways) and associated civil works (DA-15/104)***

On 26 June 2015, Council received a Stage 2 Development Application (DA-15/104) for the construction of the road network (excluding the approved East-West Blvd) and associated civil works. The application was subsequently amended to also include the subdivision of the site in accordance with the Stage 1 Master plan and the private access roads were excluded from the proposal. The CIV for the works was \$2,707,356 and therefore Council was the consent authority.

The proposal was generally consistent with the Stage 1 consent DA-14/96 and was approved on 8 January 2016. There is currently modifications in with Council to amend the DA which have yet to be determined.

***Stage 2 - Integrated Development Application for the construction of a mixed use development incorporating 487 apartments and a childcare centre within a building consisting of a 5 storey podium including 847 car spaces sleeved with apartments and 2 x 16 storey and 2 x 20 storey towers above.***

On 16 February 2016, Council received a Stage 2 Development Application (DA-16/18) which proposed the construction of a mixed use development incorporating 487 apartments and a childcare centre within the building consisting of a 5 storey podium including 847 car parking spaces sleeved behind the apartments and 2 x 16 storey and 2 x 20 storey towers above. The CIV for the works was \$116,742,078 and therefore was referred to the former Sydney East Joint Regional Planning Panel. On 9 June 2016, the development application was approved subject to conditions of consent amended at the Panel Meeting. Construction is currently underway for this urban block.

***Stage 2 – Landscaping and embellishment of the public domain and the construction of Central Park and Linear Park (DA-16/65)***

On 3 May 2016, Council received a Stage 2 Development Application (DA-16/65) for landscaping and embellishment of the public domain and the construction of Central Park



and Linear Park. The CIV for the works is \$9,795,899 and therefore Council is the consent authority. The application is currently under assessment.

***Stage 2 - Integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments, and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above***

On 17 August 2016, Council received a Stage 2 Development Application (DA-16/143) which proposed the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments, and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above. The CIV for the works was \$69,616,383.00 and therefore was referred to the Sydney Central Planning Panel. On 16 February 2017, the development application was approved subject to conditions of consent amended at the Panel Meeting. Construction is underway for this urban block.

## **APPLICATION HISTORY**

Council received Development Application No. 2017/1022 on 13 February 2017 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys which will accommodate 167 apartments and a child care centre at Urban Block 4 of 130-150 Bunnerong Road, Pagewood.

On 10 May 2017, Council sent an additional information letter addressing a number of non-compliances with the proposal, primarily relating to the redesign of the proposal different to the winning design scheme and car parking. The key urban design/architectural issues are as follows:

- Vertical timber material within the indent along the western and eastern elevations is missing. This is to be restored as per winning design scheme as it provides a visually interesting element that breaks up these facades.
- Ground floor fences to courtyards are facebrick. The design competition had a combination of rendered brick and face brick. This is to be restored.
- North-south and east-west through site link has been deleted from the winning design scheme. This is not supported as it provided a connection from the main boulevard to the open space between UB4 and UB5E. This is to be restored.
- No second car park entry is proposed as suggested by the Design Competition Panel. This is acceptable as access is off UB5E subject to traffic comments.
- Car parking that is earmarked for UB4 replaces car parking that was approved as part of UB5E. Therefore there is a shortfall in the amount of car parking located over the site and UB5E.

Other issues relate to cross ventilation, unit mix, over-sized study rooms, unit sizes, garbage area/collection, clarification of plans and minor modifications relating to existing natural ground level, dimensions on plans, landscaped and communal open space area calculations, GFA plans, storage calculations, disabled access, building articulation and photomontages.

The application was presented at a briefing meeting on 11 May 2017 where the above issues were addressed relating to the design scheme and car parking. It was recommended by the Panel that as the proposal departed from the winning design scheme, the application was to be assessed by Council's Design Review Panel. Prior to the submission of the plans



to the design review panel, the applicant amended the plans to address the issues that have been outlined above.

The application was presented to the Design Review Panel on 6 July 2017. The Panel provided the following comments in regards to the proposal:

- The Panel supports the reduction in the street setback from 6 metres to 4 metres
- The Panel considers the changes to the internal corners results in an improvement of the design with improved amenity
- The Panel notes that the proposed pop up skylights exceed the height limits and notwithstanding their low impact an alternative design solution could achieve the same outcome without exceeding the height e.g. a velux
- The Panel notes the childcare centre design and fitout will be a separate development application but notes the need for a high level of design quality and articulation in the very long fence to Bunnerong Road.
- The Panel considers the removal of the internal communal space from UB4 to be acceptable.

In regards to the car parking issue, this issue remained outstanding. On 3 August 2017, the applicant provided amended plans demonstrating that the proposal now complies with the car parking requirement assessed in Council BBDCP 2013. To address the non-compliance with the car parking for UB5E, a separate s.96 application has been lodged for that site that is currently under assessment.

On 14 August, the applicant submitted amended arborist report to reflect the site and on 11 August 2017, amended landscape plans were provided to reflect the updated plans for the site.

## **STAGE 1 MASTERPLAN SITE & SURROUNDING LOCALITY**

The overall Stage 1 Master plan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north, and Westfield Drive to the south. The north eastern portion of this block is the consolidated British American Tobacco Australia (BATA) operations which does not form part of the subject site. The site is made up of one allotment legally described as Lot 2 in DP 1187426, with a total site area of 103,547m<sup>2</sup>.

The site is irregular in shape with frontages to Bunnerong Road, Heffron Road, Banks Avenue and Westfield Drive of 194.21m, 107.22m, 419.85m and 342.34m respectively. The site also has two internal boundaries of 237.75m and 238.20m with the remaining BATA site.

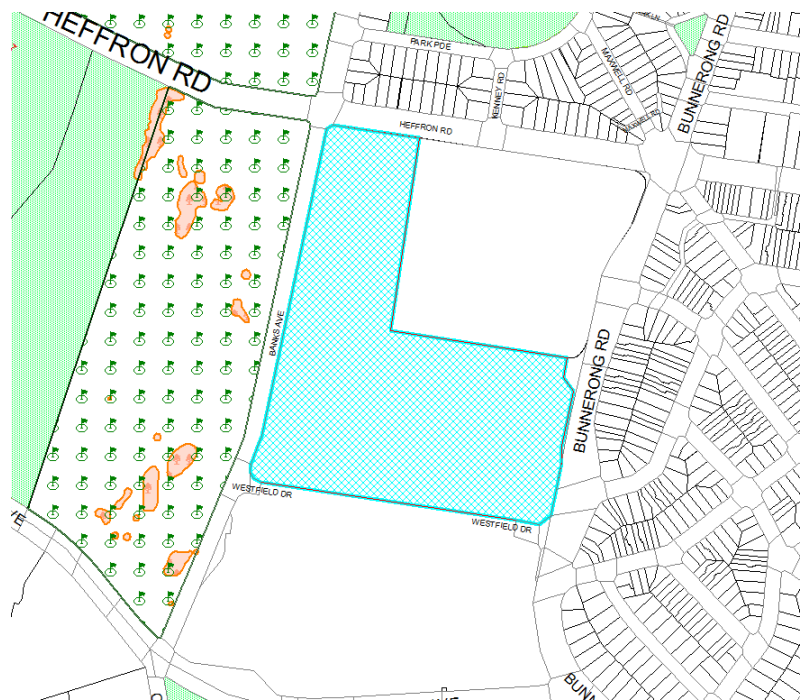
The southern portion of the site has been cleared of all structures and construction works have been completed on the roads and stormwater works approved under the Stage 2 DA's No.14/159 and 15/104. In the north-western portion of the site, a large warehouse building from the former BATA operations remains.

A variety of development is located in the vicinity of the site. To the north is Pagewood consisting primarily of low density residential development. To the east is Maroubra which is also primarily low density residential development. To the immediate south of the site is Westfield Eastgardens which is a large regional shopping centre. To the immediate west is the Bonnie Doon Golf Course.

The site is generally flat however it is slightly elevated and retained by a wall along Banks Avenue in the north-west (up to 2m), retained by a lower 450-600mm wall in the south to Banks Avenue and is cut below the level of Bunnerong Road in the south-east by up to 5m.

In terms of vegetation, landscaping beds including medium and large sized mature trees form the perimeter of the site along the Bunnerong Road, Westfield Drive, Banks Avenue, and Heffron Road frontages. Internally, the most significant vegetation is an avenue of large Lemon Scented Gum trees running north-south in the southern half of the site.

External vehicular access to the site is provided via an existing road that provides access to the BATA facility from Bunnerong Road. External vehicular access is also available from Banks Avenue and Westfield Drive.



**Figure 4: Cadastre of the subject site**





Figure 6. Approved subdivision plan (DA-15/104) with UB4 highlighted in orange



Figure 7. Proposed location of UB4 on the subject site





**Figure 8. UB4 looking south-west from Bunnerong Road**

## **SITE HISTORY**

The overall Stage 1 Master Plan site was originally formed in the 1930s through reclamation of virgin marshland. Since its reclamation a number of parcels along the eastern boundary were used mainly for residential/rural purposes (possibly including paddocks and poultry farming) from at least 1929 (the year the records start) to 1938/1939.

The site was owned by General Motors Holden (GMH) and was operated as an automobile assembly plant from 1939 to 1982 when the plant was closed down. The site was subsequently purchased by Quintilis Pty Ltd (a subsidiary of BATA) in 1982. Quintilis Pty Ltd was incorporated into British American Tobacco Services Limited in 1989 and BATA in 2001.

The GMH factory was officially opened on 15 February 1940 by Prime Minister Menzies. The factory assisted in manufacturing of car bodies during WWII. Afterwards, the facility was used for the assembly and distribution of Holden vehicles. The manufacturing areas were largely concentrated in the north-eastern portion of the GMH owned land parcel.

BATA operated within the western and southern portions of the site, either as owner or tenant, until July 2014. The main factory building, used for the manufacturing and packaging of various cigarette products, occupied the greater portion of the site. Several ancillary buildings were located around the main factory building including corporate, administration, security, and IT buildings. Utility buildings (flavour room, boiler house, electrical substation, etc.), a technical centre and a canteen are other buildings detached from the main factory building and were located generally along the eastern portion of Lot 1 adjacent to Bunnerong Road. A large warehouse type building (No. 1 Bond Store) located on the north western portion of the site still exists. The south western portion of the site where Urban Block 5 West is located was used for car parking by BATA staff and visitors.



**Figure 9: Aerial photograph of the subject site dated 5 May 2016 (Source: [nearmap.com.au](http://nearmap.com.au))**

## **PROPOSED DEVELOPMENT**

The proposed development (as amended) is for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development will accommodate 167 apartments and a child care centre and will include landscaping across the site. The proposal will involve having a shared basement with UB5E with vehicular access provided from UB5E.

### Built Form

The building is arranged into two cores each servicing one building:

- 5 storey podium with 6 storey tower on the eastern side of the site and an 8 storey tower on the western side of the site;
- One level of basement car parking which will be shared with UB5E;
- 167 apartments are proposed.

### Childcare Centre

490sqm of GFA has been allocated for a childcare centre which will also include 546sqm of outdoor play area that wraps around the south-eastern corner of the building. The proposed childcare space is intended to accommodate 91 children and 16 staff. A separate DA will be lodged for the internal fit out of the tenancy.

### Apartment Mix

A breakdown of the apartment mix is as follows:

39 x 1 bed room apartments– 23%  
82 x 2 bed room apartments– 49%  
46 x 3 bedroom apartments – 28

#### Car Parking and Servicing

The development includes 1 level of basement car park. The basement car park will be shared between the subject site and UB5E and will run below the open space located between the two buildings on ground floor. Cross easements have been recommended in a separate application which has been determined for the basement. Entry to the basement will be off the vehicular access that was approved on the western side of the building at UB5E. This is located along the western frontage to the private access way which connects to North-South Street 2. Details of the car park are as follows:

Total number of car spaces: **320 spaces**

Residential: 285 car spaces

This is further broken up as follows:

- 17 visitor spaces,
- 1 car share space,
- 267 residential spaces for the units

Childcare Centre: 35 car spaces

This is further broken up as follows:

- 19 visitors (basement)
- 8 visitors (ground level)
- 8 childcare staff

Service Vehicles: 1 space for MRV within loading bay (approved in UB5E)

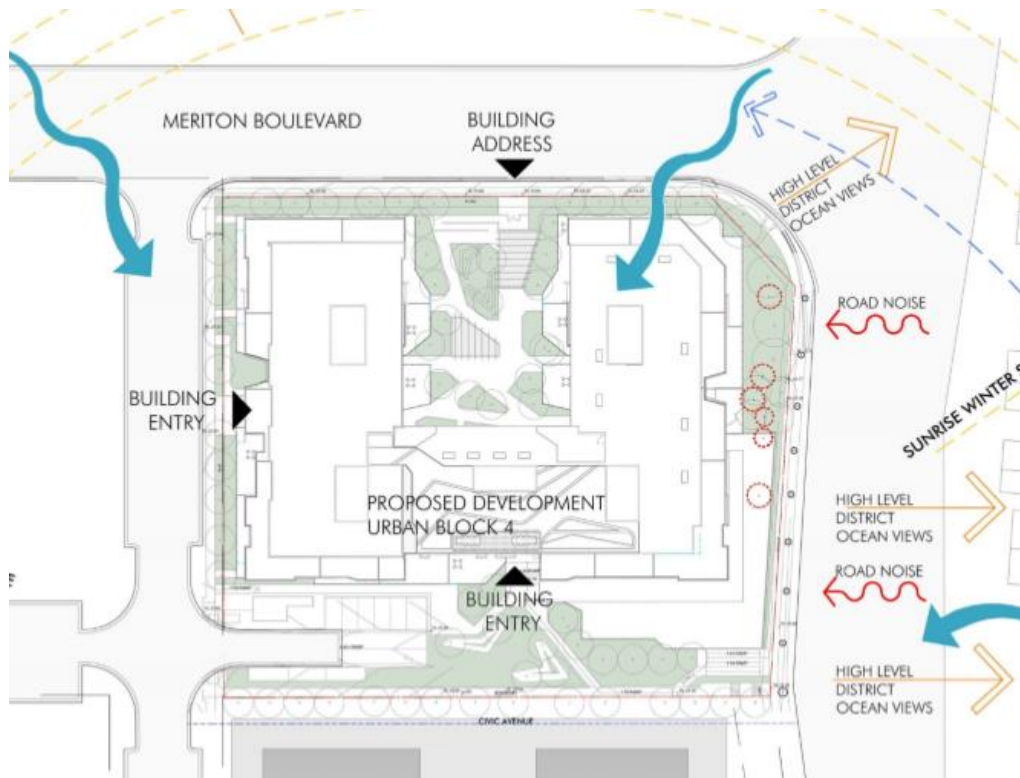
Bicycle Parking: Is to provide 32 spaces in the south-eastern corner of basement under UB4

#### Communal Open Space

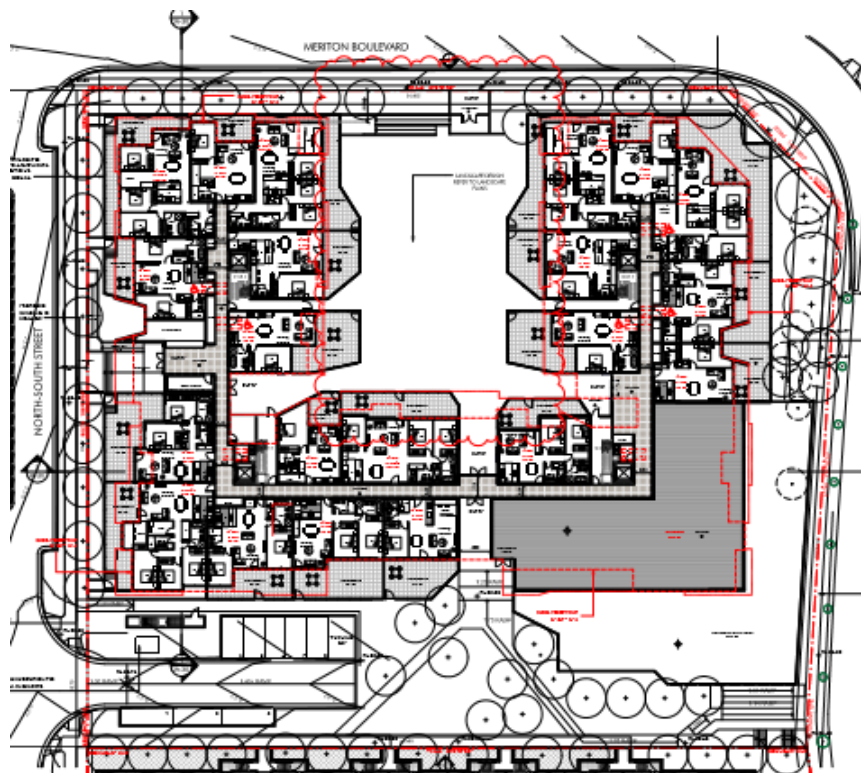
The development includes the following areas of communal open space:

- Ground Level – 1,568sqm. This open area is in the centre of the site and to the southern side of the site.
- Level 6 – 430sqm. This open area is located on the rooftop of Level 6 and comprises of BBQ pavilion, lawn area and vege garden.
- Swimming pool and gym that were approved in UB5E are located within the shared basement and is accessible to residents of UB4.





**Figure 10. Proposed Site Analysis Plan**



**Figure 11. Proposed Ground Floor Plan**

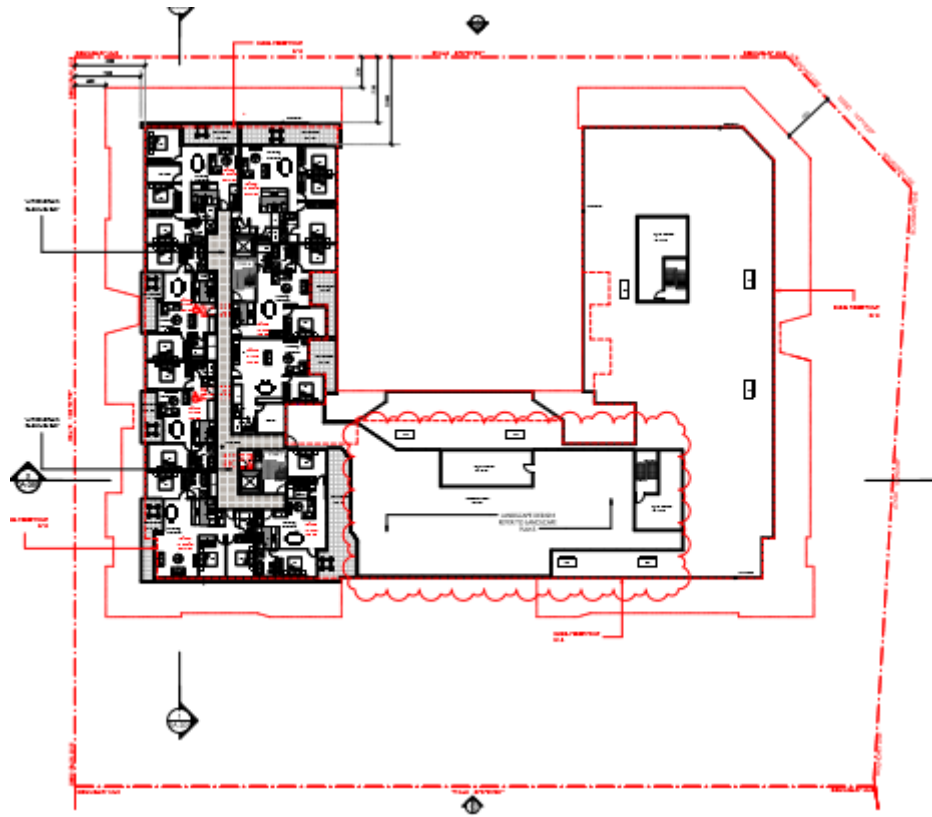


Figure 12. Proposed Level 6 Plan

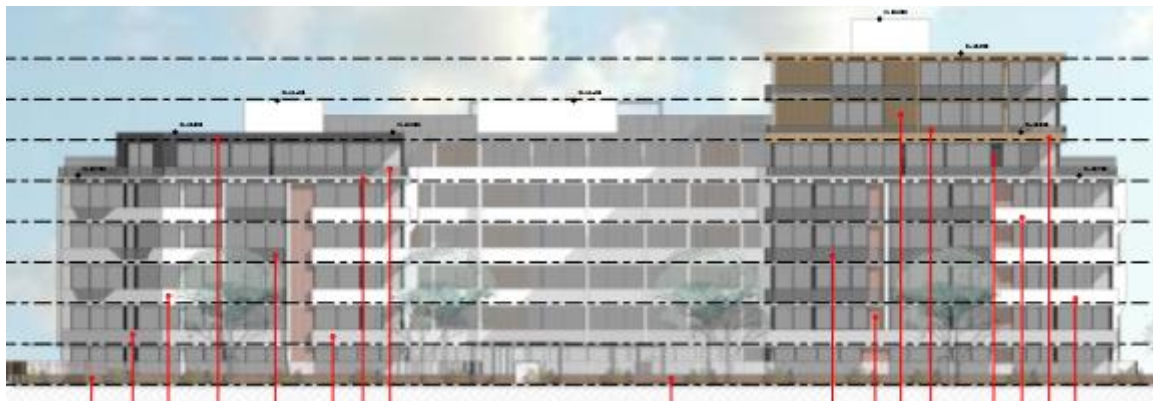


Figure 13. Proposed Northern Elevation



Figure 14. Proposed Southern Elevation



Figure 15. Proposed Western Elevation



Figure 16. Proposed Eastern Elevation

### Key Controls

Table 1: Compliance with key provisions

Control	Required	Proposal	Complies														
Site Area	-	Site Area: 7,915sqm	N/A														
Stage 1 Consent																	
GFA and FSR	Max FSR 2.3:1 Max GFA 18,225sqm	Proposed FSR: 2.3:1 Proposed GFA: 18,225sqm	Yes														
Height (table)		The proposed heights are as follows: <ul style="list-style-type: none"><li>Podium: 16.9m (RL 38.9m)</li></ul> <u>Tower A:</u> <ul style="list-style-type: none"><li>20m (RL 42.0m)- building height</li><li>22.6m (RL 44.6m)- plant room</li></ul>	Yes, consistent with Stage 1														
<table><tr><th>Block No.</th><th>Tower No.</th><th>Maximum Podium Height</th><th>Maximum Building Height</th><th>Maximum Plant Room Height</th></tr><tr><td rowspan="2">Urban Block 4</td><td>A1</td><td>16.9m (RL 38.9)</td><td>20.0m (RL 42.0)</td><td>22.6m (RL 44.6)</td></tr><tr><td>A2</td><td>16.9m (RL 38.9)</td><td>26.2m (RL 48.2)</td><td>28.8m (RL 50.8)</td></tr></table>		Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height	Urban Block 4	A1	16.9m (RL 38.9)	20.0m (RL 42.0)	22.6m (RL 44.6)	A2	16.9m (RL 38.9)	26.2m (RL 48.2)	28.8m (RL 50.8)		
Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height													
Urban Block 4	A1	16.9m (RL 38.9)	20.0m (RL 42.0)	22.6m (RL 44.6)													
	A2	16.9m (RL 38.9)	26.2m (RL 48.2)	28.8m (RL 50.8)													

Control	Required	Proposal	Complies																							
		<div>height</div> <div>Tower B:<ul style="list-style-type: none"><li>26.2m (RL 48.2m)- building height</li><li>28.8m (RL50.8m)- plant room height</li></ul></div>																								
Setbacks	Podium and building setbacks to comply with setback hierarchy plan – min 6m-12m (Bunnerong Road)	<ul style="list-style-type: none"><li>Bunnerong Road: 6.05m-11.5m</li></ul>	Yes																							
Car Parking	<div>Residential<ul style="list-style-type: none"><li>1 space / 1 bedroom (39 req)</li><li>1.5 space / 2 bedroom (123 req)</li><li>2 space / 3 bedroom (92 req.)</li><li>Sub-total = 254</li><li>1 visitor space /10= (26 req.)</li><li>22 car share spaces (10 in basements) across entire site (1 req)</li><li>Sub-total residential: 281 spaces req.</li></ul></div> <div>Childcare:<ul style="list-style-type: none"><li>1/2 employees (8 req.)</li><li>1/5 children (18.2 req.)</li><li>1/20 children drop off/pick up (4.55 req.)</li><li>Sub-total: 32 spaces</li></ul></div> <div>Total spaces 313 car spaces</div>	<div>Residential<ul style="list-style-type: none"><li>267 spaces for apartments</li><li>17 visitor spaces</li><li>1 car share spaces</li></ul></div> <div>Child Care<ul style="list-style-type: none"><li>8 childcare staff spaces</li><li>19 childcare visitor spaces</li><li>8 visitor spaces (ground floor)</li></ul></div> <div>Total spaces proposed = 320</div>	Yes																							
Dwelling Sizes	<table><tr><th>Unit Type</th><th>Area</th><th>Size sq. m</th></tr><tr><td rowspan="2">One bedroom</td><td>Internal</td><td>65</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="2">Two bedroom</td><td>Internal</td><td>85</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="4">Three bedroom</td><td rowspan="2">Internal</td><td>50% of units per urban block 124</td></tr><tr><td>50% of units per urban block 110</td></tr><tr><td rowspan="2">External</td><td>24 for 124 sq. m units</td></tr><tr><td>15 for 110 sq. m units</td></tr><tr><td></td><td></td><td></td></tr></table>	Unit Type	Area	Size sq. m	One bedroom	Internal	65	External	12	Two bedroom	Internal	85	External	12	Three bedroom	Internal	50% of units per urban block 124	50% of units per urban block 110	External	24 for 124 sq. m units	15 for 110 sq. m units				<div>1 bed units: 65-86sqm</div> <div>2 bed units: 86-101sqm</div> <div>3 bed units: 112-133sqm</div>	Yes
Unit Type	Area	Size sq. m																								
One bedroom	Internal	65																								
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Unit Size	Proportion	Indicative Maximum Number of Units																								
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Three + bedroom	Minimum 30%	666																								
TOTAL		2,223																								



Control	Required	Proposal	Complies
<b>SEPP 65 – ADG</b>			
<b>Car Parking</b>	Not located within 800m of a train station. Accordingly, BBDCP 2013 car parking rates apply.	-	N/A
<b>Dwelling Size</b>	Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 65-86sqm 2 bed units: 86-101sqm 3 bed units: 112-133sqm	Yes Yes Yes
<b>Ceiling Height</b>	Habitable Rooms: 2.7m Non-habitable: 2.4m	Habitable rooms: 2.7m Non-habitable rooms: 2.4m	Yes Yes
<b>Deep Soil</b>	Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m.	The site achieves 622sqm or 7.9% of the site as deep soil with min. dimensions of 6m.	Yes
<b>Communal Open Space</b>	25% of site.	1,998sqm (25.2%)	Yes
<b>Solar Access</b>	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter.	52.1% of COS receives greater than 2 hours of sun.	Yes
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm.	71% achieved (118 out of 167 apartments)	Yes
<b>Cross Ventilation</b>	60% required for first 9 storeys. (Required: 101 apartments out of 169)	101 out of 167 apartments are cross ventilated (60%). 10 of these units are cross ventilated through skylights.	Yes
<b>Building Depth</b>	Use a range of appropriate maximum apartment depths of 12-18 metres.	Depths have been established by Stage 1 masterplan. Apartment depths are less than 18 metres.	Yes
<b>Building Separation</b>	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary	<u>Up to 4 storeys: 12m required (podium)</u>	Acceptable



Control	Required	Proposal	Complies
<b>Zone</b>	R3 and B4	Residential Apartments	Yes
<b>FSR</b>	Variable maximum FSR of 1:1 and 3:1 under BBLEP 2013.	2.3:1	<b>No – Refer to Note 7</b>
<b>GFA</b>	7,915sqm – 23,745sqm (maximum) calculated based on permissible FSR under BBLEP 2013.	18,225sqm	<b>As above</b>
<b>Height</b>	Variable maximum height limit of 11 metres and 22 metres.	<p>The proposed heights are as follows:</p> <ul style="list-style-type: none"> <li>Podium: 16.9m (RL 38.9m)</li> </ul> <p><u>Tower A:</u></p> <ul style="list-style-type: none"> <li>20m (RL 42.0m)- building height</li> <li>22.6m (RL 44.6m)- plant room height</li> </ul> <p><u>Tower B:</u></p> <ul style="list-style-type: none"> <li>26.2m (RL 48.2m)- building height</li> <li>28.8m (RL50.8m)- plant room height</li> </ul>	<b>No – Refer to Note 6</b>
<b>BBDP 2013</b>			
<b>Bicycle Parking</b>	In every new building, where the floor space exceeds 600m <sup>2</sup> GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided. <b>Total required: 32</b> (320 car spaces required by DCP).	Total provided: 46 spaces (based on SEE), located within the basement car parking area	Yes
<b>Basement Access</b>	Minimum clearance height of 4.5m for MRV.	Min 4.5m clearance was approved for UB5E where vehicular access will occur from.	Yes
<b>Dwelling Layout</b>	<ul style="list-style-type: none"> <li>No doors to studies.</li> <li>No saddleback bedroom designs.</li> </ul>	<ul style="list-style-type: none"> <li>All study rooms include doors.</li> <li>Saddleback rooms are not proposed and windows are</li> </ul>	<b>No - Refer Note 9</b>  Yes



Control	Required	Proposal	Complies
	<ul style="list-style-type: none"> <li>Studies max 9sqm otherwise considered a bedroom.</li> </ul>	<p>provided within all bedrooms.</p> <ul style="list-style-type: none"> <li>All studies are 9sqm or less.</li> </ul>	Yes

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 CONSIDERATIONS

### *Part 4 Division 2A – Special procedures concerning staged Development Applications*

The Stage 1 Master plan consent DA-14/96 is the first of a Staged Development Application as per Section 83B of the Environmental Planning and Assessment Act. The subject application is a Stage 2 Development Application and as per the Section 83D(2) it cannot be inconsistent with the Stage 1 consent. Below is an assessment of the proposed development against the relevant requirements of the Stage 1 consent.

**Table 2:** Compliance with Stage 1 Consent Conditions

Condition Control	Required	Proposal	Consistent														
GFA and FSR (Condition 12)	GFA 18,225sqm FSR 2.3:1 Indicative Units 182	GFA: 18,225sqm FSR: 2.3:1 Units: 167	Yes														
Heights (Condition 15)	<table border="1"> <thead> <tr> <th>Block No.</th> <th>Tower No.</th> <th>Maximum Podium Height</th> <th>Maximum Building Height</th> <th>Maximum Plant Room Height</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Urban Block 4</td> <td>A1</td> <td>16.9m (RL38.9)</td> <td>20.0m (RL42.0)</td> <td>22.6m (RL44.6)</td> </tr> <tr> <td>A2</td> <td>16.9m (RL38.9)</td> <td>26.2m (RL48.2)</td> <td>28.8m (RL50.8)</td> </tr> </tbody> </table>	Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height	Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)	<p>The proposed heights are as follows:</p> <ul style="list-style-type: none"> <li>Podium: 16.9m (RL 38.9m)</li> </ul> <p><u>Tower A:</u></p> <ul style="list-style-type: none"> <li>20m (RL 42.0m)- building height</li> <li>22.6m (RL 44.6m)- plant room height</li> </ul> <p><u>Tower B:</u></p> <ul style="list-style-type: none"> <li>26.2m (RL 48.2m)- building height</li> <li>28.8m (RL50.8m)- plant room height</li> </ul>	Yes
Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height													
Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)													
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)													
FFL Ground floor (Condition 17)	FFL of GF apartments no greater than 1 metre above EGL	GF FFL is 1m above EGL.	Yes														
Separation (Condition 18)	In accordance with building envelope detail and building separation plans. (28m between the two towers)	Building separation between the two towers is at 27m. This is a result of non-compliance with articulation	No – Refer to Note 1														

Condition Control	Required	Proposal	Consistent
		control.	
<b>Podium height</b> (Condition 19)	UB4 5 storey podium adjoining Bunnerong Road for 6 and 8 storey tower components.	Complies	Yes
<b>Tower setbacks</b> (Condition 23)	Min 4m setback for towers above a podium.	All towers setback 4m from edge of podium. Balconies encroach within 4 metre setback.	<b>No – Refer to Note 2</b>
<b>Tower Articulation</b> (Condition 24)	Max protrusion of 500mm from building envelopes for the towers for a maximum of 50% of each façade.	The four facades of each tower have an average articulation outside the envelope of less than 50%.  Level 5: 0% Level 6-7: 41.8%  Overall Average (including podium): 41.6%	Acceptable- <b>Refer to Note 3</b>
<b>Podium Articulation</b> (Condition 25)	Max protrusion of 500mm from building envelopes for the podiums for a maximum of 20% of each façade.	Level Ground- 4: 48.8% average podium protrusion.  Minor protrusions for the ground floor apartment are up to 500mm outside envelope. Significant articulation provided through cuts in the podium particularly along the northern, eastern and western sides.	<b>Refer to Note 3</b>
<b>Setbacks</b> (Condition 26)	Podium and building setbacks to comply with setback hierarchy plan – tapered 6m to 12m Bunnerong Road	<ul style="list-style-type: none"> <li>Bunnerong Road: 6.05m-11.5m</li> </ul>	Yes
<b>Car Parking</b> (Condition 29)	<u>Residential</u> <ul style="list-style-type: none"> <li>1 space / 1 bedroom (39 req)</li> <li>1.5 space / 2 bedroom (123 req)</li> <li>2 space / 3 bedroom (92 req.)</li> <li>Sub-total = 254</li> <li>1 visitor space /10= (26 req.)</li> <li>22 car share spaces (10 in basements) across entire</li> </ul>	<u>Residential</u> <ul style="list-style-type: none"> <li>267 spaces for apartments</li> <li>17 visitor spaces</li> <li>1 car share spaces</li> </ul> <u>Child Care</u> <ul style="list-style-type: none"> <li>8 childcare staff spaces</li> <li>19 childcare visitor spaces</li> <li>8 visitor spaces (ground floor)</li> </ul>	Yes

Condition Control	Required	Proposal	Consistent																				
	<p>site (1 req)</p> <ul style="list-style-type: none"><li>Sub-total residential: 281 spaces req.</li></ul> <p><u>Childcare:</u></p> <ul style="list-style-type: none"><li>1/2 employees (8 req.)</li><li>1/5 children (18.2 req.)</li><li>1/20 children drop off/pick up (4.55 req.)</li><li>Sub-total: 32 spaces</li></ul> <p><u>Total spaces</u> 313 car spaces</p>	Total spaces proposed = 320																					
<b>Dwelling Sizes</b> (Condition 33)	<table><tr><th>Unit Type</th><th>Area</th><th>Size sq. m</th></tr><tr><td rowspan="2">One bedroom</td><td>Internal</td><td>65</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="2">Two bedroom</td><td>Internal</td><td>85</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="4">Three bedroom</td><td rowspan="2">Internal</td><td>50% of units per urban block 124</td></tr><tr><td>50% of units per urban block 110</td></tr><tr><td rowspan="2">External</td><td>24 for 124 sq. m units</td></tr><tr><td>15 for 110 sq. m units</td></tr></table>	Unit Type	Area	Size sq. m	One bedroom	Internal	65	External	12	Two bedroom	Internal	85	External	12	Three bedroom	Internal	50% of units per urban block 124	50% of units per urban block 110	External	24 for 124 sq. m units	15 for 110 sq. m units	<p>Internal areas comply: 1 bed units: 65-86sqm 2 bed units: 86-101sqm 3 bed units: 112-133sqm</p> <p>External areas comply with the exception of A113 and the respective units above however the unit is consistent with the unit sizes within the ADG.</p>	Yes
Unit Type	Area	Size sq. m																					
One bedroom	Internal	65																					
	External	12																					
Two bedroom	Internal	85																					
	External	12																					
Three bedroom	Internal	50% of units per urban block 124																					
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	External	24 for 124 sq. m units																					
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<b>Unit Mix</b> (Condition 34)	<table><tr><th>Unit Size</th><th>Proportion</th><th>Indicative Maximum Number of Units</th></tr><tr><td>Studios</td><td>N/A</td><td>0</td></tr><tr><td>One bedroom</td><td>Maximum 20 %</td><td>445</td></tr><tr><td>Two bedroom</td><td>50%</td><td>1,112</td></tr><tr><td>Three + bedroom</td><td>Minimum 30%</td><td>666</td></tr><tr><td>TOTAL</td><td></td><td>2,223</td></tr></table>	Unit Size	Proportion	Indicative Maximum Number of Units	Studios	N/A	0	One bedroom	Maximum 20 %	445	Two bedroom	50%	1,112	Three + bedroom	Minimum 30%	666	TOTAL		2,223	1 bed – 23% 2 bed – 49% 3 bed – 28%	<b>No – Refer to Note 4</b>		
Unit Size	Proportion	Indicative Maximum Number of Units																					
Studios	N/A	0																					
One bedroom	Maximum 20 %	445																					
Two bedroom	50%	1,112																					
Three + bedroom	Minimum 30%	666																					
TOTAL		2,223																					
<b>Adaptable Units</b> (Condition 35)	Minimum number of adaptable units: 51 plus units = 2 units, plus an additional 1 unit for each 30 units (req. 8 adaptable units)	Total number of adaptable units is 38.	Yes																				
<b>Solar Access</b> (Condition 36)	<p>70% solar access to living rooms and private open space for minimum of 2 hours between 9am – 3pm in mid-winter</p> <p>Podium communal open space minimum 2 hours solar access between 9am-3pm in mid-winter</p>	<p>71% achieved (118 out of 167 apartments).</p> <p>52.1% of COS receives greater than 2 hours of sun. This is to the ground and Level 6 COS.</p>	Yes																				

### Note 1 – Separation Distances (Condition No. 18)

Condition No.18 of the Stage 1 Masterplan is worded as follows:

*“The separation distances shall be provided in accordance with DWG No. A006 Building Envelope Detail prepared by PTW dated 29 April 2015 and DWG No. A007 Building Separation Plan prepared by PTW dated 29 April 2015.”*

Figure 17 is DWG No. A007 demonstrating the approved building separation envelope for UB4 under Stage 1:

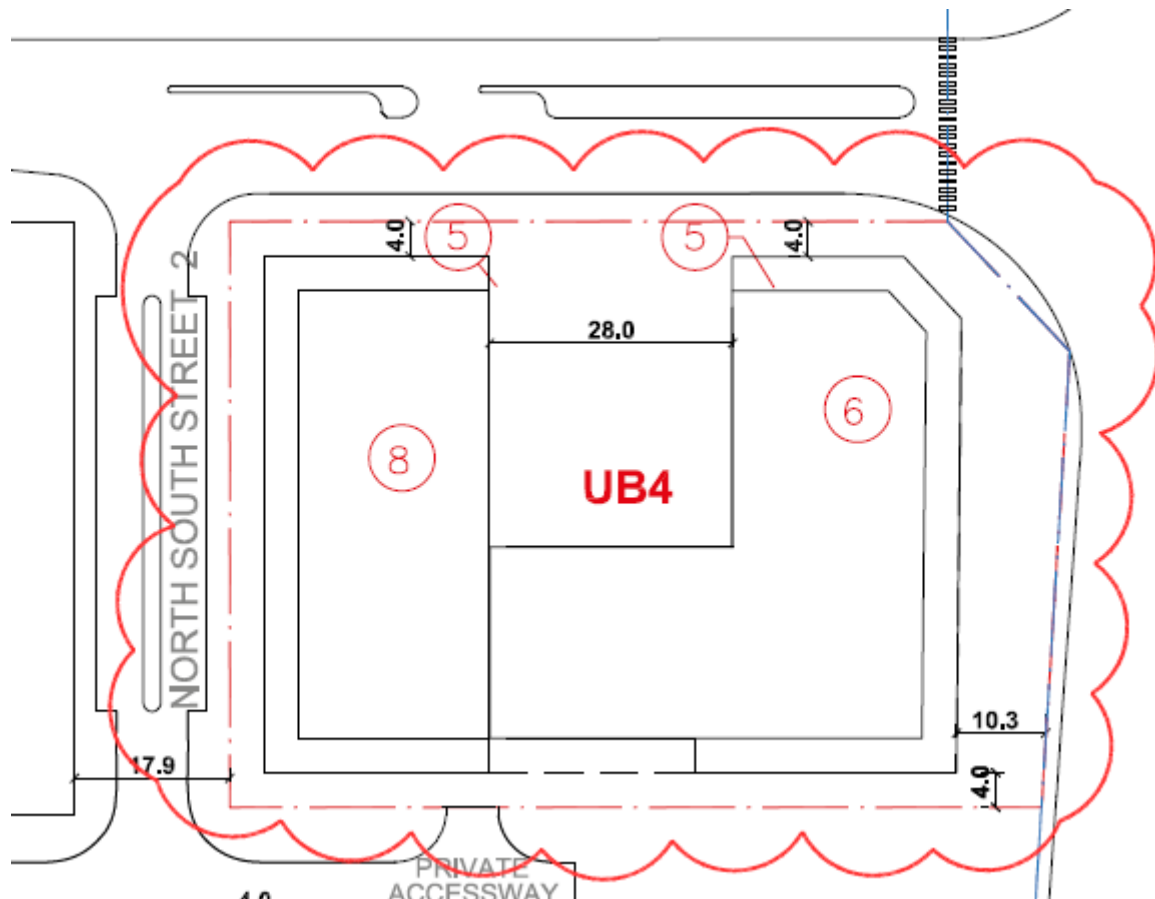
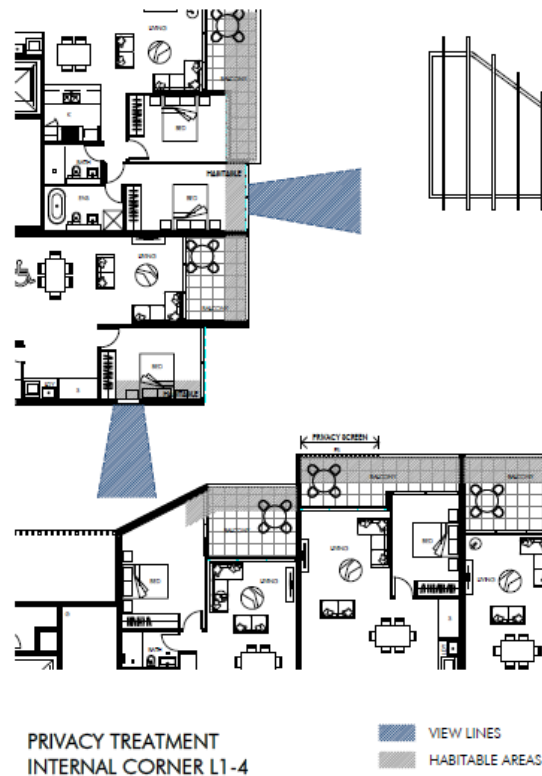


Figure 17. Stage 1 Building Separation Dwg No. A007

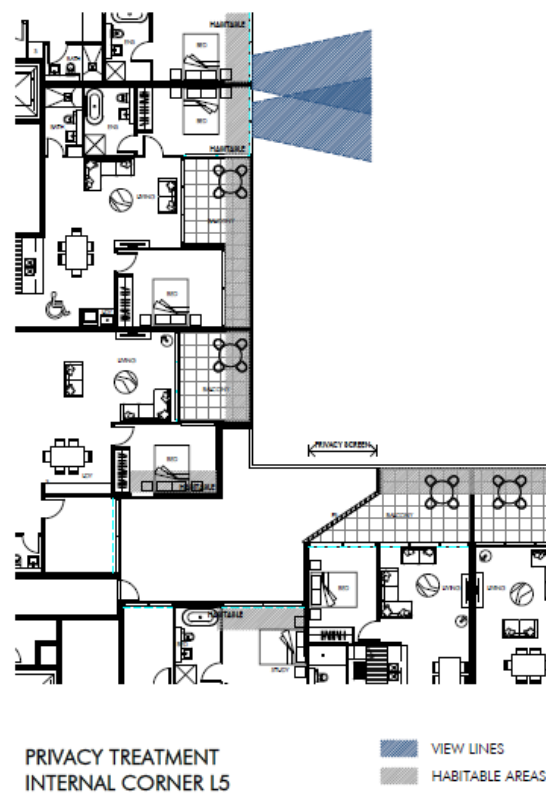
The Stage 1 consent approved a separation distance of 28 metres between the podium for Ground Level to Level 5. The proposed development is generally consistent with the approved building separation distances. However, the proposal does not comply with the building separation between the 6 and 8 storey towers for ground floor to Level 4. The development proposes a separation of 27 metres. The non-compliance is a variance of 1 metre and is contained to a small portion of the building between a bedroom within A-111 and B-106 (and each respective level above in both towers) as well as the balconies between A-111 and A-112 and B-106 and B-105.

Additionally, the development proposes internal corners in which units are located in close proximity to one another. In the below figures which is a privacy treatment plan which the applicant has provided, the applicant has proposed vertical privacy screening to be installed on the north facing balconies to mitigate any overlooking within the units. Also, the windows directly fronting a unit have been appropriately positioned so that they are opposite a blank

wall. Any directly overlooking from the east facing to the west facing units and vice versa is acceptable as 27m-28m is an appropriate distance. It does comply with the ADG minimum building separation distances between habitable and habitable areas of 12 metres.



**Figure 18. Privacy treatment for internal corner on Levels 1-4**



**Figure 19. Privacy treatment for internal corner on Level 5**

## Note 2 – Setbacks (Condition Nos. 23)

Condition Nos. 23 of the Stage 1 Masterplan are worded as follows:

*“23. A minimum 4 metre setback shall be provided for all tower components above a podium.”*

In regards to Condition No. 23, Levels 5 to 7 are located on top of the podium and have been setback away from the building edge by 3.5 metres and greater. This non-compliance is limited to the balconies and a small portion of the habitable areas on Levels 6 and 7 (along the southern side). This does not comply with the minimum 4 metre setback requirement as stated within Condition No. 23. However, Condition No. 24 and 25, which is outlined below, does allow a 500mm protrusion zone on each façade. As the non-compliance allows for greater articulation to the façade (as demonstrated in Figure 20) and the non-compliance face either the western side to Central Park and the southern and northern side which is separated by streets and open space, the impact is not considered significant on the surrounding neighbours. Therefore, the setback is acceptable.

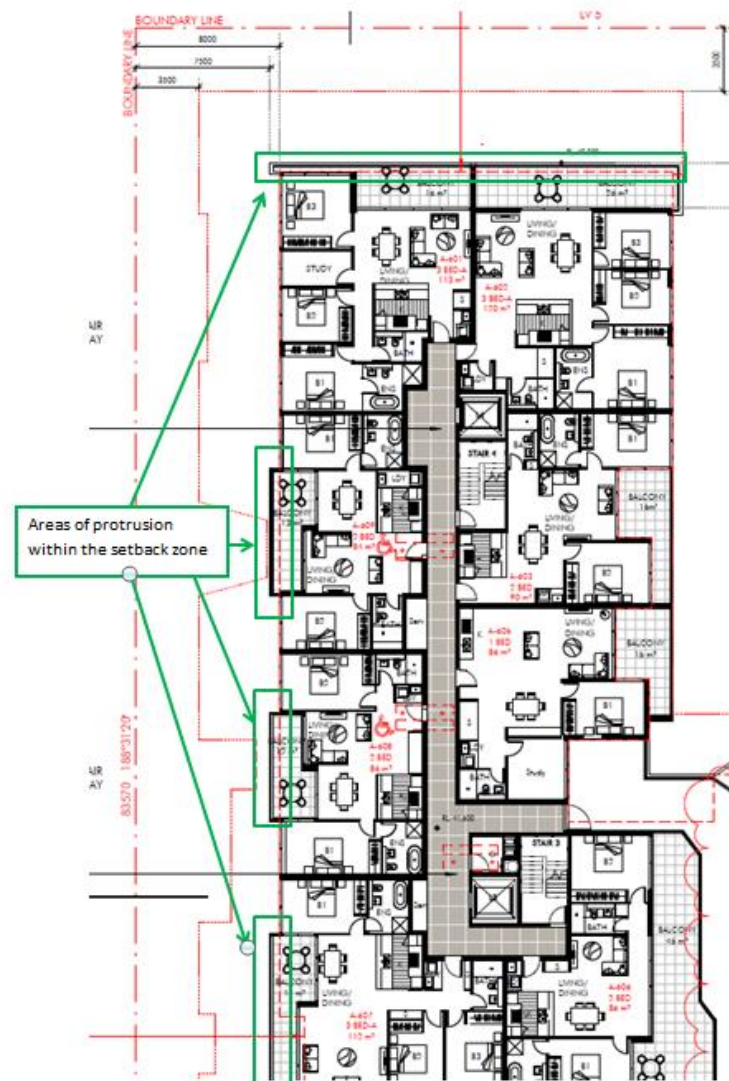


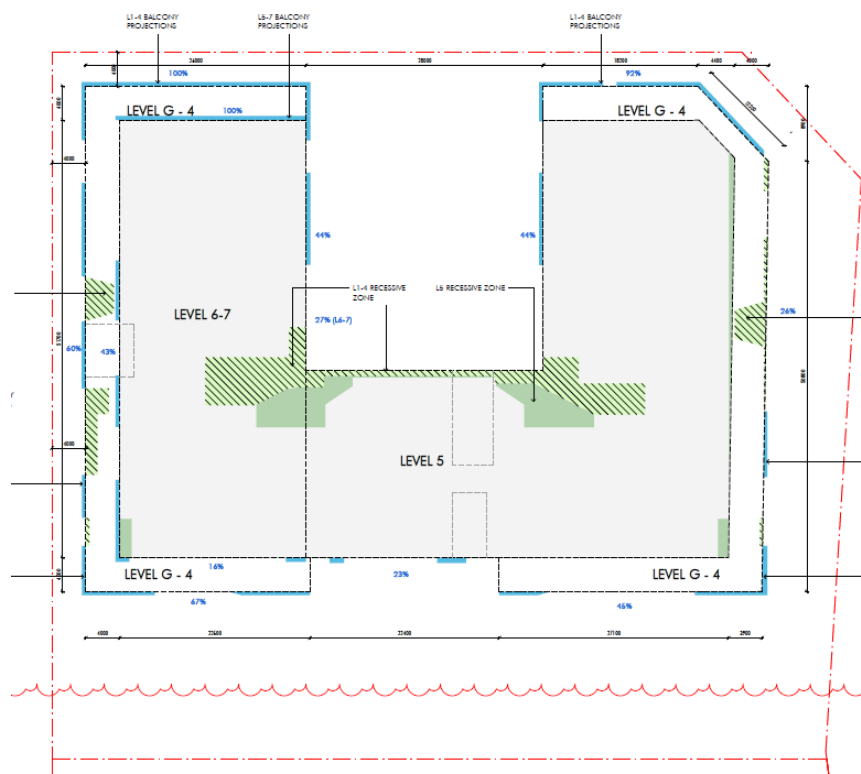
Figure 20. Proposed areas of protrusion within the setback zone

### Note 3 – Tower and Podium Articulation (Condition Nos. 24 and 25)

Condition Nos 24 and 25 of the Stage 1 Masterplan are worded as follows:

- “24. A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the towers shown in Drawing No. A006 dated 29 April 2015. This is permitted for a maximum of 50% of each façade. This should be balanced by façade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation.
25. A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the podiums shown in Drawing No. A007 dated 29/04/2015. This is permitted for a maximum of 20% of each façade. This should be balanced by façade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation.”

The applicant has provided a building articulation plan (Figure 21) to demonstrate the areas of protrusion and recessive zones. The areas highlighted in blue are the protrusion zones and the areas highlighted in green are the proposed recessive zones for both the towers and the podium. As demonstrated in the plan, the areas of recession are greater in area than the areas of protrusion. It is clear that internal to the development, there is greater articulation to allow for better flexibility to the development. Additionally, the extension of balconies over the setback envelope, which is the main reason for the protrusion, allows for greater articulation on the northern, western and eastern side.



**Figure 21. Building Articulation Plan**

The proposal provides the following average articulation breakdown for the development:



Ground Level to Level 4: 48.8% average articulation  
Level 5: 0% average articulation  
Level 6-7: 41.88% average articulation

Overall: 41.6% average articulation

The proposal meets the objective of the conditions to provide articulation and the meaning of 'façade' in the condition could be interpreted as meaning the combination of the 4 faces of each tower. Using this meaning for 'façade' the proposal achieve the maximum 50% articulation outside the approved envelope for the entire site. This is acceptable in this case.

#### **Note 4 – Unit Mix**

In accordance with Condition No. 34 of the Stage 1 Consent, the total number of one bedroom apartments must not exceed 20% and the total number of the 3 bedroom apartments must not be less than 30% of the total apartments within the development. The development proposes 23% 1 bedroom apartments, 49% 2 bedroom apartments and 28% 3 bedroom apartments. The departure equates to an additional 5 x 1 bedroom apartments and a decrease in 3 x 3 bedroom apartments.

The control is to be considered closely with the ADG controls and the BBDCP 2013 controls specifically Part 4C.5.1 which requires a maximum 1 bedroom apartment unit mix of 25%. The ADG recommends that an appropriate unit mix should take into consideration the distance to public transport, employment, and education centres, the current market demands and projected future demographic trends and the demand for social and affordable housing. The proposal is providing an appropriate unit mix within the development.

The subject site is located within the Eastgardens/Pagewood Precinct, in close proximity to services, employment opportunities and public transport. The control's intent is to allow for dwelling choice where it would not ordinarily be provided by the market. The non-compliance is supported as the 1 bedroom unit mix is minor and the development provides a large proportion of 3 bedroom apartments that is greater than the minimum unit size requirement outlined in Condition No. 33 of the Stage 1 consent.

It should be further noted that unit sizes are greater than Council's minimum unit sizes in the ADG and are expected to provide a good level of internal amenity to future occupants. This is particularly the case as the minimum unit size requirement for a 1 bedroom apartment within the Stage 1 consent is 65sqm which is 15sqm greater than the ADG requirement. Each level of the development provides a good unit mix by not containing all the 1 bedroom apartments on the same level. Therefore, the unit mix departure is acceptable.

#### ***Part 4 Division 5 – Special procedures for integrated development***

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the Development Application.

The Development Application is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be an Aquifer Interference Activity.

In this regard, the Development Application was referred to Water NSW. On 29 June 2017, Water NSW provided conditions of consent which have been recommended in the consent attached. Therefore, the proposal is acceptable.

## SECTION 79(C) CONSIDERATIONS

In considering the Development Application, the matters listed in Section 79C of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

### (a) Provisions of any Environmental Planning Instrument (EPI), draft EPI and Development Control Plan (DCP)

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

The provisions of State Environmental Planning Policy (Infrastructure) 2007 have been considered in the assessment of the Development Application.

As per Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, the proposed development is 'traffic generating development' as it includes 75 dwellings or more and has access to a road that connects to a classified road. Accordingly, Clause 104 'Traffic Generating Development' applies to the DA which requires the RMS be notified. In a letter dated 7 June 2017, the RMS was notified of the DA.

Council received a response in a letter dated 7 June 2017, that raised no objection to the proposed development, subject to comments for Council to consider in the assessment and conditions to be imposed in the consent. These comments were that the development shall comply with the Masterplan and the Botany Bay DCP 2013 and that all buildings and structures shall be wholly within the freehold property. Additionally, the car parking areas are to comply with the Australian Standards, that the outdoor area of the childcare centre is to be suitably fenced, vegetation is not to hinder sightlines and consideration is to be given to the traffic control signals proposed on the intersection of the east-west boulevard and Bunnerong Road. These comments have been considered in the assessment.

#### State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the Development Application, along with the requirements of Part 3K of the Botany Bay Development Control Plan 2013 relating to Contaminated Land. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The Stage 1 consent included the following documents relating to site contamination:

- Detailed Site Investigation Report ref: 71631.11 Revision O dated 4 September 2013 prepared by Douglas Partners; and
- Updated Remedial Action Plan ref: 71631.12 Revision O dated 4 September 2013 prepared by Douglas Partners.

Similar to UB5E, as part of the subject Development Application, a Site Validation Assessment and Site Audit Statement were submitted in relation to UB4. The site validation assessment and remedial action plan is consistent with the assessment under Stage 1 consent. Both reports demonstrate that the site is suitable for residential development. An amended Site Audit Statement was submitted on 1 August 2017 to include the childcare centre.

Council's Environmental Scientist has reviewed the application and raised no objection subject to appropriate conditions which have been included in the consent.

Given the above, Council is certain the site is suitable for its intended use at the time of the determination of this application. Therefore, the proposed development satisfies the relevant provisions of SEPP No. 55.

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

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Development' have been considered in the assessment of the Development Application.

#### *Clause 28 – Determination of development applications*

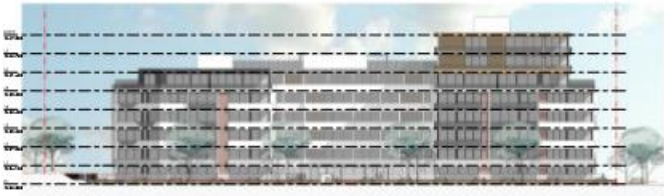
#### **Architectural Design Competition**

Clause 28(5) stipulates that a consent authority is not required to obtain advice of a Design Review Panel if an architectural design competition has been held in relation to the proposed development.

In accordance with the Stage 1 consent, the subject application underwent an architectural design competition that was consistent with the Design Excellence Guidelines. The winning architect was Nettleton Tribe. The design competition incorporated both UB4 and UB5E. The proposed development as lodged with the development application was not consistent with the winning scheme from the competition as there were some elements that were missing i.e. site through link and materials. Council did not support these changes and requested the applicant to amend the plans reverting back to the winning design. The unsupported changes that were proposed modifying the winning scheme related to the following elements:

- Vertical timber material within the indent along the western and eastern elevations is missing. This is to be restored as per winning design scheme as it provides a visually interesting element that breaks up these facades.
- Ground floor fences to courtyards are facebrick. The design competition had a combination of rendered brick and face brick. This is to be restored.
- North-south and east-west through site link has been deleted from the winning design scheme. This is not supported as it provided a connection from the main boulevard to the open space between UB4 and UB5E. This is to be restored.

Amended plans were provided on 26 July 2017 and 3 August 2017 demonstrating that the amended proposal has reverted back to the winning design. The original winning scheme had located the childcare centre on the north-eastern corner of the site. The change in location of the childcare centre was considered and Council was not opposed to the new location which is now on the south-eastern side of the site. Further to the modifications that were carried out on the proposal to revert the scheme back to the winning design, the Panel recommended that the proposal be presented to the Design Review Panel. The proposal was presented to Design Review Panel on 6 July 2017 in which the Panel members had no issues with the design of the proposal and were overall supportive of the development.



**Figure 22. Northern Elevation Comparison between proposal and winning design**



**Figure 23. Eastern Elevation Comparison between proposal and winning design**



**Figure 24. Western Elevation Comparison between proposal and winning design**

### **Design Quality Principles and Apartment Design Guide**

Clause 28(2) stipulates that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated that adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against Part 3 and 4 of the ADG has been provided in Annexure A. An assessment of any significant non-compliance is provided in detail below.

Clause 30(1) of SEPP 65 states that if a Development Application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are car parking, internal area of each apartment and ceiling heights.

The proposed development complies with the car parking rates as stipulated in the Stage 1 consent and far exceeds the minimum internal apartment sizes. The non-compliances with the proposal are detailed below:

## Note 5 – Storage

The Design Criteria for Objective 4G requires that at least 50% of storage for each apartment is to be accommodated within the apartment. There are a number of units that contain storage in close proximity to the entrance however do not meet the 50% requirement. Additionally, a number of units in Ground Level- A-G17, A-G01, B-G07, Levels 1-4- A-106 and A-108, Level 5- A-G39, Level 6- A603, A-609 and A608 and Level 7- A708 and A709 do not comprise of any storage within the apartment. This is not acceptable.

The size of the apartments has been approved under Stage 1 to be larger than the minimum requirements under the ADG. Therefore, there is space within the unit to accommodate for storage to satisfy the requirement. A condition has been recommended in the consent requiring all units to comply with the design criteria for storage within the apartment. The basement car park level plan demonstrates that there is ample amount of space for the remaining storage facilities.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The Development Application was accompanied by BASIX Certificate No. 789119M\_02 prepared by Efficient Living Pty Ltd and dated 23 January 2017 committing to environmental sustainable measures.

### Botany Bay Local Environmental Plan 2013

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

**Table 4: BBLEP 2013 Compliance**

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	N/A	The site is zoned R3 Medium Density Residential and B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed residential flat building and childcare centre is permitted with consent in the R3 and B4 zone.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the following objectives in the BBLEP 2013:</p> <p>B4- Mixed Use Zone</p> <ul style="list-style-type: none"><li>• <i>To provide a mixture of compatible land uses.</i></li><li>• <i>To integrate suitable business, office, residential, retail and</i></li></ul>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		<p><i>other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i></p> <p><i>R3- Medium Density Residential Zone</i></p> <ul style="list-style-type: none"> <li><i>provide for the housing needs of the community within a medium density residential environment.</i></li> <li><i>To provide a variety of housing types within a medium density residential environment.</i></li> <li><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li><i>To encourage development that promotes walking and cycling.</i></li> </ul>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	<b>No - Refer to Note 6</b>	<p>Variable maximum height limit of 11 metres and 22 metres across UB4.</p> <p>Does not comply as follows:</p> <p>The proposed heights are as follows:</p> <ul style="list-style-type: none"> <li>Podium: 16.9m (RL 38.9m)</li> </ul> <p><u>Tower A:</u></p> <ul style="list-style-type: none"> <li>20m (RL 42.0m)- building height</li> <li>22.6m (RL 44.6m)- plant room height</li> </ul> <p><u>Tower B:</u></p> <ul style="list-style-type: none"> <li>26.2m (RL 48.2m)- building height</li> <li>28.8m (RL50.8m)- plant room height</li> </ul>
What is the proposed FSR?	<b>No – Refer to Note 7</b>	<p>Maximum FSR is 1:1 (7,915sqm) – 3:1 (23,745sqm) under the BBLEP 2013.</p> <p>Proposed FSR is 2.3:1 (18,225sqm) which does not comply as the majority of the site falls within the 1:1</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		FSR.
Is the land affected by road widening?	N/A	The subject site is not identified as being affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site is not identified as being affected by ASS. Regardless, the Stage 1 consent includes a condition which requires that every Stage 2 application include an ASS Management Plan.</p> <p>In accordance with the Stage 1 consent, an ASS Management Plan prepared by Consulting Earth Scientists was submitted with the application. Council's Environmental Scientist has reviewed the plan and raised no objection subject to conditions which have been included in the consent.</p> <p>The proposed development proposes one basement level. Proposed excavation is approximately 2 metres below the existing ground level. The amount of excavation is acceptable.</p> <p>The application has been referred to the Water NSW who has provided conditions of consent. In the event that ground water is encountered, a dewatering application is required.</p> <p>The Development Application involves an underground On Site Detention system located within the basement car park towards the north-western side of the site. The proposal has been reviewed by Council's Development Engineer who raised no objection subject to conditions which have been included on the consent.</p>



Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.8 - Airspace operations	Yes	<p>The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings above this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration.</p> <p>CASA provided comments dated 23 January 2017 that apply to the entire site stating that they have no objection to the development providing it does not exceed the overall RL 91.0m for the entire site. The development falls beneath this height.</p>
6.9 – Development in areas subject to aircraft noise	Yes	<p>The subject site is not affected by Aircraft Noise. Regardless, the Stage 1 consent includes a condition which requires that every Stage 2 application include an Acoustic Report addressing AS2021-2000 and BBDCP 2013 Part 9D.</p> <p>In accordance with the Stage 1 consent, an Acoustic Report prepared by SLR was submitted with the application. Council's Environmental Health Officer has reviewed the report and raised no objection subject to conditions which have been included in the consent.</p>
6.16 – Design excellence	Yes	<p>The proposed design has been the subject of an Architectural Design Competition. This is discussed further in the report.</p> <p>The Applicant has adequately addressed the Jurors comments of the winning scheme and further assessed by the Design Review Panel members who have no objection to the proposal.</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment

#### **Note 6 – Clause 4.6 Variation to Height of Buildings**

The site contains two towers with a height of 6 and 8 storeys over a 5 storey podium. The development proposes a maximum height as follows:

- Podium: 16.9m (RL 38.9m)

##### Tower A:

- 20m (RL 42.0m)- building height
- 22.6m (RL 44.6m)- plant room height

##### Tower B:

- 26.2m (RL 48.2m)- building height
- 28.8m (RL50.8m)- plant room height

The figures provided above do not comply with the maximum building heights of 11m and 22m stipulated within the BBLEP 2013.

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 32-44 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

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

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

*(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

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

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

*“The potential to exceed the nominated LEP building heights for the Bunnerong Road site was thoroughly explored in the consideration of the Stage 1 masterplan proposal. As part of that assessment it was accepted that the southern part of Urban Block 4 is suitable for a taller building, exceeding the height limit.*

The proposed heights are entirely consistent with the heights for each building approved under the Stage 1 development consent:

Building	Stage 1 Storeys Approved	Stage 1 Maximum Approved RL	Proposed Storeys	Proposed Maximum RL	Compliance with Stage 1
Podium	5	16.9m (RL 38.9)	5	RL 38.9	Yes
A	6	22.6m (RL 44.6)	6	RL 44.6	Yes
B	8	28.8m (RL 50.8)	8	RL 50.8	Yes

***Is compliance necessary and reasonable?***

The proposed heights have been developed through an extensive master planning process and have already been approved as part of a Stage 1 Development Consent. It would therefore be unnecessary and unreasonable to require strict compliance with the standard at Stage 2.

***Are there sufficient environmental planning grounds for the variation?***

The above building heights were approved following consideration of a comprehensive site analysis and review of the site attributes and surrounding context. The southern part of the site, including the subject site, was identified as the least sensitive part of the Bunnerong Road site being physically and visually separated from existing low density residential development. Adjoining uses include the Westfield Eastgardens shopping centre to the south while residential properties to the east are considerably separated from the site by the Bunnerong Road carriageway.

The urban design concept for the Bunnerong Road site envisages the even graduation in height south to north across the site, with the tallest buildings located in the southern portion of the site reducing down to lower scale buildings to Bunnerong and Heffron Roads to the north (including two storey town houses).

**Clause 4.3 Objectives**

Clause 4.3 sets out the objectives of the maximum building height development standard. The consistency of the proposed development with these objectives is set out in the table below:

Objectives	Proposed Development
(a) To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner.	Height responds to surrounding development and land uses. The subject site is not located in the vicinity of residential areas. Above ground parking is proposed to address the interface with the Westfield Eastgardens loading area.
(b) To ensure the taller buildings are appropriately located.	Consistent with the Stage 1 masterplan consent for the Bunnerong Road site, the proposal will facilitate the development of the tallest buildings within the southern portion of the site adjacent to Westfield

	<i>Eastgardens, allowing for the gradual transition in height down to the north where the Bunnerong Road site interfaces with residential uses.</i>
<i>(c) To ensure that building height is consistent with the desired future character of an area.</i>	<i>Consistent with the desired future character of the area as presented in Part 9D of the BBDCP 2013, the proposal provides new residential uses complemented by public openspace and mixed use development across the wider Bunnerong Road site.</i>
<i>(d) To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</i>	<p><i>The proposal allows for a high level of residential amenity and complies with the requirements of the Stage 1 masterplan consent and the ADG with respect to solar access and cross ventilation.</i></p> <p><i>Given the site's separation from existing residential uses, not adverse overshadowing will occur as a result of the proposal.</i></p>
<i>(e) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.</i>	<i>The proposed development will make a positive contribution to the streetscape. Buildings have been designed to a high standard and comprise good quality materials and finishes.</i>

*As illustrated in the table above, the proposed development does not conflict with the objectives of Clause 4.3 of the BBLEP 2013."*

Officer's Comment:

The Clause 4.6 variation to the Height of Building development standard has been assessed in accordance with the BBLEP 2013.

The site was subject to a Stage 1 Masterplan that outlined the maximum building heights for each urban block. The proposal is consistent with the heights outlined within Condition No. 15 of the Stage 1 consent. Additionally, the height is consistent with the winning design competition scheme which has been endorsed in this application. It is noted that there are pop up skylights that further push the building height on Level 5 however a condition has been recommended to have these skylights be velux which could achieve the same outcome without exceeding the height. The proposed bulk and scale of the development is consistent with what was envisaged in the Stage 1 consent. It is not considered that the building height will cause any unreasonable impact onto the immediate neighbours and the neighbours directly opposite the site along Bunnerong Road as the taller tower is located further to the west of the street.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and

enforcing the development standard in this case would be unreasonable and unnecessary and would not allow the orderly and economic development of this site.

The Clause 4.6 request is considered to be well-founded and the departure to the development standards is not contrary to the public interest. On this basis, it is recommended that the development standard relating to the building height for the site be varied in the circumstances as discussed above.

#### **Note 7 – Clause 4.6 Variation to FSR**

The development proposes an overall GFA of 18,225sqm or 2.3:1. This is inconsistent with the maximum FSR of 1:1 (7,915sqm) – 3:1 (23,745sqm) under the BBLEP 2013 as the subject site has variable FSR across the height. However the predominant FSR for the urban block is 1:1.

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

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

*(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

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

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

*“The potential to exceed the nominated LEP FSR for the Bunnerong Road site was thoroughly explored in the consideration of the Stage 1 masterplan proposal. As part of that assessment and approval, it was accepted that the total Gross Floor Area for Urban Block 4 is to be 18,225sqm; providing a maximum FSR of 2.3:1 for Urban Block 4.*

*The proposed FSR is entirely consistent with the GFA approved under the Stage 1 development consent for Urban Block 4.*

#### ***Is compliance necessary and reasonable?***

*The proposed FSR is a reflection of an extensive master planning process and has already been approved as part of a Stage 1 Development Consent by way of the allotted GFA for UB4 being 18,225sqm. It would therefore be unnecessary and unreasonable to require strict compliance with the standard at Stage 2.*

#### ***Are there sufficient environmental planning grounds for the variation?***

The GFA and subsequent FSR calculation for UB4 was approved following consideration of a comprehensive site analysis and review of the site attributes and surrounding context. The southern part of the site, including the subject site, was identified as the least sensitive part of the Bunnerong Road site being physically and visually separated from existing low density residential development. Adjoining uses include the Westfield Eastgardens shopping centre to the south while residential properties to the east are considerably separated from the site by the Bunnerong Road carriageway.

In approving the Stage 1 DA, consideration was given to the density and built form for the site. This includes the calculations of floor space that is accommodated within the approved building envelopes and number of storeys. The final FSR is aligned to the approved GFA for the site as well as the masterplan's distribution over a 5 storey podium with part 6 and part 8 storey tower forms on top.

Based on the detailed assessment and reasons for determination of the Stage 1 DA, it is considered that there are sufficient environmental planning grounds for the variation request, given its 100% compliance with the Stage 1 DA GFA approval.

#### **Clause 4.4 Objectives**

Clause 4.4 sets out the objectives of the floor space ratio development standard. The consistency of the proposed development with these objectives is set out in the table below.

<b>Objectives</b>	<b>Proposed Development</b>
(a) to establish standards for the maximum development density and intensity of land use	The proposal is consistent with the maximum density and identified use of land as approved in the Stage 1 DA consent.
(b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,	Consistent with the desired future character of the area as presented in Part 9D of the BBDCP 2013, the proposal provides new residential uses complemented by public open space and mixed use development across the wider Bunnerong Road site.
(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,	The proposal observes appropriate setbacks and transitions to provide a strong relationship between the site, the new development occurring to the south and west of the site and the existing development east beyond Bunnerong Road. The visual relationship is a reflection of the approved masterplan.
(d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other	The proposal forms part of a site masterplan which has provided for setbacks and streetscape reserves that provide quality urban environments with



<i>public places such as parks, and community facilities,</i>	<i>landscaping, height transitions and a visual relationship between planned public spaces and the proposed development.</i>
<i>(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain</i>	<i>The proposed development will have minimal impact on the proposed adjoining open space and has been designed to complement it. The bulk and scale of the proposal reflects the sites position between a major road and future public open space and its gateway location to the precinct on Meriton Boulevard.</i>
<i>(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i>	<i>The floor space ratio is a reflection of the approved gross floor area, building heights and height in storeys, providing a built form that is reflective of the envisaged bulk and scale for the site.</i>
<i>(g) to facilitate development that contributes to the economic growth of Botany Bay.</i>	<i>The proposal is considered to contribute to the economic development of the local area, importantly growing a district centre, providing childcare facilities and housing in a location close to essential services and transport.</i>

*As illustrated in the table, the proposed development does not conflict with the objectives of Clause 4.3 of the BBLEP 2013.”*

#### Officer's Comments:

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

The proposed FSR is consistent with Condition No. 12 of the Stage 1 consent which outlined the maximum FSR for UB4 as 2.3:1. The bulk and scale of the proposal is also consistent with the approved bulk and scale of the Stage 1 masterplan which approved building envelopes that have been adopted within this development application. The bulk and scale of the proposal is less than the other urban blocks that have been approved with 16 and 20 storeys (i.e. UB5E and UB5W) elsewhere on the site. The proposal is also consistent with the adjoining Westfield Eastgardens which is located to the south of the site. The bulk of the development does not contribute to any unreasonable overshadowing, privacy impacts or reduced building separation as these items were considered in the Stage 1 consent and adopted in this development application. Additionally, both the design review panel and design competition panel had no issues with the increased GFA for the site.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and

enforcing the development standard in this case would be unreasonable and unnecessary and would not allow the orderly and economic development of this site.

The Clause 4.6 request is considered to be well-founded and the departure to the development standards is not contrary to the public interest. On this basis, it is recommended that the development standard relating to the building height for the site be varied in the circumstances as discussed above.

### Botany Bay Development Control Plan (BBDCP) 2013

BBDCP 2013 is the comprehensive development guideline for the Mascot Branch of Bayside Council. The most relevant and applicable clauses of the DCP are considered in the assessment of this development proposal and are provided below.

**Table 5: BBDCP 2013 Compliance Table – General Provisions**

Control	Proposed	Complies (yes/no)
<b>3A Parking and Access</b>		
<b>3A.2. Parking Provisions of Specific Uses</b> <u>Residential</u> <ul style="list-style-type: none"> <li>1 space / 1 bedroom (39 req)</li> <li>2 space / 2/3 bedroom (256 req.)</li> <li>Sub-total = 295</li> <li>1 visitor space /5= (34 req.)</li> <li>Sub-total residential: 329 spaces req.</li> </ul> <u>Childcare:</u> <ul style="list-style-type: none"> <li>1/2 employees (8 req.)</li> <li>1/5 children (18.2 req.)</li> <li>1/20 children drop off/pick up (4.55 req.)</li> <li>Sub-total: 32 spaces</li> </ul> <u>Total spaces</u> 361 car spaces  Note: No requirement for car wash bays	<u>Residential</u> <ul style="list-style-type: none"> <li>267 spaces for apartments</li> <li>17 visitor spaces</li> <li>1 car share spaces</li> </ul> <u>Child Care</u> <ul style="list-style-type: none"> <li>8 childcare staff spaces</li> <li>19 childcare visitor spaces</li> <li>8 visitor spaces (ground floor)</li> </ul> Total spaces proposed = 320	<b>No – Acceptable as consistent with Stage 1 Consent</b>
<b>3A.3.1 Car Park Design C1-C39</b> General; Location; Access; Basement parking; Residential; Accessible parking	Waste collection and servicing is located within the ground level car park of UB5E. A separate application has been lodged seeking approval of a shared basement, waste storage and collection and vehicular access point between UB4 and UB5E. Appropriate conditions have been imposed in the consent requiring	<b>Yes</b>

Control	Proposed	Complies (yes/no)
	<p>a positive covenant.</p> <p>As the vehicular access and waste collection issues were assessed with the development application for UB5E, the below is an excerpt from the assessment report for UB5E which continues to be applicable to this application. The waste collection area has been increased in size and GFA to accommodate the waste and recycling bins for UB4.</p> <p>Pedestrian access is easily identifiable and pedestrian entrances and exits are separated from vehicular access paths. There is only one vehicle access point on the western side of the site. This off a private road.</p> <p>Swept path diagrams have been provided for assessment. The diagrams demonstrated that service vehicles enter in a forward direction and exit in a reverse direction. The road leading to the car parking levels is a private road therefore service vehicles enter and leave the site in a forward direction.</p> <p>The proposal incorporates a total of 40 accessible car spaces for UB5E and 30 for UB4. This amount complies and exceeds the number of adaptable spaces required for UB4 which proposes 38 adaptable units (19 required).</p> <p>A traffic report was submitted with the development application and was considered in the assessment of the proposal.</p>	
<p><b>C40</b> The waste collection point shall be designed to:</p> <p>(i) Allow waste loading operations to occur on a level surface away from</p>	<p>As stated above, waste collection will be carried out from the dedicated waste holding rooms that are located on the ground floor of UB5E. The waste holding</p>	<p>Yes</p>

Control	Proposed	Complies (yes/no)
<p>parking areas, turning areas, aisles, internal roadways and ramps; and</p> <p>(ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.</p>	<p>room has been increased in size by another 58sqm to accommodate the waste generated by residents of UB4 and the childcare centre. The waste/recycling/bulk waste room was approved directly adjacent to the loading bay. A 4.5 metre clearance has been approved for UB5E which is in accordance with the BBDCP 2013.</p>	
<p><b>3A.3.2 Bicycle Parking</b></p> <p>In every new building, where the floor space exceeds 600m<sup>2</sup> GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.</p> <p><b>Total required: 32</b> (320 car spaces required by DCP)</p>	<p>The proposal comprises of 320 car parking spaces therefore a total of 32 spaces is required on this basis.</p> <p>However within the SEE, the applicant has proposed a total of 43 bicycle spaces within the basement car parking level. This has been conditioned in the consent.</p>	Yes-Conditioned
<p><b>3A.3.3 Traffic and Transport Plans and Report</b></p> <p><b>C1</b> A traffic and parking impact assessment report shall be provided for development listed in Schedule 3 of the Infrastructure SEPP 2007.</p>	<p>A traffic and transport report prepared by ARUP was provided with the development application.</p>	Yes
<p><b>3A.3.4 On-site loading and unloading facilities</b></p> <p><b>C2</b> The number of service bays for residential flat buildings with less than 200 units is:</p> <ul style="list-style-type: none"> <li>1 service bay / 50 dwellings or units (Note: 50% of the total number of service bays shall be designed for MRV or larger)</li> </ul> <p><b>Total required: 1 service bay</b></p>	<p>The development proposes one service bay under UB5E to accommodate an MRV vehicle.</p>	Yes
<b>3G.2 Stormwater Management</b>		
<p><b>C1-C6</b> Comply with Stormwater</p>	<p>A stormwater report prepared by at&amp;l and civil work plans were</p>	Yes

Control	Proposed	Complies (yes/no)
Management Technical Guidelines; Part 3G.5 Stormwater Quality.	submitted and reviewed by Council's Development Engineer. Conditions of consent have been recommended.	
<b>3H Sustainable Design</b>		
<b>C1-C6</b> BASIX; Solar hot water encouraged.	BASIX Certificate No. 789119M_02 prepared by Efficient Living Pty Ltd and dated 23 January 2017 was provided.	Yes
<b>3I Crime Prevention Safety &amp; Security</b>		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	A Crime Risk and Security Report was submitted with the application which is considered to satisfy the requirements of Part 3I. The application was referred to NSW Police who had no objections to the proposal	Yes
<b>3J Aircraft Noise &amp; OLS</b>		
ANEF; Aircraft height limits in prescribed zones.	The site falls outside of the aircraft noise exposure forecast zone. Due to the height exceeding the OLS, the application was referred to SACL and CASA. CASA provided a response dated 23 January 2017 which states that they have no objections subject to the development not exceeding RL 91.0m for the entire site. The proposal falls below this height.	Yes
<b>3K Contamination</b>		
Consider SEPP 55 & Contaminated Land Management Act 1997.	SEPP No. 55 has been addressed in the report above. The proposal has satisfied this requirement.	Yes
<b>3L Landscaping and Tree Management</b>		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Amended landscape plans were provided on 11 August 2017 to Council for consideration. They were reviewed by Council's Landscape Architect who was had no objection to the proposal subject to conditions recommended in the consent relating to bonds, public domain works, tree species and planting and tree retention.	Yes
<b>3N Waste Minimisation &amp; Management</b>		
General Requirements; Residential Development;	A Waste Management Plan prepared by Elephants Foot has been submitted for ongoing	Yes

Control	Proposed	Complies (yes/no)
Mixed Use Development.	management of waste generated from the site.	

#### *Part 4C – Residential Flat Buildings*

An assessment against Part 4C relating to Residential Flat Buildings has been provided below in so far as they relate to the proposed development.

**Table 6: BBDCP 2013 Compliance Table – Part 4C Residential Flat Buildings**

Control	Proposed	Complies
<b>4C.2.2 Streetscape Presentation</b>		
<b>C1</b> New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades.	The development was subject to a masterplan and a design competition. The masterplan set out the controls regarding to the envelope of the site. The development subject to this application is consistent with the winning scheme with some minor alterations to the setbacks along the northern and western side of the site. The streetscape presentation is compatible with the desired future character for UB4. The eastern side of Bunnerong Road is predominantly low density residential. The interface between the two was assessed as part of the Stage 1 masterplan and winning design competition scheme.	Yes
<b>C2</b> Development must comply with the following: (i) The maximum length of any building is 24 metres; (ii) All building facades must be articulated.	(i) The length of the building exceeds 24m. This was approved in concept in the Stage 1 and the development is consistent with this and the winning Architectural Design. Accordingly, the non-compliance is acceptable.	<b>No-</b> Acceptable as it is consistent with Stage 1 and winning design
	(ii) The building facades are modulated and articulated with balconies, courtyards, and building indentations for the entrances and the towers above.	Yes
<b>4C.2.4 Landscaped Area and Deep Soil Planting</b>		
<b>C1</b> A residential flat development	Soft landscaping = 2,991.5sqm	Yes



Control	Proposed	Complies
must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	(33%) Hard landscaping = 987.3sqm (11%) Deep soil = 1,560sqm (17%)	
<b>4C.2.5 Open Space</b>		
<b>C3</b> Open space will be designed to: (i) Encourage positive outlook, respite and attractive internal views; (ii) Provide building separation and achieve a balance between open space and built form; (iii) Provide visual and acoustic privacy and an area of good solar access for recreational purposes; and (iv) Through location, arrangement and design provide functional, usable and liveable spaces for a mix of recreational pursuits	<p>The proposed development has 2 separate communal open space (COS) areas. These are listed below including the amount of solar access between 9am and 3pm in mid-winter:</p> <ul style="list-style-type: none"> <li>• Ground Level – 1,568sqm. This open area is in the centre of the site and to the southern side of the site.</li> <li>• Level 6 – 430sqm. This open area is located on the rooftop of Level 6 and comprises of BBQ pavilion, lawn area and vege garden.</li> </ul> <p>The primary communal open space area at the ground level exceeds the minimum required amount of solar access during mid-winter. The range of COS areas allow for the use for different activities and user groups within the development.</p>	Yes
<b>4C.2.6 Setbacks</b>		
<b>C2</b> All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	Deep soil zones are within the Bunnerong Road and East-West Boulevarde setbacks. There is an area of open space that is located above the shared basement car park area that is not deep soil however is acceptable.	Yes
<b>Front Setbacks</b> <b>C1</b> Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.	Setbacks are consistent with the Stage 1 consent being 6m-12m tapered to Bunnerong Road..	Yes
<b>4C.2.7 Through Site Links &amp; View Corridors</b>		
<b>C1</b> Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.	There are no existing significant views.	N/A
<b>4C.4.1 Dwelling Mix and Layout</b>		
<b>Apartment Size and Mix</b> <b>C1</b> Developments of ten or more	The proposed apartment size and mix is consistent with the	Yes



Control	Proposed	Complies
<b>C3</b> Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Given the large size of the apartments far in excess of ADG minimum sizes, there is considered to be sufficient space in all second bedrooms for a bed and desk.	Yes
<b>C4</b> The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	Condition to this effect included.	Yes - Condition
<b>C5</b> Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	All 2 and 3 bedroom apartments include two bathrooms with one easily accessible off the primary corridor. At least one bathroom in all apartments includes a bathtub.	Yes
<b>C6</b> The private outdoor space is to be clearly visible from the kitchen	All apartments have POS clearly visible from the kitchen.	Yes
<b>C7</b> The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	Given the large size of the apartments far in excess of ADG minimum sizes, there is considered to be sufficient space in entry areas for storage. The plans demonstrate that a number of units do not comply with the minimum amount within the unit. This is discussed in SEPP 65 above.	Yes
<b>C8</b> The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	Storage rates comply with ADG and have been provided in easily accessible areas and have adequate proportions for a range of family items.	Yes
<b>4C.4.3 Internal Circulation</b>		
<b>C1</b> Development will provide multiple cores within the building.	At least one core has been provided to access each tower with two lifts servicing each tower.	Yes
<b>C2</b> In buildings of more than four storeys served by elevators, ensure that alternative access to another elevator is available in the event that any elevator is out-of-service due to breakdown or	Stair access is provided to each core.	Yes

Control	Proposed	Complies
routine servicing.		
<b>4C.5.1 Adaptable Housing</b>		
<b>Table 1 of Part 3C Access and Mobility:</b> <u>Adaptable Housing</u> In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.	38 adaptable apartments have been provided. This is in excess of the rates required under Stage 1 which is 34.	Yes - Acceptable as consistent with Stage 1
<u>Accessible Parking</u> In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings.	30 of the adaptable apartments have been provided with an accessible parking space.	Yes
<b>4C.5.2 Access</b>		
C1 All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.	An Access Report, prepared by Wall to Wall Design & Consulting, has been submitted with the application. The architectural design in terms of the prescriptive provisions of each 'Essential feature' and 'Desirable feature' within AS4299 – 1995 (Adaptable Housing) have been complied with.	Yes

### Note 8 – Family Friendly Apartments

The two and three bedroom apartments generally meet the design requirements of the Family Friendly controls. The following provides additional detail regarding some of these controls.

Control C2 requires a study in all family apartments – 32 apartments of the 167 2 and 3 bedroom apartments have a separate study room or nook. 100% are a required to.

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area or in bedrooms to provide a desk so that parents can monitor children while working from home. All 2 bedroom apartments exceed the ADG minimum apartment size by 15 to 29sqm. Additionally, all of the 3 bedroom apartments exceed the ADG minimum apartment size by 20 to 36sqm. This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

*O2 To ensure that apartments are designed with appropriate amenity and space so that apartments can support the separation of conflicting activities within the living spaces.*

*O3 To encourage applicants to consider the varying needs of families and to design apartments accordingly.*

While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2 and 3 bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area.

Control C5 requires two bathrooms – Two bathrooms have been provided for all of the 2 and 3 bedroom apartments, however the ensuite has been provided with a bath tub and shower and the shared bathroom provided with a shower only. This is considered acceptable as the ensuite is generally the larger bathroom of the two and flexibility has been provided across both bathrooms to accommodate the needs of families with children.

#### **Note 9 – Apartment Layout**

The apartment layouts generally meet the design requirements of the Dwelling Mix and Layout controls. The following provides additional detail regarding some of these controls.

Control C1 (Apartment Layout) states that dwellings with 3 or more bedrooms need to have two separate living areas. The development proposes 28 x 3 bedroom apartments.

The intent of the control is not to result in two physically separate rooms, but rather two separate areas/zones that can support the separation of conflicting activities within the living space. All 3 bedroom apartments propose one large open plan living space which is separated into two areas/zones through the placement of furniture. This satisfies the intent of the control.

The 'Dwelling Mix and Layout' objectives are centred around providing a high standard of internal amenity for residents. As outlined below, the proposed development achieves the relevant objectives.

Objective O2 states *to ensure that apartments are flexible to suit the occupant's requirements*. The 3 bedroom apartments satisfy Objective 2 as the two zones facilitate flexibility for families as several separate activities can be undertaken within the open-plan living area. For example, children can be playing in the lounge room while a parent is either at the dining table, kitchen or study nook/desk. As the living area is open-plan, parents are able to monitor the children from all areas.

The 3 bedroom apartments range in size from 112sqm – 133sqm, all of which are between 22 to 43sqm in excess of the minimum requirement of 90sqm (as per the ADG). As such, the open-plan living areas provide a high standard of internal amenity as the separate living areas are spacious and are of an adequate size to comfortably accommodate separate areas/zones. The open-plan living areas are located adjacent to the balcony, thus providing natural light and ventilation and extending the internal living space. This satisfies Objectives O1 and O5 which state:

*O1 to ensure that dwellings are efficient, have high standards of amenity for residents and satisfy environmental performance criteria, such as ventilation and access to natural light.*

*O5 To provide adequate amenity for building occupants in terms of access to sunlight and natural ventilation.*

Both points above also satisfy Objective O4 which states: *to ensure adequate provision, design and location of internal facilities.*

Control C2 (Apartment Layout) states that to avoid a secondary living space, study or the like being used as a bedroom, it will only be regarded as such if it has no door or enclosure. All the proposed separate study rooms in the development include a door.

The intent of the control is clearly stated to avoid studies being used as a bedroom. Since all studies are 9sqm or less, below the ADG minimum size requirement for bedrooms and none include wardrobes it is considered that they will not be used as bedrooms. Studies typically require a degree of privacy for quiet study which is facilitated with a door enclosure. Additionally, having a door allows for greater flexibility in terms of the future use of the space, residents may wish to use these spaces as media rooms or music rooms.

To ensure the studies are not used as bedrooms, a condition of consent has been included that requires that studies are not to be used as bedrooms.

It is considered that the development addresses the family friendly requirements under the BBDCP 2013.

#### *Part 7C – Child Care Centres*

An assessment against Part 7C relating to Child Care Centres has been provided below as they relate to the proposed development. A separate DA will be submitted for the fitout and use of the child care centre.

**Table 8: BBDCP 2013 Compliance Table – Part 7C Child Care Centres**

Control	Proposed	Complie s (Yes/No)
<b>C1</b> The design and siting of a Early Childhood Education and Care Service shall consider: (i) Existing vegetation; (ii) Site orientation and solar access; (iii) Natural drainage; (iv) Significant noise sources; (v) Views to and from the site; (vi) Pedestrian and vehicle access; (vii) Existing buildings on site; (viii) Location of surrounding buildings, uses, open spaces adjoining or adjacent to the site; and	The proposed location of the child care centre in the south-eastern corner of the development is considered to be the most appropriate. The Stage 1 consent approved in concept a 600sqm child care centre for this urban block. Given the requirement for outdoor space, this corner is the only area with a sufficient setback area with solar access that can accommodate the space required.	Yes



Control	Proposed	Complies (Yes/No)
(ix) The predominant built form and character.		
<b>C2</b> Early Childhood Education and Care Service should be single storey in height.	Single storey proposed.	Yes
<i>Part 4.3 Physical Environment - in the National Regulation 2011 prescribes information for Early Childhood Education and Care Services to adhere to as follows:</i> <i>Part 4.3 Physical environment</i>		
104 Fencing – any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The proposed outdoor area is enclosed by a fence that is of a height and design that children preschool age or under cannot go through, over or under it. This is to be further reinforced with the separate development application for the fitout.	Yes
105 Furniture, materials and equipment - approved provider of an education and care service must ensure that each child being educated and cared for by the education and care service has access to sufficient furniture, materials and developmentally appropriate equipment suitable for the education and care of that child.	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA.	N/A
106 Laundry and hygiene facilities	Appropriate laundry and hygiene facilities are to be provided with the separate DA for fitout.	Yes
107 Space requirements—indoor space – for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space	91 children proposed, 296sqm indoor space required.  490sqm provided.	Yes
108 Space requirements—outdoor space - for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.	91 children proposed, 637sqm outdoor space required.  546sqm provided.  The amount of open space provided is not consistent with the amount of children proposed. Therefore a future DA is to consider that the amount of children for the centre is to be reduced to comply with the	<b>No</b>

Control	Proposed	Complies (Yes/No)
	requirements.	
109 Toilet and hygiene facilities	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA.	Yes
110 Ventilation and natural light	The child care centre is located on the corner with openings across the full length of each frontage providing cross ventilation across the indoor space. Full height glass windows and doors are provided across the full length of the frontages providing natural light.	Yes
111 Administrative space	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA.	Yes
112 Nappy change facilities	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA.	Yes
113 Outdoor space—natural environment - allow children to explore and experience the natural environment.	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA. Therefore works relating to the outdoor area are to be considered at that point in time.	Yes
114 Outdoor space—shade	Shade will be required to be provided in the future fit out DA.	N/A
115 Premises designed to facilitate supervision	Open plan internal space, and clear view lines across the outdoor space provided which facilitates supervision.	Yes
<b>C5</b> Early Childhood Education and Care Service shall be designed and sited to maintain solar access for a minimum period of three hours between 9am and 3pm on 22 June to key areas of the centre including indoor and outdoor play areas.	Solar access perspectives indicate that at least 50% of the outdoor play area will receive direct sunlight between 9am to 12pm June 22.  Indoor play areas will receive direct sunlight between 9am to 12pm for 3 hours on June 22.	Yes
<b>C6</b> Where various uses or activities are proposed to be undertaken, a Site Plan is required and must specify the location of where uses or activities are proposed to be	A floor plan of the child care centre has not been provided and should be provided with any future development application for the fitout.	Yes

Control	Proposed	Complies (Yes/No)
undertaken.		
<b>C7</b> Early Childhood Education and Care Service shall be designed in a manner that utilises cross ventilation as the primary ventilation control system.	The child care centre is located on the corner with openings across the full length of each frontage providing cross ventilation across the indoor space.	
<b>C4</b> All pick-up / drop-off spaces shall be located close to a lift, ramp or building entrance and clearly sign posted and line marked. Signage and line marking shall comply with AS2890.1.	The pick-up and drop off spaces are located within the building car park in the basement or eight spaces have been allocated on the street in close proximity to the entrance to the centre. A Traffic and Parking Report has been submitted indicating that signage and line marking will comply with AS2890.1.	Yes
<b>C5</b> The number of carparking spaces required shall be in accordance with Part 3A - Car Parking.	As discussed elsewhere in this report, car parking for the child care centre complies with the BBDP 2013.	Yes

*Part 9D – 130-150 Bunnerong Road, Pagewood*

It is noted that Part 9D of the BBDP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Pagewood, and guided the Stage 1 consent. The Stage 1 consent includes conceptual details of the proposed buildings which have been altered from the provisions of Part 9D. Accordingly, the Stage 1 consent now contains the relevant provisions for the subject Stage 2 application for UB4 which has been assessed in this report.

**(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality**

The likely impacts of the development in the locality have been considered in this report and are considered to be acceptable. The proposal is consistent with the Stage 1 consent that was exhibited and approved under DA-14/96. The impacts in regards to built form, envelopes, car parking and traffic, overshadowing and orientation of the site and buildings were considered in this application and have been reflected within this proposal.

**(c) The suitability of the site for the development**

Adequate information has been submitted to demonstrate that the site is suitable for the proposed development. Council's Environment Scientist has reviewed the proposal and raised no objection subject to conditions.

The proposed development was approved in concept under the Stage 1 consent DA-14/96, is permissible in the zone, and achieves the zone objectives.

Accordingly, the site is considered suitable for the proposed development being for a residential apartment development.

**(d) Any submission made in accordance with the Act or Regulations**

In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the proposed development was notified to surrounding property owners and advertised in the local newspaper from 22 March to 27 April 2017. Five (5) submissions were received. The key issues raised in the objections are as follows:

- *Vibration and structural damage carried out during construction*

Comment: Appropriate conditions have been recommended in the consent addressing the frequency of vibration from construction and this will be limited to any works carried out on site. If appropriate, dilapidation reports can be prepared by the developer onto surrounding properties to assess the damage carried out during construction.

- *Lack of local primary and secondary school infrastructure*

Comment: This issue is outside the scope of the current development application.

- *Active transport (walking and cycling) connections are lacking*

Comment: Concern is raised that the original masterplan had not considered walking and cycling connections within the site and that the use of the external roads particularly along Bunnerong Road would be dangerous. The Stage 1 consent has provided pedestrian access through the site both east-west orientated and north-south orientated. The north-south orientation allows pedestrians and cyclists to come and go from Westfield Eastgardens while the open space directly to the south of the site allows for pedestrian access off Bunnerong Road to Banks Avenue via the Civic Avenue. The proposal does not provide end of trip facilities as it is anticipated that the people riding to and from the site are residents who will utilise their own showers. Bicycle parking has been provided within the basement car parking area which complies with the requirements.

- *Overshadowing to the developments on the eastern side of Bunnerong Road*

Comment: The applicant has provided shadow diagrams demonstrating that the proposal will not impact the neighbouring properties at June 22 and in September 22 as Bunnerong Road separates the two areas and is quite wide. Additionally, the higher of the towers which is 8 storeys, is located away from the street therefore the 6 storey structure will front onto Bunnerong Road.

- *Visual Privacy concerns to neighbouring properties*

Comment: Concerns relate to overlooking into the properties and rear yards of the low density residential properties on the eastern side of Bunnerong Road. The proposal has a separation distance of approximately 40 metres from these properties. Additionally, the balconies along Bunnerong Road are limited so that they do not expand across the entire façade. As the towers are 6 and 8 storeys in height, the bulk and scale of the development is not considered onerous and is

consistent with the Stage 1 consent and the visual privacy would not be as significant if it was a 20 storey building.

- *Parking and Traffic Congestion*

Comment: Concern was raised in regards to car parking and traffic generation from all the developments. As part of the Stage 1 masterplan, parking and traffic generation was assessed and considered. The Stage 1 also included higher yield than what is being proposed. Additionally, the Stage 1 consent conditioned requirement for traffic infrastructure upgrades including installation of a slip lane and traffic lights to mitigate traffic. The proposal is compliant with the amount of car parking required for the units.

- *Proposed Childcare Centre*

Comment: Concern was raised that an objector's childcare centre would have major impact from the opening of a childcare centre in close proximity. The Stage 1 consent did propose a total of 4 childcare centres within the site. One of the childcare centres was proposed within UB4 and the current development application has included it within the design. This was to address the demand for childcare within the area. The financial pressures should not influence the development application and are not in the scope of the proposal.

- *Safety of the development in regards to influx of persons, traffic, privacy and pollution*

Comment: Similar to what was discussed above, the proposal is consistent with the Stage 1 consent. Appropriate conditions have been recommended relating to noise. The Stage 1 consent also approved indicative unit numbers and car parking which were all assessed as part of the masterplan approval. The subject development application has a lower yield than the indicative units and the car parking proposed is compliant with the consent and the BBDCP 2013.

- *Streetscape presentation*

Comment: The proposal is for a 6 and 8 storey development. It is acknowledged that the eastern side of Bunnerong Road contains single and two storey dwelling houses. The proposal further refines the approved building envelopes in the masterplan. The proposal provides for a 6 to 12 metre setback from the street with landscaping proposed along the elevation. The proposal is considered acceptable.

**(e) The public interest**

It is considered that the proposed development is in the public interest.

## **OTHER MATTERS**

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

**Table 9:** Internal and external referrals

Referral Agency	Response Date	Comments
<b>External Referrals</b>		
Civil Aviation Safety Authority (CASA)	23 January 2017	No objections to the proposal. Conditions have been provided.
Sydney Water	17 July 2017	The conditions have been included in the Schedule of Consent Conditions.
Water NSW	29 June 2017	No objections. Conditions have been included in the Schedule of Consent Conditions.
NSW Police	11 July 2017	No objections. Advisory Conditions have been provided.
RMS	7 June 2017	No objections subject to conditions included in the Schedule of Consent Conditions.
<b>Internal Referrals</b>		
Landscape Architect	14 September 2017	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	15 September 2017	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	7 August 2017	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health Officer	-	Standard conditions have been incorporated into the Schedule of Consent Conditions.
Strategic Planning Officer	26 May 2017	Preliminary comments provided regarding to the design of the proposal.

## Section 94 Contributions

In accordance with the *Botany Bay Section 94 Development Contributions Plan 2016*, the Section 94 Contributions for the proposed development are calculated as follows:

### *Residential*

One Bedroom – 39 x \$8,029.65 = \$313,156.35

Two Bedrooms -82 x \$13,211.47 = \$1,083,340.54

Three Bedrooms – 46 x \$17,265.80 = \$794,226.80

Subtotal: \$2,190,723.69

The above figure has been indexed to September 2017. Therefore the indexed amount is \$2,361,207.88.

### **Total Contribution = \$2,361,207.88**

The above is broken down as follows:



i)	Community Facilities	\$405,176.37
ii)	Recreation Facilities	\$1,760,003.85
iii)	Transport Management	\$165,831.97
iv)	Administration	\$30,195.68

The consent will be conditioned to require payment of the Section 94 Contribution prior to the issue of any Construction Certificate, as specified in the Plan and as indexed.

## CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act, the Application is referred to the the Sydney Central Planning Panel (SCPP) for determination.

The proposed development underwent an Architectural Design Competition and the majority of the Juror's comments have been appropriately addressed in the amended proposal.

The proposal as amended is generally consistent with the Stage 1 consent restricting the envelopes of the urban blocks. The non-compliances in height and FSR with the BBLEP 2013 are consistent with the Stage 1 consent requirements of 2.3:1 FSR and max. 28.8m (RL 50.8m) for building height. A Clause 4.6 variation has been provided for both and the justification for the variance in the height an FSR is accepted. Additionally, the minor non-compliance in the building separation between the two towers between Ground and Level 5 are acceptable as they are primarily limited to balconies which the consent allows for a 500mm protrusion in the setback. The applicant has provided a justification of the non-compliance and privacy schemes showing privacy mechanisms in place to mitigate direct sightlines into the buildings. Additionally the development does not comply with Condition Nos. 24 and 25 of the Stage 1 consent relating to the maximum protrusion area on each façade. The average of all facades on both towers is under the 50% requirement. It is considered that the average articulation zone and the amount of recessive zones proposed are acceptable. In regards to the unit mix, the minor non-compliance is acceptable as the development provides a good amount of units that is less than the yield that was indicated within the Stage 1 consent and a large proportion of 3 bedroom apartments that is greater than the minimum unit size requirement.

Issues relating to storage, study rooms with doors, family friendly apartments and apartment layouts have been resolved by conditions in the consent.

The application was the subject of five (5) objections which generally raised concerns to the height, bulk and scale, overshadowing, visual privacy, traffic generation and lack of infrastructure supporting the site and the proposal. These submissions have been addressed above in the report.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the R3 – Medium Density Residential zone and the B4 – Mixed Use zone and is considered to result in a development which is suitable in the context. Therefore, the proposal is recommended for approval.

## SCHEDULE OF CONSENT CONDITIONS

### GENERAL CONDITIONS

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

<b>Plans</b>	<b>Author</b>	<b>Dated / Received by Council</b>
DA-000 Rev E- Cover page	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-002 Rev C- Building Articulation Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-005- Rev E- UB4_Parking Level (Sheet 1)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-006- Rev E- UB4_Parking Level (Sheet 2)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-100 Rev F- UB4 Ground Floor Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-101 Rev C- UB5E Ground Floor Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-102 Rev E- Level 1-4 Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-103 Rev D- Level 5 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-104 Rev E- Level 6 Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-105 Rev D- Level 7 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-106 Rev D- Roof Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-201 Rev D- North and South Elevations	Nettleton Tribe	Dated 25 July 2017;

		Received 3 August 2017
DA-202 Rev D- East and West Elevations	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-203 Rev C- Elevations Comparisons	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-301 Rev D- Sections 01	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-430 Rev C- GFA Area Plans	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-501 Rev C- Ventilation Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-602 Rev B- Solar Point Perspective Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-603 Rev C- Solar Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-604 Rev C- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-801 Rev B- Survey Plan Sheet 1	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-802 Rev B- Survey Plan Sheet 2	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-803 Rev B- Survey Plan Sheet 3	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1001- Rev A- Adaptable Unit (Sheet 1)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1002- Rev A- Adaptable Unit (Sheet 2)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1101- Rev B- Privacy and Screening	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1201- Rev B- BASIX Commitment Notes	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1401- Rev C- UB4 and UB5e Basemen Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017;

		Received 3 August 2017
DA-1402- Rev C- UB4 and UB5E Ground Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1403- Rev C- UB4 and UB5E Parking Level 1 Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1404- Rev C- UB4 and UB5E Level 2 Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1601- Deep Soil Calculation	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
Landscape Report Ref: ND1710	Urbis	Dated 10 August 2017 Received 11 August 2017

<b>Reference Document(s)</b>	<b>Author</b>	<b>Dated / Received by Council</b>
DA Access Report Ref: MTN-026 Rev 3	Wall to Wall	Dated 1 February 2017; Received 13 February 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Noise Impact Assessment Report Ref: 610.16881-R01	SLR	Dated 2 February 2017; Received 13 February 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 14 August 2017; Received 13 September 2017
Thermal Comfort and BASIX Assessment Ref: 16-0764 Rev A	Efficient Living	Dated 23 January 2017; Received 13 February 2017
Building Code of Australia Compliance Assessment Report Ref: 1423-78 Rev 01	AED Group	Dated January 2017; Received 13 February 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated January 2017; Received 13 February 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 19 January 2017; Received 13 February 2017
SEPP 65 Design Verification	Nettleton Tribe	Received 13 February 2017
SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 13 February 2017
Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 13 February 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 30 January 2017; Received 13 February 2017
Site Audit Statement Ref: JC_NSW11C	NSW EPA	Received 13 February 2017
Site Audit Report: S11394_SAR_JC-NSW11C	AECOM	Dated 31 March 2014; Received 13 February 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 13 February 2017

Reflectivity and Glare Assessment Ref: 610.13932-R01	SLR	Dated 27 January 2017; Received 13 February 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 13 February 2017
Statement of Environmental Effects	Urbis	Dated February 2017; Received 13 February 2017
Stage 2 Traffic and Transport Report Ref: 237575-00	ARUP	Dated 19 July 2016; Received 17 August 2016
Waste Management Plan Rev B	Elephants Foot	Dated 13 January 2017; Received 13 February 2017
Qualitative Wind Assessment Ref: 610.13932.R08	SLR	Dated 31 January 2017; Received 13 February 2017
Clause 4.6 variation to vary height and FSR development standard	Urbis	Dated February 2017; Received 13 February 2017

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
  - a) Note:  
  
Relevant BASIX Certificate means:

- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

### **CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

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

- 7 Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard141.
- 8 Ausgrid requires the following conditions with respect to Chamber substations. For a chamber station within the property or within 6m of the development, the substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment. For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.
- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
  - a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"

- b) Ausgrid Network Standards
  - c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrids Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
  - 11 Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
  - 12 The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site). The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- 13 The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- 14 The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- 15 Separate approval must be sought under the Regulations for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- 16 At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

The following conditions are imposed by **Water NSW**:

- 17 A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
- 18 An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.

- 19 If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
- 20 Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
- 21 If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

- 22 Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structure, together with any improvements integral to the future use of the site is wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
- 23 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 24 All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Bunnerong Road.
- 25 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- 26 Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au) A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- 27 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is



to meet the full cost of the assessment of Roads and Maritime. Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au) If it necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

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

Sydney Water does not object to the proposed development, subject to the following:

28 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

29 Building Plan Approval

The developer must have building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

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

30 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

31 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit to install temporary ground anchors in public land,

- d) Permit to discharge ground water to Council's stormwater drainage system,
  - e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
- 32 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 33 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 34 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and,
    - ii) must be connected:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

- 35 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 36 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 37 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 38 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 39 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

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

- 40 Prior to the issue of the relevant Construction Certificate, revised plans are to demonstrate that the pop up skylights on Tower A are to not to exceed the maximum building height as stipulated in Condition No. 15 of the Stage 1 Consent. The skylights are to be velux-style skylights.
- 41 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 42 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
- a) 1 Bedroom apartments 6m<sup>3</sup>
  - b) 2 Bedroom apartments 8m<sup>3</sup>
  - c) 3 Bedroom apartments 10m<sup>3</sup>
- At least 50% of the required storage is to be located within the apartment.
- 43 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

a)	Development Control	\$13,225.00
b)	Damage Deposit	\$314,700.00 (See below)
c)	Section 94 Contributions	\$2,361,207.88 (See below)
d)	Long Service Levy	See below
e)	Tree Preservation Bond	\$7,500.00 (See below)
f)	Tree Maintenance Bond	\$7,500.00 (See below)
g)	Street Tree Planting Bond	\$7,500.00 (See below)
h)	Public Works Defect Liability Bond	\$25,000.00 (See below)

- 44 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$2,361,207.88 (indexed as of September 2017) in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

a)	Community Facilities	\$405,176.37
b)	Recreation Facilities	\$1,760,003.85
c)	Transport Management	\$165,831.97
d)	Administration	\$30,195.68

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

- 45 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 46 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$314,700.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 47 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- 48     Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a)     The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b)     The proposed phases of construction works on the site and the expected duration of each construction phase,
  - c)     The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
  - d)     The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
  - e)     The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
  - f)     The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
  - g)     The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
  - h)     The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
  - i)     Proposed protection for Council and adjoining properties, and
  - j)     The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
  - k)     The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
  - l)     The methodology to control dust on site.
- 49     Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services). The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

50 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
- b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

51 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
- b) All service vehicles to leave the access way into the public roads in a forward direction.
- c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
- d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.

52 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 7 February 2017, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
  - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 53 Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
- 54 Prior to the issue of the relevant Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system, and
    - ii) The relocation and/or adjustment of the services affected by the construction.
  - c) The Ausgrid lighting poles along Bunnerong Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
  - d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider and is to be completed prior to the issue of the final Occupation Certificate, and
  - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the commencement of these works.

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

- 55 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority or Council for

approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- e) The submission of detailed calculations including computer modelling where required supporting the proposal.

56 Prior to the issue of the relevant Construction Certificate, the recommendations of the Qualitative Wind Assessment Report from SLR referred to in this consent are to be incorporated into the design in order to ensure compliance with the Councils maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1 of the DCP 2013) as follows:

- a) 10 metres/second along commercial/retail streets;
- b) 13 metres/second along main pedestrian streets, parks and public places; and
- c) 16 metres/second in all other streets.

57 The building shall be designed in accordance with the Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy', and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Suitably endorsed construction plans and specifications addressing these criteria's shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

58 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:



- a) identify each item of plant and equipment;
- b) the following additional criteria adopted by Bayside Council:
  - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - iv) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- 59 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 60 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 61 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
- 62 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.

- 63 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
- 64 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$9,000 to ensure protection of the 9 new street trees along Bunnerong Road from damage to replace the 9 Cupaniopsis anacardioides that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of 24 months after issue (*or cease upon issue of*) of the Occupation Certificate. At the completion of the *maintenance* period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 65 The applicant is to submit payment of a Tree Maintenance Bond of \$9,000.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- 66 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$9,000 to ensure the installation and establishment of nine (9) street trees (species to be advised) in accordance with Condition mentioned below and Councils Street Tree Master Plan. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.
- 67 Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
- 68 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$69,000 for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$69,000 (card or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

- 69 A frontage works approval be submitted to council prior to any construction certificate being issued. Prior to the issue of the relevant Construction Certificate, a public domain improvements plan be completed by Urbis shall be submitted for approval by Council. The Plan will include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting, maintenance and finishing details. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements.
- 70 The landscape areas shown on the Urbis Landscape plans dated 10/08/2017 rev G shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to:
- a) A site plan showing building envelopes, paved areas and areas to be landscaped.
  - b) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
  - c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
  - d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
  - e) An irrigation plan comprising of subsurface drip systems and automatic timers with rainwater / soil moisture sensor controls; where possible storm water runoff will be directed to the lawn and garden beds. Irrigation will be provided to all soft landscape areas and will be specified in an updated landscape plan.
  - f) Areas of paving, schedule of materials, edge treatments and sectional construction details.
  - g) All fencing, privacy screening and pergolas/arbours/pavilions – elevations and materials.

- h) Details of other landscape elements such as furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations.
- i) Bench seats should also be provided with and without hand rests on
- j) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP and compliant with AS 4419 and AS 3743.
- k) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised and kept to the edges of landscaped spaces. Provide lawn as well as planted areas, trees for shade and seating.
- l) Trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to complement and scale with the building form (setbacks, communal open space) and to pedestrianise landscaped open spaces. Deep soil zones must include larger trees. Consider avenue plantings and specimen tree entry features. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- m) Show the location of underground stormwater and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks.
- n) Show the location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.

Landscaping shall be installed in accordance with the approved landscape plan set *H, by Urbis*, stamped by Council's Landscape Architect and dated 13/09/2017 prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

### **CONDITIONS WHICH MUST BE SATISFIED DURING WORKS**

71 Construction operations shall comply with the following:

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve

or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
  - e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
  - f) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
  - g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 72 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 73 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).
- 74 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 75 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

- 76 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 77 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 78 The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - c) Time Restrictions
    - i) Monday to Friday 07:00am to 06:00pm;
    - ii) Saturday 07:00am to 03:00pm
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing
    - i) All possible steps should be taken to silence construction site equipment.
- 79 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan if required under this consent;

- b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
- 80 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 81 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The Remedial Action Plan '*Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW*' prepared by Douglas Partners, Project 71631.12, dated September 2013 and
  - e) The '*Proposed Remediation Action Plan Amendment – Revision 1 Part 130 - 150 Bunnerong Road, Pagewood*' prepared by Douglas Partners, Project 85009 Rev 1 dated 2 September 2015.
- 82 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the '*Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW*', Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 83 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 84 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 85 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and

- b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 86 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 87 Landscape construction should be carried out by a qualified landscape contractor to ensure that adequate standards of workmanship are achieved. Landscape contractors who are members of the Landscape Contractors Association of NSW should be engaged.
- 88 Landscaping shall be installed in accordance with the approved Urbis landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan).
- 89 There are street trees identified on the Arborist plan within the nature strip that will require tree protection depending when the replacement of nine (9) trees is actioned. Protection (and tree bond) to existing trees in the Bunnerong Road nature strip based on the Arborist Report from Jacksons Nature Works (Arboricultural Impact Assessment Report, for Urban Block 4 -13/9/2017).

Trees 1-9 - Cupaniopsis anacardioides is to be replaced with a similar size tree 100 Litre due to vandalism and poor maintenance (no irrigation).

Replacement trees will be advised to the developer and should not be planted until the irrigation to Bunnerong Road has been completed and Council notified.

A Tree Protection Zone requirement is necessary only if the Street trees are to be replaced prior to the completion of UB4.

The TPZ should not be impacted ensuring their retention.

The Tree Protection Zone is a radial distance measured from the centre of the trunk of the tree, radius of 2m.

Tree protection zones must also comply with the following requirements:

- a) Tree Protection Zone areas of 2m radius of tree.
- b) Tree Protection Zones shall be fenced to protect the TPZ as a preventative measure.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site;



- d) All site personnel and contractors shall be aware of all tree protection requirements associated with the conditions of consent; and
- e) The Project Arborist shall provide written certification of compliance with the above, including photographs to the certifying authority.

90 In accordance with councils DCP, the following activities are prohibited beneath the canopy drip line of any tree required to be retained and protected unless otherwise approved under the development consent/plans:

- a) Excavations and trenching (with exception of the approved foundations and underground services);
- b) Ripping or cultivation of soil;
- c) Mechanical removal of vegetation;
- d) Soil disturbance or movement of natural rock;
- e) Soil level changes including the placement of fill material (excluding and suspended floor slab);
- f) Movement and storage of plant, equipment & vehicles;
- g) Erection of site sheds;
- h) Affixing of signage or hoardings to trees;
- i) Storage of building materials, waste and waste receptacles;
- j) Disposal of waste materials and chemicals including paint, solvents,

In accordance with AS 4970 – 2009, inspections shall be conducted by the Project Arborist in accordance with the following key milestones:

Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection;

During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

The Project Manager shall be responsible to notify the Project Arborist prior to any works within the Tree Protection Zones of protected tree within a minimum of 24 hours' notice.

91 In order to ensure that the *Cupaniopsis anacardioides* is protected during construction, and its health and structural stability ensured, the following is required:

- a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the Arborist's report dated 13/09/2017
- b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report/Landscape Plan.
- c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete.

- i) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction.
  - ii) Fencing shall be erected to ensure the public footway is unobstructed.
  - iii) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- d) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer (or Consultant Arborist).
- g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree.
- j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- k) Any sub-surface OSD tank is to be located underneath the driveway, be a minimum of 3 metres beyond the canopy dripline of the existing tree and not located where it will limit the planting of trees on the property. Excavation shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.

- l) Masonry boundary fencing/walls or retaining walls shall be of piered or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- m) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new subsurface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- n) All waste concrete and debris shall be removed from areas to be landscaped on the site, not buried, to minimise soil contamination.
- o) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council (or the Consultant Arborist) at the completion of construction.
- p) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

OR

Council will invoice the Applicant for costs associated with remedial pruning work or tree replacement. For trees on private property, the Applicant will be required to undertake tree maintenance/replacement work, as specified by Council.

- 92 Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels. Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree and not located where it will limit the planting of trees on the property. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 93 If kerb and gutter and footpath replacement is required **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer. This includes the demolition of existing structures, to be undertaken with small machinery only, excavation for required subgrades/drainage and the construction of formwork. Tree roots 35mm in diameter or greater that require pruning shall be done **only** under the direction of Council's Tree Management Officer after site inspection so as not to impact or harm the existing street tree.

94 If adjustment or connection to existing subsurface services or utilities within the road verge or the road carriageway is required, **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer so as not to impact or harm the existing street tree. NOTE: Services may require re-routing at the Applicant's expense to ensure tree root protection. New overhead electrical property service wires shall be located so that it is outside the tree canopy. No canopy pruning will be permitted for service wires.

95

- a) The Applicant has permission to remove nine (9) trees, being the Cupionopsis anarcardiodes (trees 1-9 on arborist plan) located on Bunnerong Road. Permission is also granted to replace as identified by the Consultant Arborist in the report dated 13/09/2017 **Note : Trees are not permitted to be replaced until the Construction Certificate has been issued irrigation is made available to Bunnerong Road and replacement tree species provided.**
- b) The replacement trees species will be nominated by Council prior to during Construction, as the street trees should be replaced with 200 litre trees at 10m centres. Council staff will notify the project manager once a decision has been made.

96

- a) Prior to the issue of an Occupation Certificate, five (5) Angophora costata tree, at least 1.8 metres in height and 200 litre pot size, at 10 metre centres, shall be installed in the front of east-west Boulevard of the development and provide amenity to the streetscape by a qualified landscape contractor. The tree/s shall be sourced from a reputable supplier that grows to NATSPEC.
- b) Five (5) Corymbia maculata trees min height 1.6metres and pot size 200 litre shall be planted at 10m centres along North South Street 2 of the property to provide screening and privacy for adjoining residents. Trees shall be sourced from a reputable supplier that grows to NATSPEC.
- c) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
- d) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
- e) The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing.
- f) Council is not liable for any damage to subsurface infrastructure during public domain works.
- g) The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be staked as required.
- h) Two hold point inspections are required : prior planting trees to ensure plant stock is suitable and post planting.
- i) The street tree planting to all internal roads (East-West Boulevard, North-South Street 2 and Civic Avenue) are to use the Citygreen Stratavault system

of planting to be incorporated into the updated Landscape plans and documentation.

- j) There must be irrigation to the site prior to installation of any trees.

Note: The street trees mentioned above may be modified prior to construction. Council will notify developer regarding tree alternatives (if any).

- 97 The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 98 The applicant is required to install 7 Eucalyptus microcorys trees; pot size 200 litre at minimum 1.6m height, at 8 metre centres to setback along Bunnerong Road. Irrigation must be provided to these trees as with all tree plantings to this site prior to installation.
- 99 Prior to the issue of an Occupation Certificate, no more than 50% of the street setback shall be hard paved (including stepping stones and large expanses of gravel). Paving shall be confined to the driveway and a pathway to the dwelling only. The driveway location and dimensions shall be in accordance with the approved Urbis plan, splaying within the property to meet the alignment of the Council crossover, no additional paving shall be provided. The remainder of the setback shall be deep soil and soft landscaped, including the residual area between driveway carpark and through link. As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
- 100
- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- b) The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 101 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor prior to landscaping works commencement. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

OR

To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in the following areas:

- a) all site boundary landscape setbacks and frontages, and

- b) the communal open space areas.

The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

- 102 For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use.
- 103 All new street trees shall be installed prior to completion of the staged development. All tree planting work is to be completed and protective fencing, being 1.8 metre chainlink fence, erected around the trees for protection prior to the commencement of construction.
- 104 All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt.
- 105 A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
- 106 Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 2000mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cutout. The Applicant is required to contact Council's Landscape Architect for an inspection of root barrier system located within the public domain prior to backfilling and turfing.
- 107 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

- d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 108 All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 109 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 110 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
  - a) Minimum 254 residential spaces
  - b) 17 residential visitor spaces
  - c) 1 car share space within the car park
  - d) Minimum 32 Childcare Centre spaces
- 111 Prior to the issue of the relevant Occupation Certificate, at least 32 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 112 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 113 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 114 Prior to the issue of the relevant Occupation Certificate, the applicant shall carry out the following works:
  - a) On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and

- b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
- c) On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.

115 The work to Civic Avenue, North-South Street 2, and Bunnerong Road public footpath shall be constructed in accordance with Council specifications *outlined in the 'Frontage Works Approval'* Council document. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

- a) after formwork installation and to prior pouring the concrete blinding slab,
- b) at the commencement of paving works, and
- c) at final completion.

Council approval of public domain works is required prior issue of an Occupation Certificate.

116 Prior to the issue of the relevant Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

117 Prior to the issue of the Occupation Certificate, the following easements shall be created in conjunction with Council and the beneficiary:

- a) Register a new "Right of Way" Easement over the entire adjacent Lot 3 UB5E.

118 Prior to the issue of the relevant Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

119 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.



- 120 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy. Application fees apply.
- 121 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 122 A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 123 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 124 Prior to the issue of the Occupation Certificate, all noted screen or buffer planting is required along the property boundary to provide screening and privacy for UB4 residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level. Planter beds shall be a minimum width of 0.75 metres.
- 125 Prior issue of an Occupation Certificate the Council footpath in front of the property is to be suitably repaired and made good after completion of construction works to Council specification and at the Applicant's expense. If existing pavers are damaged, subject to Council inspection and instruction, the Applicant is to source and purchase new pavers to match existing pavers in the street. If a significant number of new pavers are required Council may require that the entire frontage be replaced to allow for a uniform appearance. The footpath shall be maintained in a clean and tidy state at all times by the occupiers. Maintenance includes the removal of weeds and rubbish and periodic cleaning.
- 126 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- 127 Concrete wheel stops shall be installed in all car spaces adjoining garden beds in accordance with Council specifications and Australian Standard AS/NZS 2890.1:2004 prior to the issue of an Occupation Certificate to prevent overhang and damage to garden beds.
- 128 The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved *Urbis Landscape plan rev H* and Council Landscaping and Engineering specifications and

requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.

129 Prior to the issue of the Occupation Certificate, a site works review is required demonstrating:

- a) Extent and minimum dimensions of the site dedicated to landscaping comply with the Detailed landscaping plans
- b) All detailed works comply with detailed schedules and specifications included in the detailed landscape plans
- c) Any modifications to the design were an equivalent or better solutions to the requirements of the detailed landscape plans and do not affect the ability of the landscape treatment to achieve the design intent.
- d) Site cultivation, quality and depth of soil and mulches as a minimum complies with Council specifications and standards.
- e) Drainage of all open space and soft landscaping complies with detailed landscape plans and to Council standards

130 Prior to the issue of the Occupation Certificate, the following applies:

- a) Any tree size modifications (ie from stated 400 litre to 200 litre or less) requires a Section 96 approval prior for compliance certification.
- b) Any variation in planting from the submitted CC Plant Schedule requires a Section 96 approval prior to certification.

131 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:

- a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.

132 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:

- i) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- ii) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.

- iii) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 133 Prior to the issue of the Occupation Certificate for the Child Care Centre, the child care centre is to comply with the requirements of the NSW Children Services Regulations 2004 and any other requirements as specified by the NSW Department of Community Services.
- 134 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 135 A separate application is to be submitted for the fit out of the child care centre.
- 136 The use of studies as bedrooms is prohibited.
- 137 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 138 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 139 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 140 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 141 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 142 The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction, and in accordance with conditions of consent and Council's Landscape DCP, at all times.
- 143 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 144 Ongoing maintenance of grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even

coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.

- 145 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 146 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- 147 All intruder alarms shall be fitted with a timing device in accordance with the requirements of Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 148 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - b) Before 7 am or after 10 pm on any other day.
- 149 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 150 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 2017/1022 dated as 13 February 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.