

Statement of Environmental Effects

Section 96 Application

130-150 Bunnerong Road, Pagewood (UB5W)

Roof terraces

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Annexure 1: Modified Plans

Annexure 2: Sketch illustrating roof top terraces

1 Introduction

1.1 Overview

This Statement of Environmental Effects (SEE) has been prepared in support of a Section 96 application for a change to the introduction of roof terraces/gardens to top floor apartments of the approved mixed use development at 130-150 Bunnerong Road, Pagewood. Other minor alterations including external glazing changes and the repositioning of a car park exhaust stack are also proposed.

1.2 Background

DA16/018 for the construction of a mixed use development was approved by the Joint Regional Planning Panel (JRPP) on 9 June 2016. The application involved the construction of:

- 487 residential apartments
- Childcare centre
- 847 car spaces

1.3 Purpose of the Modification

The intention of the modification is primarily to allow for the introduction of roof top terraces above the tower elements of the development to better utilise redundant roof top space and improve the amenity of the affected units.

The application also seeks to address other minor changes which have arisen during the detailed construction design process including changes to the extent of glazing to the buildings' facades and the reorientation of a car park exhaust stack.

1.4 Effect of the Modification

This DA primarily seeks to modify 14 units within Towers A-D to allow for the introduction of the roof top terraces.

The number of units contained within the development will not increase as a result of the modification.

Revised DA drawings identifying the units subject to the modification and illustrating the changes proposed are provided at **Annexure 1**.

1.5 Structure of the Report

This Statement:

- Describes the site and its surrounding area;
- Details the nature of the proposed development; and
- Undertakes an assessment of the proposal under the heads of consideration in Section 79C (1) of the *Environmental Planning and Assessment Act, 1979*.

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues.

2 Site and Surroundings

2.1 The Site

The site comprises an L-shaped parcel of land with an area of 103,547sqm at 130-150 Bunnerong Road, Pagewood within the former City of Botany Local Government Area (LGA). It is legally described as Lot 2 in DP 1187426. The land was formally known as Virginia Park and was previously occupied by industrial uses associated with the manufacturing operations of British American Tobacco Australasia (BATA). It was rezoned in 2013 to support mixed use development including high density residential uses.

The site has frontages to Banks Avenue to the west, Westfield Drive to the south, Bunnerong Road to the east and Heffron Road to the north. The site borders land zoned for industrial purposes and currently occupied by BATA's remaining site operations.

The site has been cleared of its former industrial buildings and construction of the approved development under DA16/018 has commenced.

2.2 Surrounding Area

The surrounding land uses in the vicinity of the sites comprise:

- North: Low density residential uses. Pagewood shops are located to the north-east.
- East: Low density residential uses.
- South: Westfield Eastgardens shopping centre. The servicing area of the shopping centre borders the site's southern boundary. Commercial and industrial uses are located further to the south-west.
- West: Bonnie Doon Golf Course and associated club house.

2.3 Existing Consent

Development Application 10730 of 2014 for a Stage 1 concept proposal to allow for the comprehensive redevelopment of the site for mixed use was approved by the Land and Environment Court on 7 August 2015. Condition 7 of the consent states the following:

"(7) Separate Stage 2 and future development consent shall be sought for demolition of any structures and any civil and built development."

In effect, the Stage 1 consent establishes the development parameters for the future development of the site but it does not allow for the construction of buildings or works associated with the project. All physical work will be the subject of separate development applications lodged with Council.

In accordance with Condition 7 of the Stage 1 consent, and the provisions of Clause 83B(3) of the EP&A Act, DA16/018 was lodged with the former Botany Bay City Council for assessment. On 9 June 2016, the former Joint Regional Planning Panel issued its consent (DA16/018) for the following development:

"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."

Development has commenced in accordance with the above consent.

The current proposal to introduce minor amendments to DA16/018 has been prepared with regard to, and is consistent with, the details of Development Application 10730 of 2014 (DA2014/96) for a Stage 1 concept proposal (approved by the Land and Environment Court 7 August 2015).

3 Proposed Modification to DA16/018

3.1 Reason for the Modification

The intention of the modification is primarily to allow for the introduction of roof top terraces above the top floor apartments of each building (situated at Level 16 within Building B and C, and Level 19 within Buildings A and D). Other minor alterations including changes to the extent of glazing to the buildings' facades and the reorientation of a car park exhaust stack are also proposed. These changes have arisen during the detailed design construction phase of the project and are sought to improve the overall amenity and aesthetics of the development.

3.2 Proposed Modification

The proposed modification involves an amendment to condition 1 of DA16/018 as follows:

Condition 1: replace plans referenced DA0205, DA0212, DA0215-0217, DA0220, DA0501-0504, DA0601-0602

~~Strikethrough~~ denotes text to be deleted, new text shown in **bold**:

| Plans | Author | Dated/Received by Council |
|---|-----------------------|---|
| Floor Plan – Level 5 DA0205 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Floor Plan – Level 12-15 DA0212 Project No. 5364, Revision: 23 26 | SJB Architects | Dated: 15.06.2016 Received: 16.06.2016 |
| Floor Plan – Level 15 DA0215 Project No. 5364, Revision: 26 | SJB Architects | Dated: 27.02.2017 Received: |
| Floor Plan – Levels 16- 19 18 DA02016 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Floor Plan – Level 19 DA0217 Project No. 5364, Revision: 26 | SJB Architects | Dated: 27.02.2017 Received: |
| Floor Plan - Roof | SJB Architects | Dated: 20.05.2016 27.02.2017 |

| Plans | Author | Dated/Received by Council |
|---|----------------|---|
| DA0220 Project No. 5364, Revision: 24 26 | | Received: 26.05.2016 |
| Elevations - North DA0501 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Elevations - South DA0502 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Elevations - East DA0503 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Elevations - West DA0504 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Sections DA0601 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |
| Sections DA0602 Project No. 5364, Revision: 24 26 | SJB Architects | Dated: 20.05.2016 27.02.2017 Received: 26.05.2016 |

No changes to any of the other conditions of consent are proposed by this application, nor are any changes proposed to the conditions contained within the Stage 1 consent.

3.3 Proposed Works

The proposed works primarily include changes to the internal design of a number of units, specifically involving the introduction of stair access to the roof top. The external changes involve landscaping works associated with the roof top terraces including the addition of pergola structures. The works are illustrated in the sketch plan at **Annexure 2**.

Other minor alterations including glazing changes and the repositioning of a car park exhaust stack are also proposed.

The proposed works are illustrated in the revised plans (changes are clouded) attached at **Annexure 1** and are described below:

- Level 5: Alterations to positioning and extent of car park exhaust stack.
- Level 15: Internal layout changes to apartments within Buildings B and C to allow for introduction of staircase providing access to new roof top terraces.
- Level 16: Introduction of roof top terraces and changes to location and extent of plant equipment.
- Level 16-19: Changes to the extent of proposed glazing.
- Level 19: Internal layout changes to apartments within Buildings A and D to allow for introduction of staircase providing access to new roof top terraces.
- Level 20: Introduction of roof top terraces and changes to location and extent of plant equipment.

4 Section 96 Assessment

4.1 Extent of Modification

The NSW Land and Environment Court has established several precedents as to what may be considered as being “substantially the same development,” and what should be factored into in the consideration of this threshold test. The consideration of this test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In this respect, the modified scheme should be “essentially or materially” the same as that originally approved.

The proposal involves only minor changes to the approved development. The development remains substantially the same as that approved. It is neither essentially nor materially different to the originally approved development for the following reasons:

- Works will not have any impact on the nature of the intended use for the site (residential-led mixed use development) or the scale, location or form of approved building envelopes.
- The maximum height of the overall development remains unchanged (RL88m).
- The nature of impacts of the proposed development is comparable to those of the approved development.
- The proposed development is permissible and complies with the conditions of consent of DA16/018.
- The description, use and nature of the development is unchanged in that the proposal continues to be for the comprehensive redevelopment of the site for a high density mixed use scheme accommodating mainly residential apartments complemented by a child care centre.
- The area of the site and the boundary of the development will remain within the footprint of the originally approved development.
- The proposed modifications will maintain a high quality development, the external design and appearance of the development will be entirely consistent with that originally approved.
- The point of difference between the two schemes relates solely to the introduction of roof top terraces to the tower elements. These gardens will not be visible from the public domain.

For these reasons it is considered that the modification will result in substantially the same development.

5 Environmental Planning Assessment

5.1 Section 79C(1)(a)(i): Environmental Planning Instruments

5.1.1 Botany Bay Local Environmental Plan 2013

Part 2 of the *Botany Local Environmental Plan 2013* (LEP) identifies that the subject site is zoned B2 Local Centre. The proposal involves changes to approved residential flat buildings within the site. Residential flat buildings are a permissible use in the zone.

Clause 4.3 Height of Buildings: A variable maximum height limit of 44 metres, 39 metres and 32 metres applies to the subject site. The approved development involved an exceedance of this height limit over the site as approved by the Stage 1 masterplan consent. The proposed development does not involve any further exceedance in the height of the overall development (maximum RL88m).

Clause 4.4 Floor Space Ratio: A maximum FSR control of 3:1 applies to the site. A FSR of 3.38:1 was approved under DA16/018 based a negligible increase in FSR (revised GFA is 51,699sqm).

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

5.2 Section 79C(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

5.3 Section 79C(1)(a)(iii): Development Control Plans

5.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 (DCP) applies to the subject site. The proposed amendments do not alter the development's compliance with the provisions of the DCP.

5.4 Section 79C(1)(a)(iiia): Planning Agreements

Not applicable.

5.5 Section 79C(1)(a)(iv): Regulations

The DA has been made in accordance with the requirements contained in Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000*.

5.6 Section 79C(1)(b): Likely Impacts

The proposed development will not result in external impacts arising from increased traffic generation, additional noise or overshadowing. The proposed physical changes will not result in any changes to the external appearance of the approved building forms when viewed at street level.

The proposal will involve the introduction of additional roof level structures (pergola and enclosing walls). The overall height of the development nonetheless remains unchanged and given the natures of the structures the change will not impact on the appearance of the development or add to its bulk.

Similarly, the other minor external changes proposed, including glazing alterations to the buildings' facades and repositioning of a car park ventilation stack will not alter the character or appearance of the development to any significant degree.

The proposal will result in units that achieve an improved level of amenity for future residents when compared to the approved development by providing additional outdoor recreational space. Further the proposal makes efficient use of existing redundant roof top spaces within the development and will considerably improve the appearance and utility of these spaces.

5.7 Section 79C(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

5.8 Section 79C(1)(d): Submissions

Council will consider submissions at the close of the exhibition period.

5.9 Section 79C(1)(e): The Public Interest

Given the absence of any demonstrable adverse impacts resulting from the proposal it is considered that the public interest would be best served by approval of the application under consideration.

6 Conclusion

The proposal seeks Council's consent to minor alterations and additions including the introduction of roof top terraces above the tower elements of the approved mixed use development (residential and childcare) at 130-150 Bunnerong Road, Pagewood.

The proposal satisfies the relevant heads of consideration under Section 79(C) of the *Environmental Planning & Assessment Act, 1979*.

It is considered that the proposal provides an appropriate response to the planned development of the site and will assist in the orderly and economic development of the land.

Accordingly, the application should be recommended for approval.

Annexure 1: Modified Plans

Annexure 2: Sketch illustrating roof top terraces