

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2018SCL006
DA Number	DA-2017/1224
Local Government Area	Bayside Council
Proposed Development	Integrated development application for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development will comprise of 368 units.
Street Address	130-150 Bunnerong Road Eastgardens
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	Two (2) objections
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$108,463,785.00
List of All Relevant s4.15(1)(a) Matters (previously Section 79C)	<ul style="list-style-type: none"> ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy 2004 (BASIX); ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ Botany Bay Local Environmental Plan 2013 ○ Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Plans- Fox Johnston • Landscape Plans- Stuart Noble Associates • Design Review Panel

RECOMMENDATION

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

- a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 53.6m (RL 75.6 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 3.91:1; and
- c) Grant approval of Development Application No. 2017/1224 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys which will comprise of 368 units, subject to the conditions of consent in the attached Schedule.

EXECUTIVE SUMMARY

Council received Development Application No. DA-2017/1224 on 27 November 2017 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys which will comprise of 368 units at Urban Block 3 at 130-150 Bunnerong Road, Eastgardens.

The Development Application is required to be referred to the Sydney Eastern City Planning Panel (SECPP) pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the Capital Investment Value of the proposal is greater than \$30,000,000.

The Development Application is Integrated Development under Section 90 of the Water Management Act 2000 as the development is deemed to be an aquifer interference activity as part of the development intercepts or extracts groundwater. Water NSW provided concurrence to the development application on 22 February 2018.

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. There is currently two modifications before the Panel for assessment which results in changes to the Stage 1 consent particularly with UB3 modifying the approved northern setback, unit mix, unit sizes and private open space areas.

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

The proposal includes three levels of basement as part of the development. Development Application No. 2017/1159 was approved on 28 February 2018 for the excavation and shoring works for the three basement levels at UB3. Therefore excavation is not proposed as part of

this application but the car parking spaces and layouts will be included as part of the assessment.

The Development Application was advertised from 18 December 2017 to 31 January 2018. Two (2) submissions were received which generally raised issue with the scale of the overall Stage 1 development site in particular to the height, bulk, traffic, lack of infrastructure, FSR and height creep and inconsistency with Stage 1 consent. These issues have been discussed in detail throughout the report.

The key issues in the assessment of the development application include non-compliances with the current unit mix, unit and private open space sizes and northern setback control that was approved as part of the Stage 1 consent, tower articulation and protrusion and building elements, ADG non-compliances with deep soil, common circulation and building separation, LEP non-compliances with height and FSR and DCP non-compliances with loading bays, landscaped area, family friendly controls and apartment layouts.

As discussed in greater detail in the report below, the proposal seeks to design the development based on a modified unit mix, unit size and private open space size and northern setback proposed in the modification of the Stage 1 consent as part of DA-14/96/07. The proposal is scheduled to be determined on 24 July 2018 therefore the subject application cannot be determined until the Stage 1 modification has been determined. The proposal seeks to rectify a typographical error relating to the northern setback which demonstrates 6 metre setback when it should have been a 4 metre setback. Additionally, the unit size proposed as part of that modification and as part of this proposal will reduce the number of one bedroom units, increase the number of two bedroom units and reduce the number of three bedroom units for this urban block. The modifications to the unit sizes and private open space sizes seek to replicate the sizes established within the ADG. The subject proposal seeks to reduce the size of the units from the sizes originally established in the Stage 1 consent however the units will continue to be larger than the minimum ADG requirements with the majority of two bedroom units continuing to be around the 80sqm mark, three bedrooms greater than 90sqm and one bedrooms around the 60sqm mark. There are protrusions from the proposed balconies over the building envelope. This is considered acceptable as it provides greater articulation to the built form. These issues are discussed in greater detail in the Stage 1 consent section below.

With regard to the ADG, the proposal does not comply with the deep soil requirements, building separation and common circulation. The deep soil calculation provided by the applicant provides a breakdown of the communal areas and the amount of deep soil provided. When including the area where the built form is contained (excl. pocket park), the development provides 2.1% deep soil. With the inclusion of the pocket park, the development provides 10% deep soil. As the pocket park will be privately owned however accessible to the general public, it is considered that this area should be included within this calculation. Therefore deep soil is sufficient.

In regards to the building separation, from Levels 5 and above, the development provides a 12 metre building separation between the central towers. This is inconsistent with the ADG controls however this separation is acceptable as it is consistent with the building separation approved in the Stage 1 consent building envelope. The applicant has provided privacy and screening plans which demonstrate visual privacy mechanisms to prevent overlooking. This is supported. Finally in regards to common circulation, the ADG requires 10 lifts to be provided as part of this development. The total number of lifts provided is 6. There is a shortfall of 4 lifts. The applicant has provided a lift study which demonstrates the performance of the lifts based on the number of units proposed. The study demonstrated that the lifts would continue to have excellent performances and could accommodate the number of residents within the development. Therefore the ADG non-compliances have been resolved.

The development proposes a maximum building height of 53.6m (RL 75.6 m) at its highest point. This departs from the maximum building height of 28m to 39m 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. 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 3.91:1 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 3.92:1. Therefore both the FSR and heights of building is acceptable.

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.

In summary, the proposed DA has been assessed against the relevant controls and on balance, Council is generally supportive of the proposal. It is recommended that the application be issued with an approval.

SITE DESCRIPTION

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 103,547sqm.

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. Construction has commenced on UB5W which is located on the south-western portion of the site. 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 Westfield Drive 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.

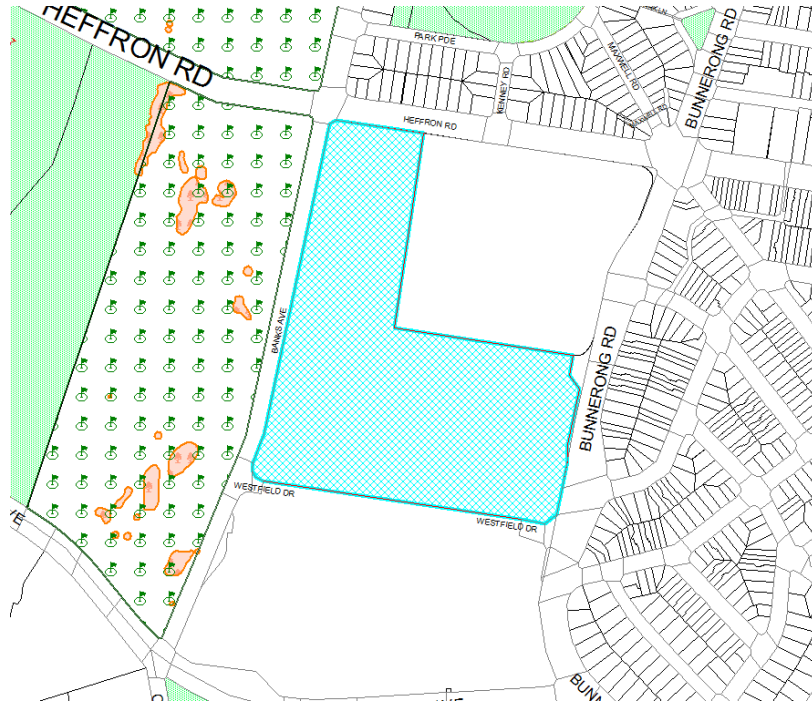


Figure 1. Locality map of the subject site



Figure 2. Aerial photograph of the subject site dated June 2018 (Source: nearmap.com.au)

SPECIFIC PORTION OF THE SITE SUBJECT OF THIS APPLICATION

The portion of the overall site relevant to this application is known as Urban Block 3 (UB3) in the Stage 1 consent. UB3 is located on the western side of the site between Banks Avenue to the west, East-West Boulevard (Tingwell Boulevard) to the north and north-street 1 (Finch Drive) to the east. The subdivision of the site in accordance with the Stage 1 consent has been approved under DA-15/104 and further modified under DA-15/104/05 and DA-14/96/03. UB3 is Lot 5 on the approved subdivision plan and has an area of 9,434sqm. The lot is generally rectangular in shape with a frontage to Banks Avenue, Tingwell Boulevard, Finch Drive and the southern boundary.

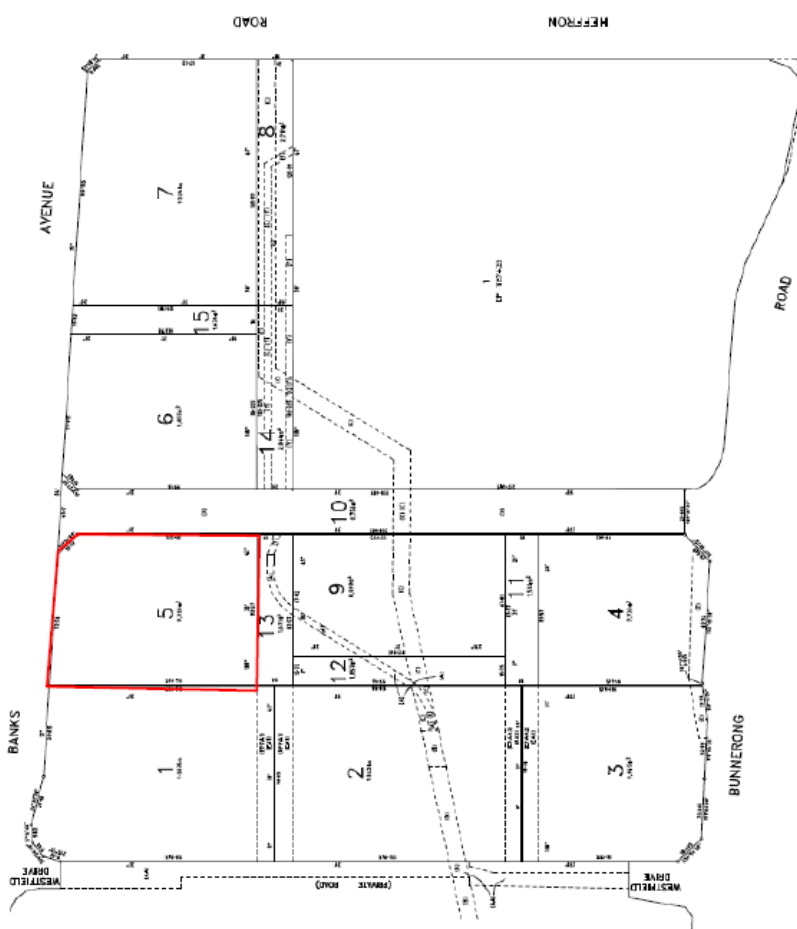
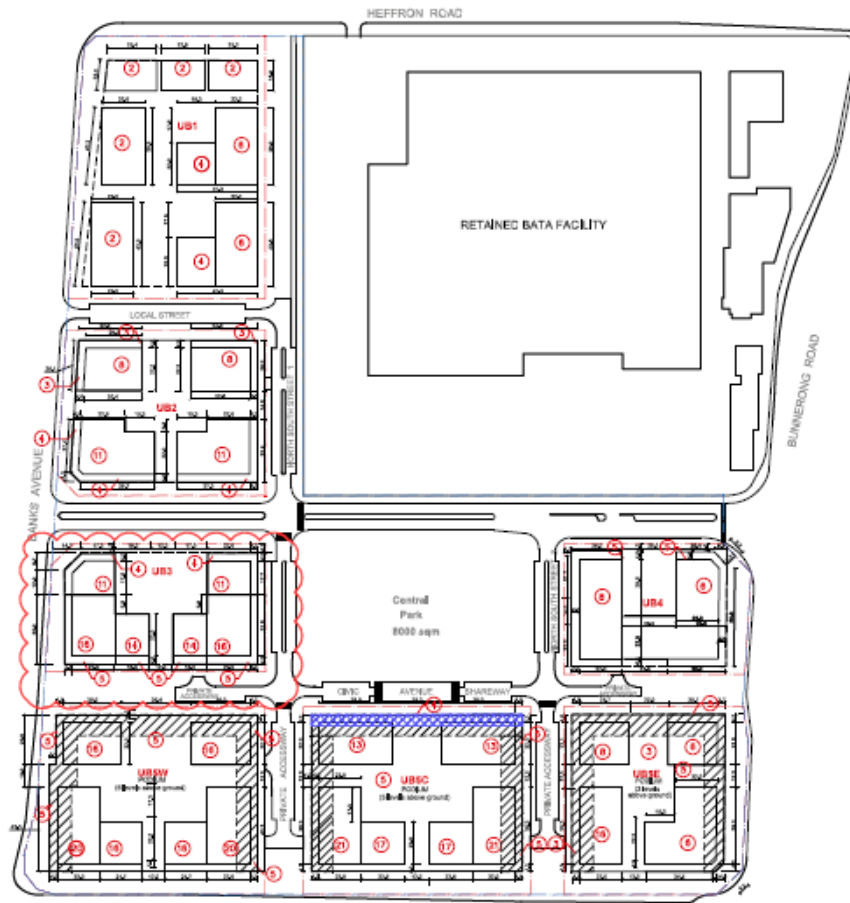


Figure 3. Approved subdivision plan (DA-15/104) with UB3 highlighted in red



Figure 4. Proposed location of UB3 on the subject site

The modification to the Stage 1 consent modifies the approved building envelopes of the site as demonstrated within Figure 5 below. Specifically for UB3, the Stage 1 approved plans will be amended to demonstrate a revised northern setback dimension from 6 metres to 4 metres to reflect the approved building setback. The Stage 1 conditions of consent will also be modified to allow UB3 and UB5C to have unit sizes and private open space areas match the minimum requirements under the Apartment Design Guide and a unit mix change. This is scheduled for determination by the Panel on 24 July 2018.



BACKGROUND

Stage 1 – Masterplan (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 BDDCP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Eastgardens, 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.

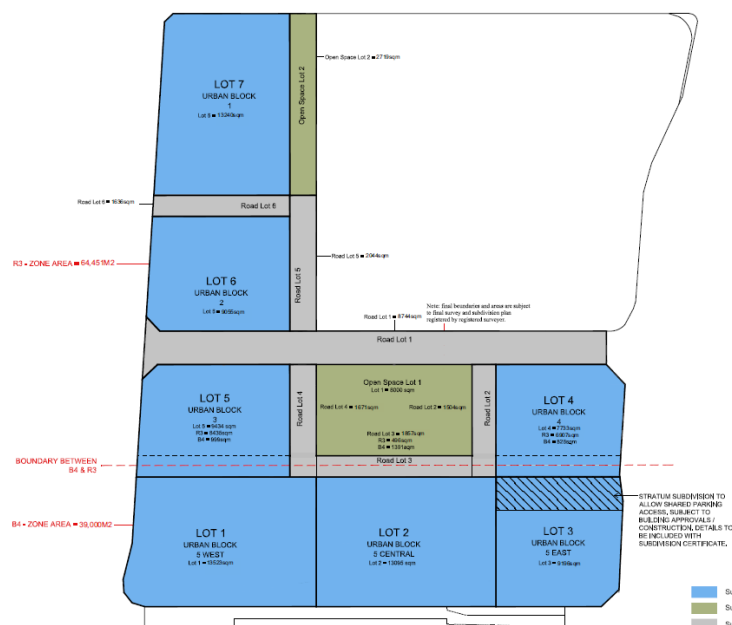


Figure 6. Approved Master plan concept subdivision plan DA-14/96



Figure 7. Approved Building Envelope Plan- DA-14/96

The following modifications have been approved on the Stage 1 consent as follows:

DA-14/96/03- Modification for a minor boundary realignment of the lots and provision for a stratum subdivision to allow shared parking access between UB4 and UB5E was approved on 23 November 2017 under delegation.

DA-14/96/04- Modification to modify the Masterplan layout of UB4 to reduce the building setbacks from 6 metres to 4 metres along the northern and western elevations was approved on 5 October 2017 under delegation.

DA-14/96/06- Modification to modify the Masterplan to amend Condition Nos. 10 and 11 to vary the timing for the delivery of public infrastructure was approved on 25 January 2018.

The following application is scheduled for a public determination meeting on 24 July 2018 which relate to the current application:

DA-14/96/02- Section 4.56 Application to modify Development Consent No. 14/96. Modifications include reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height and modifications to conditions.

DA-14/96/07- Section 4.56 Application to modify Development Consent No. 14/96 which approved a Stage 1 masterplan for the site to modify the approved unit mix, unit sizes and private open space relating to Urban Blocks 3 and 5C and amend the setback requirements for Urban Block 3. The proposed works to this modification reflect the proposed northern setback, unit mix, unit sizes and private open space areas proposed under the subject development application.

Stage 2 Development Applications

- **DA-14/159-** East-West Boulevard and realignment of Sydney Water Stormwater Culvert - approved 7 August 2015 by the Land and Environment Court
- **DA-15/104-** Subdivision of the site and construction of the road network (excluding East-West Blvd and the private access ways) and associated civil works- Approved on 4 December 2017- further modifications have been approved
- **DA-2016/18-** 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- approved on 9 June 2016 by the Panel- further modifications have been approved
- **DA-2016/143-** 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- approved on 16 February 2017 by the Panel- further modifications have been approved
- **DA-2017/1022-** 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- approved on 5 October 2017 by the Panel- further modifications have been approved.
- **DA-2018/1003-** Integrated Development Application for the construction of a mixed use development of six (6) residential towers with the tallest tower having a maximum building height of 21 storeys (RL 90.5m), ground floor retail tenancies, associated landscaping and site works. The development proposes a total of 515 apartment- this is currently under assessment
- **DA-2016/65-** Embellishment of the public domain across the site. Works include the construction of two public parks, and embellishing the approved road network with landscaping, street furniture, lighting and paving- this is scheduled for determination on 24 July 2018 by the Bayside Planning Panel
- **DA-2017/1159-** Integrated Development Application for the excavation and shoring works for three basement levels on Urban Block 3- this was approved on 28 February 2018 under delegated authority

DEVELOPMENT APPLICATION HISTORY

- 15 February 2018 – Application presented to Design Review Panel
- 20 February 2018 – Briefing with the SCPP
- 5 March 2018 – Additional information letter sent to applicant. Key points raised in letter included non-compliances with height and with Stage 1 consent, inconsistencies between plans and other documents, modifications to study areas, building envelope, privacy screening, open space and section plans, additional information relating to stormwater and traffic.

- 8 May 2018 – Additional information received by Council

PROPOSED DEVELOPMENT

The proposed development (as amended) is for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys and which will comprise of 368 units and will include landscaping across the site. Along the southern side of the site, the development proposes a pedestrian access pocket park as well as vehicular access to the basement car parking below.

Built Form

The development is broken up as follows:

- 4-5 storey podium with six towers over with 2 x 11 storeys located along the north-eastern and north-western side of the site, 2 x 14 storeys located internally to the site and 2 x 16 storeys located on the south-eastern and south-western sides of the site;
- Three levels of basement car parking with vehicular access proposed along the south-eastern side of the site; and
- 368 residential apartments are proposed.

Apartment Mix

A breakdown of the apartment mix is as follows:

71 x 1 bedroom units - 19%
 237 x 2 bedroom units - 64%
 60 x 3 bedroom units - 16%

Car Parking and Servicing

The development includes three levels of car park. The application does not include excavation of the car parking level as this was approved as part of DA-2017/1159. Entry to the basement will be located along the south-eastern side of the site off Finch Drive which is to the east of the development. The car parking levels include a loading dock located on Basement Level 2 for garbage collection and is attached to the waste holding rooms, storage for the units on each of the basement levels, a swimming pool and gym located at Basement Level 2. Details of the car parking are as follows:

Total number of car parking spaces associated with the site: **591 spaces**

Residential: 586 car spaces

This is further broken up as follows:

- 37 visitor spaces
- 549 residential spaces

Service Vehicles: 1 service space + 1 loading dock

Car Share Spaces: 3 spaces (1 in basement, 2 on the street)

Car Wash Bay: 1 space

Bicycle Parking: Has not been demonstrated on the plans

Communal Open Space

The development includes the following areas of communal open space:

- Ground level- Southern side of the site – 1,369.8sqm. This open area is located to the south of the buildings and will be utilised as a pocket park with pedestrian easement approved over it;
- Ground level – 1,914.6sqm. This open area is in the centre of the site towards the northern side of the development and will be the principal area of open space for residents of the development;
- Swimming pool and gym – 313.1sqm. This area is located on Basement Level 2 centre to the car parking area.

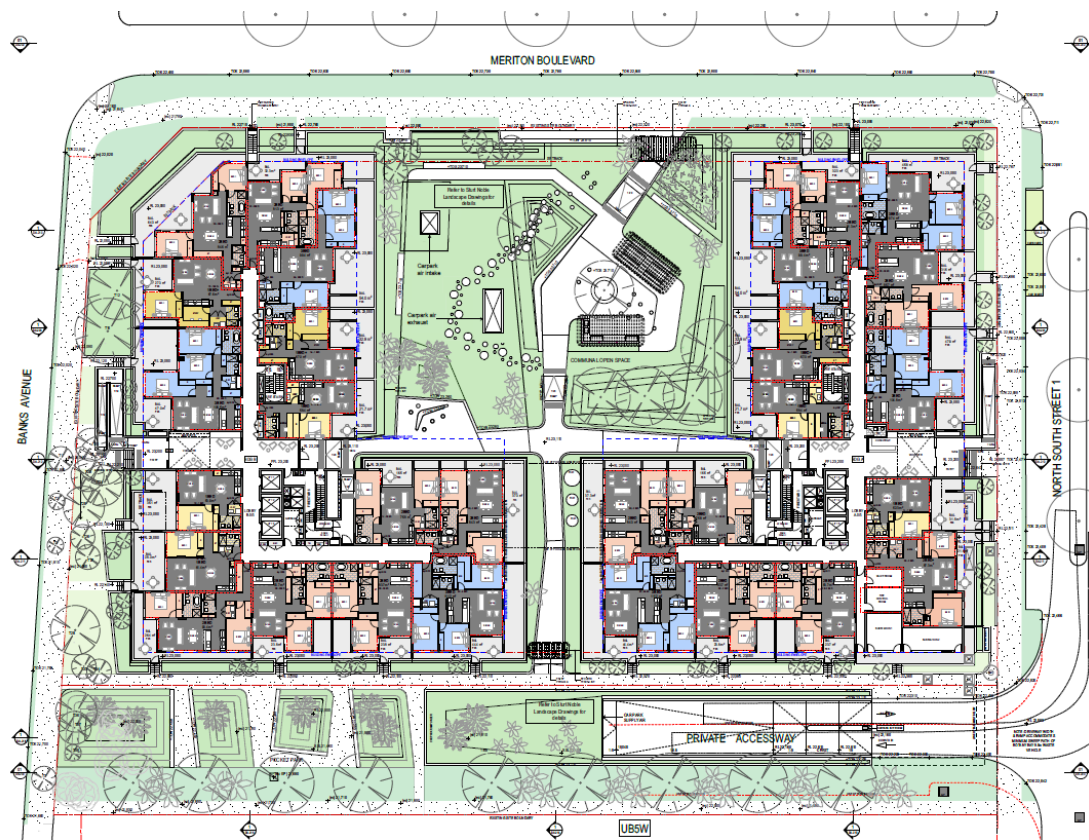


Figure 8. Proposed ground floor plan



Figure 9. Proposed Southern Elevation Plan

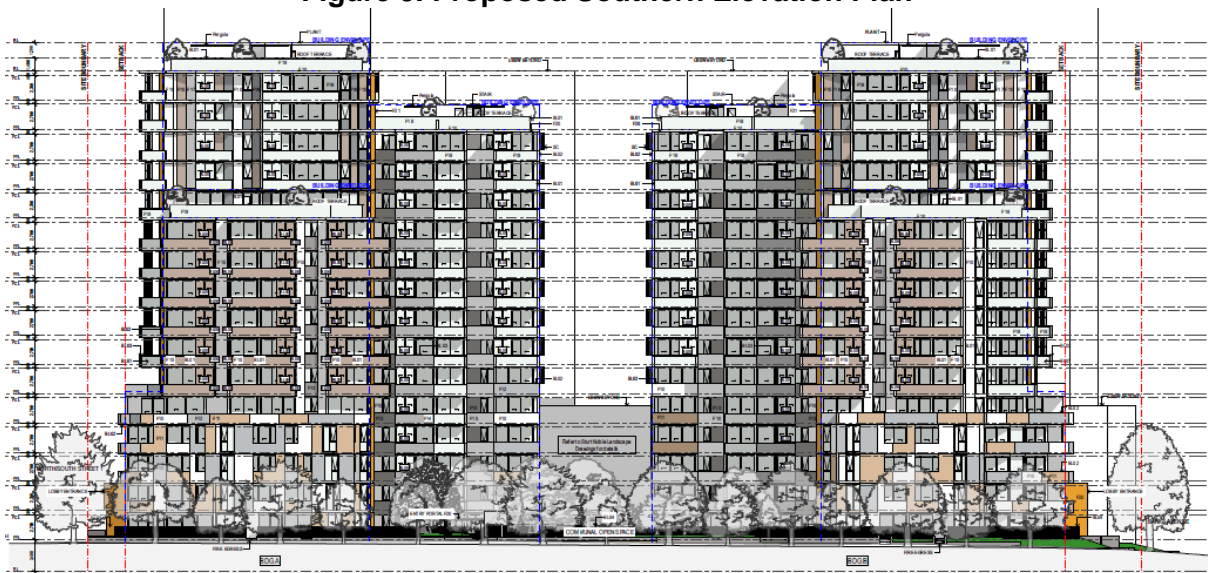


Figure 10. Proposed Northern Elevation Plan

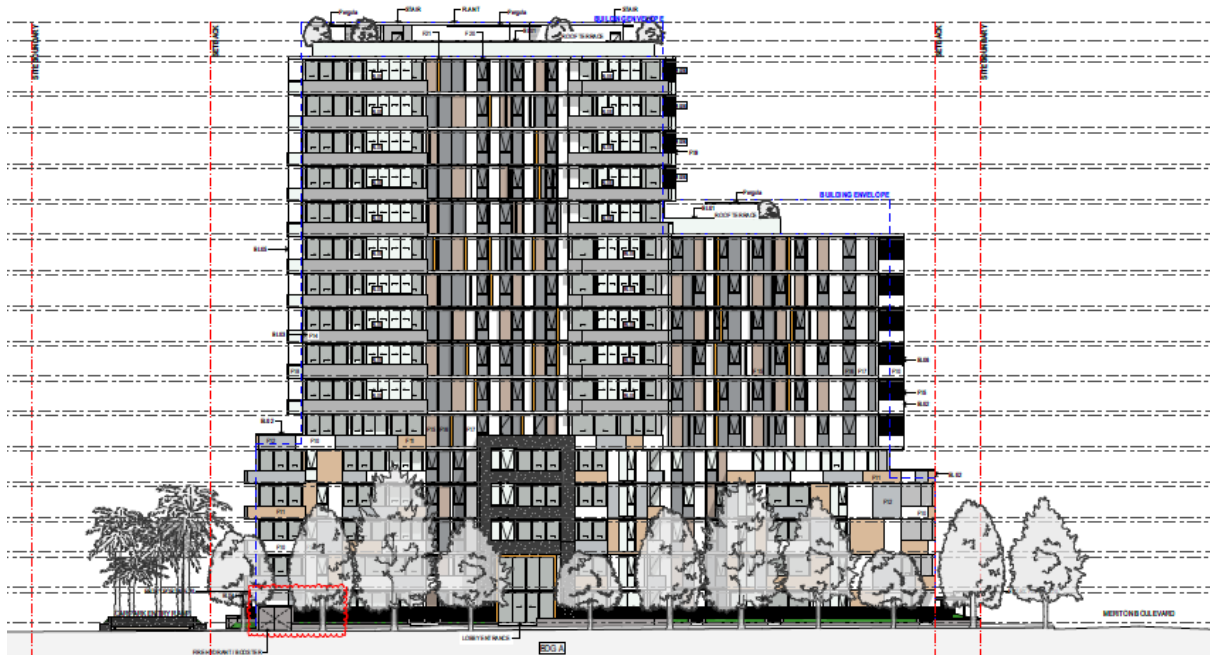


Figure 11. Proposed Eastern Elevation Plan

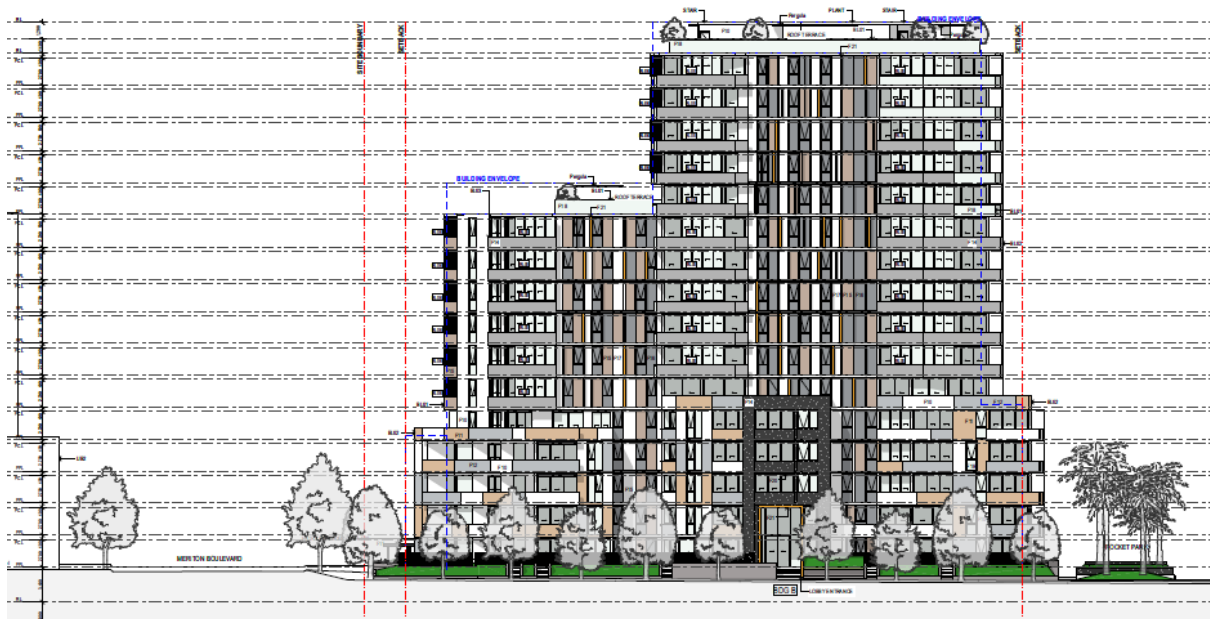


Figure 12. Proposed Western Elevation Plan



Figure 13. Photomontage viewed from north-eastern corner



Figure 14. Photomontage viewed from south-eastern corner



Figure 15. Photomontage viewed from Banks Avenue



Figure 16. Photomontage from northern side of the site

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 CONSIDERATIONS

SECTION 4.42- STATUS OF CONCEPT APPLICATIONS AND CONSENT CONSIDERATIONS (previously Section 83D)

The Stage 1 Master plan consent DA-14/96 is the first of a Staged Development Application as per Section 4.42 of the Environmental Planning and Assessment Act. The subject application is a Stage 2 Development Application and as per the Section 4.42 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 1: Compliance with Stage 1 Consent Conditions

Condition Control	Required	Proposal	Consistent
GFA and FSR (Condition 12)	GFA 37,011sqm FSR 3.92:1 Indicative Units 368	GFA: 36,879.1sqm FSR: 3.91:1 Units: 368	Yes
Heights (Condition 15)	<p><u>Podium:</u></p> <ul style="list-style-type: none"> A1 + A2- 13.8m (RL 35.8) B1 + B2- 13.8m (RL 35.8) A3 + A4- 16.9m (RL 38.9) <p><u>Building:</u></p> <ul style="list-style-type: none"> A1 + A2- 35.5m (RL 57.5) B1 + B2- 44.8m (RL 66.8) A3 + A4- 51m (RL 73) <p><u>Plant Room:</u></p> <ul style="list-style-type: none"> A1 + A2- 38.1m (RL 60.1) B1 + B2- 47.4m (RL 69.4) A3 + A4- 53.6m (RL 75.6) 	<p>The proposed heights are as follows:</p> <p><u>Podium:</u></p> <ul style="list-style-type: none"> A1 + A2- 13.6m (RL 35.6) B1 + B2- 13.6m (RL 35.6) A3 + A4- 16.7m (RL 38.7) <p><u>Building:</u></p> <ul style="list-style-type: none"> A1 + A2- 35.4m (RL 57.4) B1 + B2- 44.8m (RL 66.8) A3 + A4- 51m (RL 73) <p><u>Plant Room:</u></p> <ul style="list-style-type: none"> A1 + A2- N/A B1 + B2- 47.4m (RL 69.4) A3 + A4- 53.6m (RL 75.6) 	Yes
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. (12m-48m between the buildings)	Building separation between the buildings is between 12m to 48m with the exception of a few balconies and ground floor terraces. This is a result of non-compliance with articulation control.	Yes

Condition Control	Required	Proposal	Consistent
Podium height (Condition 19)	UB3- no more than 4 storey podium for 11 storey tower and a 5 storey podium for the 14 and 16 storey tower components.	Complies	Yes
Building elements (Condition 22)	All building elements including balconies, louvres, and screening is to be contained within the building envelope	Balconies on levels 5 and above fall outside approved building envelope.	No – Refer to Note 1
Tower setbacks (Condition 23)	Min 4m setback for towers above a podium.	All towers setback 4m from edge of podium. Balconies encroach within 4 metre setback.	Yes
Tower Articulation (Condition 24)	Max protrusion of 500mm from building envelopes for the towers for a maximum of 50% of each façade.	No articulation plan has been provided.	No - Refer to Note 2
Podium Articulation (Condition 25)	Max protrusion of 500mm from building envelopes for the podiums for a maximum of 20% of each façade.	The podium proposes protrusions to the building envelope by way of balconies and ground floor terraces. Significant articulation provided through cuts in the podium particularly along the northern, eastern and western sides.	No - Refer to Note 2
Setbacks (Condition 26)	Podium and building setbacks to comply with setback hierarchy plan – tapered 6m to 12m (Banks Avenue)	<ul style="list-style-type: none"> Northern setback is proposed at 4 metres to achieve consistency with modified Stage 1 consent. Western setback along Banks Avenue complies. 	Refer to Note 1
Car Parking (Condition 29)	<u>Residential</u> <ul style="list-style-type: none"> 1 space / 1 bedroom (71 req) 1.5 space / 2 bedroom (356 req) 2 space / 3 bedroom (120 req.) Sub-total = 547 1 visitor space /10= (37 req.) 	<u>Residential</u> <ul style="list-style-type: none"> 549 spaces for apartments 37 visitor spaces 3 car share spaces 1 car wash bay 1 service bay <p>Total car spaces: 591 car spaces</p>	Yes

Condition Control	Required	Proposal	Consistent
	<ul style="list-style-type: none"> 22 car share spaces (10 in basements) across entire site (3 req) Total: Residential: 587 spaces req. 		
Dwelling Sizes (Condition 33)	<p>One bedroom: <u>Internal Area:</u> 50sqm <u>External Area:</u> 8sqm</p> <p>Two bedroom: <u>Internal Area:</u> 70sqm <u>Internal Area with 2nd bathroom:</u> 75sqm <u>External Area:</u> 10sqm</p> <p>Three bedroom: <u>Internal Area:</u> 90sqm <u>Internal Area with 2nd bathroom:</u> 95sqm <u>External Area:</u> 12sqm</p>	1 bed units: 52.3-67sqm 2 bed units: 75.8-91.3sqm 3 bed units: 99.4-118.4sqm	Refer to Note 3
Unit Mix (Condition 34)	<p><u>Unit Type</u></p> <p>One bedroom: <u>Proportion:</u> 19.3% <u>Indicative maximum number of units:</u> 71</p> <p>Two bedroom: <u>Proportion:</u> 64.4% <u>Indicative maximum number of units:</u> 237</p> <p>Three bedroom: <u>Proportion:</u> 16.3% <u>Indicative maximum number of units:</u> 60</p>	1 bed – 19% 2 bed – 64% 3 bed – 16%	Refer to Note 4
Adaptable Units (Condition 35)	Minimum number of adaptable units: 51 plus units = 2 units, plus an additional 1 unit for each 30 units (req. 14 adaptable units)	Total number of adaptable units is 19 based on the floor plans.	Yes
Solar Access (Condition 36)	70% solar access to living rooms and private open space for minimum of 2 hours between 9am – 3pm in mid-winter	70.7% achieved (260 out of 368 apartments).	Yes

Condition Control	Required	Proposal	Consistent
	Podium communal open space minimum 2 hours solar access between 9am-3pm in mid-winter	52.9% of COS receives greater than 2 hours of sun. This is at the ground level at the centre of the site.	

Note 1 – Building Elements/Setbacks (Condition Nos. 22 and 26)

Condition No. 22 states that all building elements including balconies, louvres, and screening is to be contained within the building envelope. The proposal seeks a departure to this control as a number of balconies predominantly located along the southern, south-western and south-eastern facades on levels 5 and above have balconies that protrude by 0.5-1 metres. This is to allow visual interest and articulation of the facades when viewed from the surrounding streetscapes. The areas which non-comply the greatest would be the balconies that are located along the western façade of the development fronting Banks Avenue. The balconies are curved to allow a break in the form and to provide a greater outlook to views over the city skyline and the neighbouring golf course.



Figure 17. Areas outside the building envelope

In regards to the setbacks established within Condition No. 26 of the Stage 1 consent, the setbacks are generally consistent with the approved building envelopes.

Modification Application No. 14/96/07 seeks to amend a discrepancy in the approved Stage 1 plans which demonstrate a northern setback dimension of 6 metres however a building

envelope setback of 4 metres. This is to be rectified to 4 metres as part of this modification application.

The subject proposal has been designed to provide a 4 metre northern setback with the entire building envelope encompassed within this setback. This is acceptable subject to the approval of the modification application.

Note 2 – 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 not provided an articulation plan to demonstrate the percentage of protrusion and articulation proposed within the podium and within the tower form however it is evident that there is a greater degree in articulation, provided to the façade with multiple breaks in the built form along the eastern and western elevations, than there is protrusion. The points of protrusion are contained to balconies which extend over the approved building envelope by 0.5 metres. The impact of the protrusion will not create any significant impact onto the surrounding sites or increase the bulk of the development significantly when viewed from the surrounding streets. The breaks in the built form allow for greater flexibility to the development and to the internal spaces within the units. The proposal meets the objective of the conditions to provide articulation to the development. This is acceptable in this case.

Note 3 – Dwelling Size (Condition No. 33)

Modification Application No. 14/96/07 proposes modifications to the Stage 1 consent with one of the modifications involving a change to the unit and private open space sizes. The modification seeks to amend Condition No. 33 to reflect unit sizes consistent with the ADG sizes of 50sqm for 1 bedrooms, 70sqm for 2 bedroom units and 90sqm for 3 bedroom units. The ADG requires two and three bedroom units with a second bathroom to have an extra 5sqm on top of the 70sqm and 90sqm. Additionally the POS sizes will be reduced from 12sqm to 8sqm for 1 bedroom units, 10sqm for 2 bedroom units and 12sqm for 3 bedroom units. The application is scheduled to be determined on 24 July 2018.

The proposal has been designed based on the unit sizes proposed to be modified within the Stage 1 consent. Should the modified application be approved, the proposed development will be consistent with the Stage 1 consent. The proposal does not seek to amend all the units to comply with the reduced unit sizes. A majority of the units, particularly the one and two bedroom units have sizes in excess to 50sqm and 70sqm and provide adequate amenity within the development. The size of the 3 bedroom units originally at 110sqm to 124sqm was

considered by the applicant to be too large and not meet the market demand for large units. The private open space areas are retained to accommodate seating and be consistent with the requirements of the ADG. In this case, the proposal is accepted subject to the approval of DA-14/96/07.

Note 4 – Unit Mix (Condition No. 34)

Modification Application No. 14/96/07 proposes modifications to the Stage 1 consent with one of the modifications involving a change to the unit mix. The proposal which scheduled to be determined on 24 July 2018 and prior to the determination of the subject application proposes a unit mix of 19.3% x 1 bedroom units, 64.4% x 2 bedroom units and 16.3% x 3 bedroom units. This changes the original unit mix approved by the Land and Environment Court which was max 20% x 1 bedroom units, 50% x 2 bedroom units and min 30% x 3 bedroom units.

This proposal will be based on the determination of this application. Should this modification be approved, the development will be consistent with the Stage 1 consent as modified. Should the modification not be modified, the current application will comply with the number of 1 bedroom units, will provide excess 2 bedroom units and will be under in the number of 3 bedroom units. The proposal continues to provide a variety in the number of unit types within the development and reflects the market demand for less larger units hence the reduction in the number of three bedroom units. In this case, the proposal is accepted subject to the approval of DA-14/96/07.

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 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 22 February 2018, Water NSW provided conditions of consent which have been recommended in the consent attached. Therefore, the proposal is acceptable.

SECTION 4.15 CONSIDERATIONS

In considering the Development Application, the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

(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 12 January 2018, the RMS was notified of the DA.

Council received a response in a letter dated 13 February 2018, 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, and that vegetation is not to hinder sightlines. 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.

Council's Environmental Scientist has reviewed the application and raised no objection subject to appropriate conditions which have been included in the consent. Specifically a Site Validation Report and a Site Audit Statement is to be provided prior to the issue of the Occupation Certificate.

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

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 Fox Johnston. The Panel considered the strengths and weaknesses of the proposal. The strengths that were raised included the façade articulation, materiality and colour scheme, the apartment layouts proposed including the private open space area and storage areas, the landscape design of the

central courtyard, appropriate interface with the public domain, the interface of the ground floor units with the public domain and the coherence between the design and the execution. The jury also provided a list of matters for further consideration and refinement which are listed below. The proposed development that was lodged with the development application had some minor changes that were generally consistent with the comments provided by the jury panel after the competition. An assessment against the points raised for consideration and the submission are provided below:

Jury Comments:

- The front setback line is incorrectly plotted and should demonstrate a 6 metres setback. The design scheme breaches the 6 metres northern setback control by having floor space situated at 3.5 metres from the boundary. Any projecting element should be limited to non-floor space items such as balconies and shading devices.

Officer Comments:

- The proposal has incorporated a 4 metre northern setback which is consistent with the northern setback to be approved as part of modification application DA-14/96/07. This northern setback as originally approved in the Stage 1 consent, demonstrates an error in the dimensions provided but not the built form. This was not originally picked up on during the design competition therefore the above comments have been provided. The proposal does provide some non-compliances with the balconies located over the 4 metre setback however the northern façade has provided reasonable articulation to break up the northern setback.

Jury Comments:

- On Levels 12 to 16, an entire bedroom and part of the living room on the northern units breach the building envelope set in the Stage 1 consent. The protrusion of habitable space will not be supported.

Officer Comments:

- All units have now been designed so no habitable area on Levels 12 to 16 are located over the approved Stage 1 building envelope area. The only protrusion is the balconies.

Jury Comments:

- Treatment of the rooftop plant room needs to be considered to ensure its integration with the rest of the building.

Officer Comments:

- The plant rooms on the rooftop over Level 16 have been appropriately treated as part of the proposal.

Jury Comments:

- A number of units do not satisfy the natural cross ventilation requirements of the ADG. A specialist study including natural ventilation modelling would assist in the detailed design.

Officer Comments:

- The applicant has not provided a separate specialist study relating to natural ventilation however has provided ventilation calculation plans which demonstrate that the majority of the units on the corners of the buildings will receive the required amount of ventilation. A calculation of the units up to level 9 has been carried out and 154 of the 250 units received cross ventilation. This results in a total of 61.6% which is compliant with the minimum 60% requirement within the ADG.

Jury Comments:

- The resolution of the difficult re-entrant corner currently do not meet the 2:1 or 3:1 of the ADG. The plan should seek to improve natural ventilation and solar amenity.

Officer Comments:

- The design has been amended to comply with either the 2:1 or 3:1 ratio for indents to allow for appropriate ventilation and solar amenity.

Jury Comments:

- A detailed approach to windows on the ground floor units to allow for ventilation as well as for privacy is to be explored.

Officer Comments:

- This has been considered as part of the proposed development. The design of the ground floor provides a mix of sliding doors and windows and provides appropriate fencing to the ground floor terraces.

Jury Comments:

- It is unclear as to whether the solar access analysis has taken into consideration the impact from the approved building envelope at UB2. Additionally, the apartments on the ground level have inadequate solar access and it is recommended that double storey units be provided.

Officer Comments:

- The proposed development has considered the building envelope for UB2 within the solar analysis and its impacts onto the proposed units, particularly on the lower levels. The applicant has not proposed two storey units for the lower levels however they have demonstrated which of the units will receive the required 2 hours sunlight. The proposal complies with the minimum 70% requirement for solar access within the ADG therefore solar amenity is acceptable.

Jury Comments:

- Weather protection is to be provided over the stairs and platform lift at the main building entries.

Officer Comments:

- This has not been demonstrated on the plans therefore a condition of consent will be imposed within the schedule.

Jury Comments:

- The separation between the eastern and western blocks does not comply with the ADG from Levels 5 onwards. Privacy protection measures are required for the habitable rooms on the side elevations of the blocks. They could include external screens or pop out windows to the more southern units.

Officer Comments:

- The building envelope approved as part of the Stage 1 consent had a minimum building separation for the upper levels at 12 metres which is inconsistent with the ADG controls. Notwithstanding, a privacy and screening plan has been provided supporting the development application which demonstrates that louvres and opaque glass are proposed to the units which are located within the reduced building separation.

Jury Comments:

- Communal gardens should be accommodated on levels 12 and 15 to capture the advantages of the rooftop areas. This is especially the case as the communal open space provision currently does not comply with the ADG, being 25% of the site area (excluding the pocket park to the southern side of the site).

Officer Comments:

- The proposal has not provided communal open space areas on the rooftop of Levels 12 and 15 and has incorporated private rooftop terraces for the units below. The proposal provides communal open space centrally on the ground floor and while the southern portion of the site does comprise of a separate pocket park which will be accessible to the general public, this is considered to be included within the site boundary. Therefore the amount of communal open space is acceptable in this case and does not require a rooftop communal area.

Jury Comments:

- The landscape design for the pocket park should be further developed to provide a memorable green link between Banks Avenue and Central Parl and to mitigate the visual impacts from the car parking entry.

Officer Comments:

- This has been considered as part of the proposal and the landscaped area within the pocket park has been further refined.

The figures below demonstrates the design competition photomontage scheme and photomontages of the proposed scheme:



Design Competition- View from north-eastern corner Development Application- North-eastern corner



Design Competition- View from Banks Ave



Development Application- View from Banks Ave

Design Review Panel

The development application was presented to a Design Review Panel on 15 February 2018 who assessed each SEPP 65 principle and provided comments which are attached to the report. The Panel considered that the design demonstrates a high degree of design excellence in relation to SEPP 65 and provides excellent housing diversity and social interaction.

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. The key design criteria has been provided in the table below. Any non-compliances with the ADG has been discussed in the report 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.

Table 2: SEPP/ADG Compliance Table

SEPP 65 – ADG			
Control	Requirement	Proposed	Complies
Car Parking	Not located within 800m of a train station. Accordingly, BBDCP 2013 car parking rates apply.	-	N/A
Dwelling Size	Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 52.3-67sqm 2 bed units: 75.8-91.3sqm 3 bed units: 99.4-118.4sqm	Yes Yes Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m	Habitable rooms: 2.7m Non-habitable rooms: 2.4m	Yes Yes
Deep Soil	Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m.	Based on a site area of 7,524.8sqm: 158.7sqm (2.1%) Based on a site area of 9,434sqm: 928.6sqm (10%)	No – Refer to Note 5 Yes
Communal Open Space	25% of site.	Based on a site area of 7,524.8sqm: 1,914.6sqm (25.4%)	Yes

		Based on a site area of 9,434sqm: 1,369.8sqm (35%) The pool and gym in the basement while not included in open space is included in communal area = 313.1sqm	
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter.	52.9% of central COS area 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.	70.7% achieved (260 out of 368 apartments)	Yes
Cross Ventilation	60% required for first 9 storeys. (Required: 101 apartments out of 169)	154 out of 250 apartments are cross ventilated (61.6%).	Yes
Building Depth	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
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	<u>Up to 4 storeys: 12m required (podium)</u> Internal to the development: • 12m to 48m between habitable and habitable, non-habitable and balconies	Yes
	<u>Five to eight storeys (25m):</u> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms	<u>5-8 Storeys: 18m required</u> • 12m to 48m between habitable and habitable, non-habitable and balconies	No- Refer to Note 6
	<u>Nine storeys and above (greater than 25m):</u>	<u>9 and greater storeys: 24m required</u>	No

	<ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	12m to 48m between habitable to habitable, non-habitable and balconies	
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	1 bed: 8sqm - 32.9sqm 2 bed: 10sqm – 94.6sqm 3 bed: 12.2sqm – 136.6sqm Ground Floor: 12.2sqm - 62.3sqm	Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3+ bed: 10m ³	1 bed: Min 6sqm 2 bed: Min 8sqm 3 bed: Min 10sqm Majority of storage area located in basement.	Condition
Common circulation	1 lift/ 40 units (10 req)	Six lifts have been provided. Departure of 4 lifts.	No – Refer to Note 7

Note 5- Deep Soil

The Design Criteria for Objective 3E of the ADG requires sites that have an area greater than 1,500sqm is to provide a minimum deep soil area of 7% with a minimum width of 6 metres.

The site has a total area of 9,434sqm. This includes the pocket park and vehicular access along the southern side of the site. In excluding this portion of the site from the calculation, the site comes to a total of 7,524.8sqm. Based on a site area of 9,434sqm, the site has a deep soil area of 928.6sqm (10%) which complies. Based on a site area of 7,524.8sqm, the site has a deep soil area of 158.7sqm (2.1%) which does not comply with the ADG requirement.

The pocket park will not be dedicated to Council and will form part of the subject site however accessible by the general public therefore it is considered that this area also forms part of the deep soil calculations. In this case, the amount of deep soil that has been provided is acceptable. Appropriate conditions have been provided by Council's Landscape Architect requiring a greater number of larger trees to be provided within the deep soil area to obscure parts of the development from Banks Avenue and the southern side of the site.

Note 6 – Building Separation

The proposal does not meet the ADG minimum building separation distances at Levels 5 and above. The design guideline for Objective 2F of the ADG requires the following separation to be provided for the development:

Up to four storeys (approx. 12m):

- 12m between habitable rooms/balconies
- 9m between habitable and non-habitable rooms
- 6m between non-habitable rooms

Five to eight storeys (approx. 25m):

- 18m between habitable/balconies
- 12m between habitable and non-habitable rooms
- 9m between non-habitable rooms

Nine storeys and above (over 25m):

- 24m between habitable rooms/balconies
- 18m between habitable and non-habitable rooms
- 12m between non-habitable rooms

The proposal provides a 12 metre internal building separation between the eastern and the western buildings for their entire height. Therefore from level 5 and above, the development does not comply with the minimum building separation required under the ADG. Due to the minimised building separation, the application has provided a privacy and screening plan. The units that are generally the most impacted by overlooking are the units located in the internal corners. Figure 18 below demonstrates the measures imposed on preserving the visual privacy of these units.

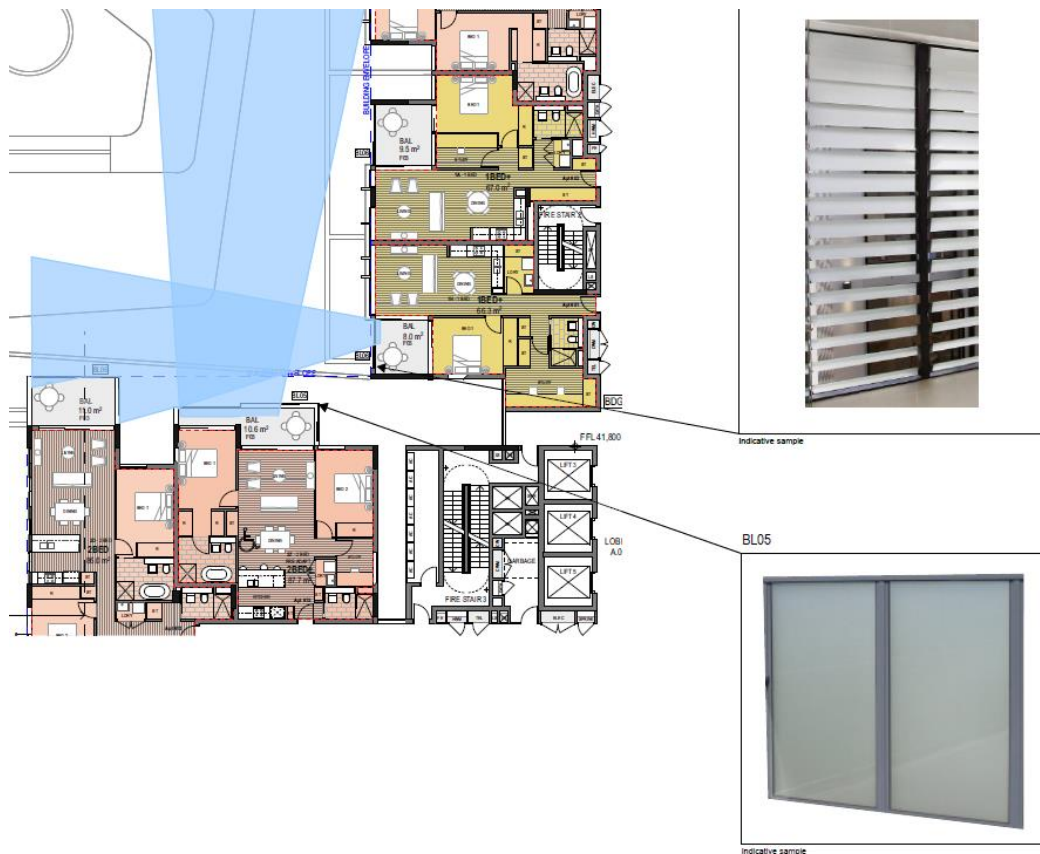


Figure 18. Location of privacy screens or sliding glazed windows within the internal corner units



Figure 19. Additional screening measures between the two buildings on level 6 to 10

The screening over the windows towards the centre of the site are located over bedrooms which are more sensitive than the principal living areas. Balcony treatments in the form of louvered screens have been proposed to the relevant units that are directly impacted. As the development in this area of the site is not less than 12 metres which is consistent with the approved building envelope within the Stage 1 consent, the proposed building separation and privacy measures proposed is acceptable.

Note 7- Common Circulation

The design criteria for Part 4F of the ADG requires buildings that are 10 storeys and over to have one lift per 40 units. The development proposes a total of 368 units therefore the total number of lifts required is 10. The development proposes a total of 6 lifts with three located within each core. This is a shortfall of 4 lifts within the development.

Council required the applicant to justify the departure in the lift numbers. The applicant submitted a lift traffic analysis report which assessed peak waiting times and two way traffic waiting times. The results of the analysis reveals that the performance of the lifts is excellent and that the proposed number of lifts within the development is more than adequate to provide for the residents of that development. In this instance, the shortfall in lifts is supported.

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. 869770M_02 prepared by Efficient Living Pty Ltd and dated 14 November 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 3: 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 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">• <i>To provide a mixture of compatible land uses.</i>• <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i> <p>R3- Medium Density Residential Zone</p> <ul style="list-style-type: none">• <i>provide for the housing needs of the community within a medium density residential environment.</i>• <i>To provide a variety of housing types within a medium density residential environment.</i>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>• <i>To encourage development that promotes walking and cycling.</i>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
What is the height of the building?	No - Refer to Note 8	<p>Variable maximum height limit of 28 metres and 39 metres across UB3.</p> <p>Does not comply as follows:</p> <p><u>Podium:</u></p> <ul style="list-style-type: none"> • A1 + A2- 13.6m (RL 35.6) • B1 + B2- 13.6m (RL 35.6) • A3 + A4- 16.7m (RL 38.7) <p><u>Building:</u></p> <ul style="list-style-type: none"> • A1 + A2- 35.4m (RL 57.4) • B1 + B2- 44.8m (RL 66.8) • A3 + A4- 51m (RL 73) <p><u>Plant Room:</u></p> <ul style="list-style-type: none"> • A1 + A2- N/A • B1 + B2- 47.4m (RL 69.4) • A3 + A4- 53.6m (RL 75.6)
What is the proposed FSR?	No – Refer to Note 9	<p>Maximum FSR is 1:1 (9,434sqm) – 3:1 (28,302sqm) under the BBLEP 2013.</p> <p>Proposed FSR is 3.91:1 (36,879.1sqm) which does not comply as the majority of the site falls within the 1:1 FSR.</p>
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>	Yes	<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</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.2 – Earthworks	Yes	<p>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 three basement levels. Excavation for the basement levels was approved under DA-2017/1159 therefore there is no significant excavation proposed as part of this application.</p> <p>The application was originally referred to the Water NSW as well as part of the subject development application and they have provided conditions of consent. In the event that ground water is encountered, a dewatering application is required.</p>
6.3 – Stormwater management	Yes	<p>The Development Application involves an underground On Site Detention system and rainwater tank located within the level 1 basement car park towards the south-eastern 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>
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</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.9 – Development in areas subject to aircraft noise	Yes	<p>providing it does not exceed the overall RL 91.0m for the entire site. The development falls beneath this height.</p> <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. Appropriate conditions of consent have been included within the consent.</p>
6.16 – Design excellence	Yes	<p>The proposed design has been the subject of an Architectural Design Competition. This is discussed above 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>

Note 8 – Variation to the Building Height Development Standard

The applicant has provided a Clause 4.6 variation to the maximum permissible height of 28m and 39m as stipulated within the height of building map and pursuant under Clause 4.3 of the BBLEP 2013. The development proposes a maximum height of 53.6 metres (RL 75.6). A breakdown of the proposed heights across the development is as follows:

Podium:

- A1 + A2- 13.6m (RL 35.6)
- B1 + B2- 13.6m (RL 35.6)
- A3 + A4- 16.7m (RL 38.7)

Building:

- A1 + A2- 35.4m (RL 57.4)
- B1 + B2- 44.8m (RL 66.8)
- A3 + A4- 51m (RL 73)

Plant Room:

- A1 + A2- N/A
- B1 + B2- 47.4m (RL 69.4)
- A3 + A4- 53.6m (RL 75.6)

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 28-39 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.

A summary of the Clause 4.6 variation provided to justify contravening the height standard 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 UB3 site is suitable for building taller than the LEP controls permit.

*The proposed heights are generally consistent with the heights for each building approved under the Stage 1 development consent, as detailed in **Table 12** below with the exception of the plant room height specified for Buildings A3 and A4. A maximum proposed plant height of RL76m is proposed to allow for a stair enclosure that provides access to roof top terraces. The exceedance is extremely minor and does not add additional bulk to the building form. The additional height would be indiscernible when viewed at street level and in the context of the UB3 development as a whole.*

TABLE 12: BUILDING HEIGHT

Building	Podium height	Building height	Storeys	Plant room height
A1, A2	13.8m (RL35.8)	35.5m (RL57.5)	4 /11	38.1m (RL60.1)
B1, B2	13.8m (RL35.8)	44.8m (RL66.8)	5/14	47.4m (RL69.4)
A3, A4	16.9m (RL38.9)	51.0m (RL73.0)	5/16	53.6m (RL75.6)

Is compliance necessary and reasonable

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

Are there sufficient environmental planning grounds for the variation?

The justification for the breach in the height limit is based on the preferred urban design outcome for the Pagewood Green site as considered and approved under the Stage 1 Masterplan Consent. The proposed 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 Pagewood Green site being physically and visually separated from existing low density residential development further north. 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 and the other development sites within Pagewood Green. To the west the site is situated opposite the Bonnie Doon Golf Course.

The urban design concept for the Pagewood Green 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 Road 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 **Table 13** below.*

TABLE 13: HEIGHT OBJECTIVES

Objectives	Proposed Development
<i>(a) To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner.</i>	Height responds to surrounding development and land uses. The subject site is not located in the vicinity of residential areas.
<i>(b) To ensure the taller buildings are appropriately located.</i>	Consistent with the Stage 1 masterplan consent for the Pagewood Green site, the proposal will facilitate the development of the tallest buildings within the southern portion of the site adjacent to Westfield Eastgardens, allowing for the gradual transition in height down to the north where the Bunnerong Road site interfaces with residential uses.
<i>(c) To ensure that building height is consistent with the desired future character of an area.</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 open space and mixed use development across the wider Pagewood Green site.
<i>(d) To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</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. Given the site's separation from existing residential uses, not adverse overshadowing will occur as a result of the proposal.
<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>	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.

Officers Comment:

Consideration of the Clause 4.6 variation for the building height development standard has been assessed. The proposal was subject to a Stage 1 consent which stipulated building heights for the podium, building and plant room and these approved heights are greater than the heights provided within the BBLEP 2013.

The proposal is consistent with the Stage 1 consent heights outlined within Condition No. 15. Additionally the height proposed is consistent with the winning design competition scheme which was endorsed in this application. The proposed plant rooms on the rooftop on top of Level 16 has been situated to the centre of the rooftops and will not be clearly visible from the streetscape. The proposed bulk and scale of the development is consistent with the Stage 1 consent and is not considered to cause any unreasonable impact onto the immediate neighbours particularly as the site to the west is a golf course. Additionally the scale of the development is appropriate and provides a good transition to the development approved to the south at UB5W which has a maximum of 20 storeys.

The massing of the form of the proposal has been designed to relate to the envisaged scale of the Stage 1 consent. In regards to whether the standard has been virtually abandoned or destroyed, the Stage 1 consent renders the LEP heights abandoned as the Stage 1 consent trumps the LEP requirements.

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 circumstance as discussed above.

Note 9 – Variation to the Floor Space Ratio Development Standard

The development proposes an overall GFA of 36,879.1sqm or 3.91:1. This is inconsistent with the maximum FSR of 1:1 (9,434sqm) – 3:1 (28,302sqm) 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 proposed FSR is entirely consistent with the FSR approved under the Stage 1 development consent for UB3. Condition 12 of the Stage 1 Masterplan Consent permits a maximum FSR of 3.92:1 which equates to up to 37,011sqm GFA.

Is compliance necessary and reasonable

The proposed FSRs across the Pagewood Green site were developed through an extensive master planning process and have 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 justification for the breach in the FSR limit is based on the preferred urban design outcome for the Pagewood Green site as considered and approved under the Stage 1 Masterplan Consent. The proposed FSR 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 Pagewood Green site being physically and visually separated from existing low density residential development further north and as such was suitable for more intensive 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 and the other development sites within Pagewood Green. To the west the site is situated opposite the Bonnie Doon Golf Course.

The urban design concept for the Pagewood Green site envisages the even graduation in height south to north across the site, with the tallest buildings and more dense development forms being located in the southern portion of the site reducing down to lower scale buildings to Bunnerong and Heffron Road 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 **Table 14** below.

TABLE 14: FSR OBJECTIVES

Objectives	Proposed Development
(a) To establish standards for the maximum development density and intensity of land use.	<p>The Stage 1 masterplan consent establishes a revised maximum development density control for future development applications. The consent was underpinned by density testing and traffic modelling which confirmed that the proposed density can be accommodated without unreasonable impacts.</p> <p>The proposed FSR is entirely consistent with the Stage 1 masterplan consent.</p>
(b) To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.	<p>The bulk and scale of the proposed development is consistent with the desired future character for the site envisaged under the BBDCP 2013 which establishes the desired future character of the site as a "vibrant mixed use community with a high level of amenity and quality public domain."</p> <p>The additional FSR proposed is a result of the transitional building height approach adopted by the Stage 1 masterplan.</p> <p>The proposed built form will result in a development that is entirely consistent in terms of bulk and scale with the approved masterplan as it relates to UB3.</p>

Objectives	Proposed Development
<i>(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.</i>	As part of the wider development of the Bunnerong Road site the proposal will provide an appropriate visual transition between taller buildings proposed to the south and low scale development to the north. The subject site is situated adjacent to the approved UB5W beyond which is the established Westfield Eastgardens shopping centre. The bulk and scale of the proposed UB3 development reflect the character of more intensive development on that site when compared to lower density residential development on Heffron Road.
<i>(d) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.</i>	The proposed development is distant from low density residential development. It will make a positive contribution to the streetscape through the introduction of building designed to a high architectural standard.
<i>(e) To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.</i>	The subject site is distant from residential properties. The proposal will not result in adverse impacts on any residential property.
<i>(f) To provide an appropriate correlation between the size of a site and the extent of any development on that site.</i>	The site has been assessed to be suitable for the proposed density and intensity of use proposed through the consideration of the Stage 1 masterplan application. The supporting documentation lodged with that application established that the site, as part of the wider Pagewood Green site is capable of accommodating more intensive development in the form proposed.
<i>(g) To facilitate development that contributes to the economic growth of Botany Bay.</i>	The proposed development will directly contribute to the economic growth of the Pagewood locality and wider Bayside LGA through the investment of \$133 million on the delivery of the project. Temporary jobs will be created through during the construction phase. New residents will contribute to the vitality and viability of local shops and businesses.

Officers Comment:

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 UB3 as 3.91:1. 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 FSR 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 Bayside East side 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 4: BBDCP 2013 Compliance Table – General Provisions

Control	Proposed	Complies (yes/no)
3A Parking and Access		
3A.2. Parking Provisions of Specific Uses <u>Residential</u> <ul style="list-style-type: none"> 1 space / 1 bedroom (71 req) 2 space / 2/3 bedroom (594 req.) Sub-total = 665 1 visitor space /5= (74 req.) <u>Total spaces</u> 739 car spaces Note: No requirement for car wash bays	<u>Residential</u> <ul style="list-style-type: none"> 549 spaces for apartments 37 visitor spaces 3 car share spaces 1 service vehicle space 1 car wash bay Total car spaces: 591 car spaces As there is an additional residential car space, a condition of consent has been included to provide a 2 nd car wash bay on the site.	No – Acceptable as consistent with Stage 1 Consent
3A.3.1 Car Park Design C1-C39 General; Location; Access; Basement parking; Residential; Accessible parking	Waste collection and servicing is located within basement level 2 car park. All vehicle access will be carried out from a single driveway that connects off Finch Drive which is constructed under DA-14/159. The applicant has stated that “in further developing the detailed construction design of UB5W situated immediately to the south of the subject site it has been necessary to amend the originally proposed access way situated between UB5W and UB3, involving a northward shift to the access way. This adjustment is	Yes

Control	Proposed	Complies (yes/no)
	<p>necessary to safeguard the structural stability of the UB5W development. In its approved location the UB3 driveway is positioned too close to the basement of the UB5W development.</p> <p>As a result of the proposed realignment of the access way between UB5W and UB3 it no longer aligns with the eastern side of North South Street. The traffic management implications of the realignment have been considered. The realignment does not result in adverse traffic safety issues or require the introduction of additional infrastructure to ensure the safe operation of the road intersection.”</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 eastern side of the site.</p> <p>In regard to waste disposal, garbage collection will be carried out from the designated loading dock within Basement Level 2.</p> <p>Swept path diagrams have been provided for assessment. The diagrams demonstrated that service vehicles enter and exit in a forward direction.</p> <p>The proposal incorporates a total of 14 accessible car spaces. This amount complies.</p> <p>A traffic report was submitted with the development application and was considered in the assessment of the proposal.</p>	

Control	Proposed	Complies (yes/no)
<p>C40 The waste collection point shall be designed to:</p> <p>(i) Allow waste loading operations to occur on a level surface away from 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>As stated above, waste collection will be carried out from the dedicated waste holding rooms that are located within Basement Level 2. The size of the waste holding room is acceptable.</p> <p>Appropriate clearance has been provided for garbage vehicles to access the bins as a void area is provided above the loading dock.</p>	Yes
<p>3A.3.2 Bicycle Parking In every new building, where the floor space exceeds 600m² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.</p> <p>Total required: 74 (739 car spaces required by DCP)</p>	<p>The plans do not demonstrate any bicycle parking however the SEE has stated that car parking will be provided. Appropriate conditions have been imposed within the consent.</p>	Conditioned
<p>3A.3.3 Traffic and Transport Plans and Report</p> <p>C1 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 and swept/turning path report prepared by ARUP was provided with the development application.</p>	Yes
<p>3A.3.4 On-site loading and unloading facilities</p> <p>C2 The number of service bays for residential flat buildings with greater than 200 units is:</p> <ul style="list-style-type: none"> • 4 service bays; plus • 1 service bay for MRV or larger per 100 dwellings <p>Total required: 6 service bays</p>	<p>The development proposes one service bay to accommodate an MRV vehicle. One service bay for an SRV has been provided as well.</p>	No – Refer to Note 10
3G.2 Stormwater Management		
<p>C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.</p>	<p>A stormwater report prepared by at&I and civil work plans were submitted and reviewed by Council's Development Engineer. Conditions of consent have been recommended.</p>	Yes

Control	Proposed	Complies (yes/no)
3H Sustainable Design		
C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate No. 869770M_02 prepared by Efficient Living Pty Ltd and dated 27 November 2017 was provided.	Yes
3I Crime Prevention Safety & Security		
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
3J Aircraft Noise & OLS		
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
3K Contamination		
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
3L Landscaping and Tree Management		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Landscape plans were provided with the development application for consideration. They were reviewed by Council's Landscape Architect who has had no objection to the proposal subject to conditions recommended in the consent relating to amended landscape construction plans, bonds, public domain works, tree species and planting and tree retention.	Yes
3N Waste Minimisation & Management		
General Requirements; Residential Development; Mixed Use Development.	A Waste Management Plan prepared by Elephants Foot has been submitted for ongoing management of waste generated from the site.	Yes

Note 10- On-site loading and unloading facilities

Part 3A.3.4-*On-site loading and unloading facilities* of the BBDCP 2013 states that the minimum rates for service bays are:

- 4 service bays for the development that has greater than 200 units plus 1 service bay (for MRV or larger) per 100 units

The proposal provides 1 service bay for a MRV vehicle and 1 service bay for a courier vehicle. This is a shortfall of 4 service bays. The applicant's traffic report provides the following justification for the non-compliance:

"RTA Guide to Traffic Generating Development for high density housing states that: The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient. Therefore, the development proposes to provide one (1) MRV space for Council garbage collection and any loading purposes and shared visitor/service vehicle spaces. A minimum height clearance of 4.6 metres is required for the MRV loading area and approach as per Council's DCP."

The RTA Guidelines for Traffic Generating Development requires one loading dock for residential use. The shortfall in service bays to cater for MRVs is accepted in this case. In regards to courier vehicles, the applicant has not demonstrated shared visitor/service areas within their plans however there is the option that 3 visitor spaces could double as service vehicle spaces.

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

Control	Proposed	Complies
4C.2.2 Streetscape Presentation		
C1 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 side of the site. The streetscape presentation is compatible with the desired future character for UB3. The western side of Banks Avenue is a golf course and there are no surrounding low density development that will be directly impacted by the development.	Yes

Control	Proposed	Complies
C2 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. (ii) The building facades are modulated and articulated with balconies, courtyards, and building indentations for the entrances and the towers above.	No- Acceptable as it is consistent with Stage 1 and winning design Yes
4C.2.4 Landscaped Area and Deep Soil Planting		
C1 A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	Based on a site area of 7,524.8sqm: Soft landscaping: 2,106.5sqm (28%) Deep soil: 158.7sqm (2.1%) Based on a site area of 9,434sqm: Soft landscaping: 3,140.2sqm (33.3%) Deep soil: 928.6sqm (10%)	No - Refer to Note 11
4C.2.5 Open Space		
C3 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	The proposed development has 2 separate communal open space (COS) areas in addition to an internal gym and swimming pool. These are listed below including the amount of solar access between 9am and 3pm in mid-winter: <ul style="list-style-type: none"> • Ground level- Southern side of the site – 1,369.8sqm. This open area is located to the south of the buildings and will be utilised as a pocket park with pedestrian easement approved over it; • Ground level – 1,914.6sqm. This open area is in the centre of the site towards the northern side of the development and will be the principal area of 	Yes

Control	Proposed	Complies
	<p>open space for residents of the development;</p> <ul style="list-style-type: none"> Swimming pool and gym – 313.1sqm. This area is located on Basement Level 2 centre to the car parking area. <p>The primary communal open space area at the ground level exceeds the minimum required amount of solar access during mid-winter.</p>	
4C.2.6 Setbacks		
C2 All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	Due to the basement, deep soil is provided along the western and southern side of the site. This will allow for appropriate large tree planting. Appropriate setbacks are proposed on all four boundaries.	Yes
Front Setbacks C1 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.	Yes
4C.2.7 Through Site Links & View Corridors		
C1 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
4C.4.1 Dwelling Mix and Layout		
Apartment Size and Mix C1 Developments of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types.	The proposed apartment size and mix is consistent with the requirements of the modified Stage 1 consent as discussed above.	Yes
C2 For development with ten or more apartments, the following unit mix control will apply: (i) A maximum of 25% of apartments are to be Studio and 1 Bedroom; (ii) All 2 Bedroom apartments are to satisfy the amenity controls for Family Apartments; and (iii) All 3+ Bedroom apartments are to satisfy the amenity	<p>The proposal provides the following: 1 bed – 19% 2 bed – 64% 3 bed – 16% The number of 1 bedroom apartments does not exceed 25%.</p> <p>For a response to the family friendly controls, please refer to below.</p>	<p>Yes</p> <p>No - Refer to Note 13</p>

Control	Proposed	Complies
controls for Family Apartments.		
Apartment Layout C1 Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm	Most 3 bedroom apartments do not have 2 separate living spaces.	No - Refer to Note 13
C2 Studies not to be enclosed with a door	Separate studies all include doors.	No - Refer to Note 13
C3 Studies to be less than 9sqm to be considered studies.	All studies are 9sqm or less.	Yes
C4 Saddleback bedroom designs are not acceptable.	Saddleback bedroom design has not been proposed.	Yes
4C.4.2 Family Friendly Apartment Buildings		
C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the Family Friendly controls.	Yes
C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child	Not all 2 and 3 bedroom apartments have a separate study area or study nook.	Refer to Note 12
C3 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 a majority 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
C4 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
C5 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	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

Control	Proposed	Complies
is to be large enough to allow for parental supervision		
C6 The private outdoor space is to be clearly visible from the kitchen	All apartments have POS clearly visible from the kitchen.	Yes
C7 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 apartment schedule demonstrates that a number of units do not comply with the minimum amount within the unit however this has been conditioned to comply.	Conditioned
C8 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
4C.4.3 Internal Circulation		
C1 Development will provide multiple cores within the building.	At least one core has been provided to access each tower with three lifts servicing each tower.	Yes
C2 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 routine servicing.	Stair access is provided to each core.	Yes
4C.5.1 Adaptable Housing		
Table 1 of Part 3C Access and Mobility: <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.	19 adaptable apartments have been provided. This does not comply with the rates within the DCP however consistent with the Stage 1 consent. This is in excess of the rates required under Stage 1 which is 14.	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%	14 accessible parking spaces have been provided within the development.	Yes

Control	Proposed	Complies
to be allocated to adaptable dwellings.		
4C.5.2 Access		
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 11 – Landscaped Area

Control C1 of Part 4C.2.4 of the BBDCP 2013 requires a residential flat development to have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.

The proposal provides a total of 2,106.5sqm (28%) based on a site area of 7,524.8sqm (excl. pocket park) or provide a total landscaped area of 3,140.2sqm (33.3%) including the pocket park. This is a departure of 161.7sqm on the overall site. This departure is considered acceptable particularly the large covered landscaped area on the ground floor. The landscape architect has reviewed the application and has not commented on the departure in the landscaped area however has provided conditions relating to trees to be planted in the deep soil areas, tree species, ground cover, planter boxes and street trees. The amount of landscaped area is appropriate as it breaks up the built form of the buildings between the subject site and UB5W to the south as well as along Banks Avenue. The landscaped area is considered appropriate in this instance.

Note 12 – 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 – 69 apartments of the 368 of the units have separate study rooms.

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 16 to 36sqm. Additionally, all of the 3 bedroom apartments exceed the ADG minimum apartment size by 9.4sqm to 28.4sqm. 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 13 – 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 60 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 99.4-118.4sqm, all of which are between 9.4sqm to 28.4sqm 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.

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

Part 9D – 130-150 Bunnerong Road, Eastgardens

It is noted that Part 9D of the BBDCP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Eastgardens, 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 UB3 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 and in its modified form. 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 18 December 2017 to 31 January 2018. Two (2) submissions were received one being from Randwick Council. The key issues raised in the objections are as follows:

- *The development scale in both height and number of units does not consider the development type and nature of the established neighbouring suburbs*

Officer Comment: The site has been zoned for medium to high density including mixed use development. The eastern side of Bunnerong Road as well as to the north of the site within Pagewood is zoned for low density residential. The height in both zones is commensurate with development permissible in each respective zone. The heights proposed are generally consistent with the heights established in the Stage 1 masterplan.

- *Impact on the local road system creating greater traffic generation*

Officer Comment: The proposed development complies with all traffic and parking related controls that apply. In particular, the development complies with the car parking rates as specified in the court approved Stage 1 DA-14/96. Furthermore, a Traffic and Parking Report has been submitted which indicates that the proposal will not have unacceptable impacts in the locality. Accordingly, the proposed traffic and parking implications of the proposed development are considered acceptable and consistent with the approved Stage 1 DA-14/96.

- *Increased pressure on local infrastructure and schools*

Officer Comment: It is understood that the additional number of units on the entire site will place pressure on the existing schools and other infrastructure within the area. This impact would have been considered as part of the preparation of the DCP as well as the Stage 1 Consent. Unfortunately additional schools falls outside the scope of the subject application.

- *Limited green space is provided as part of the entire site*

Officer Comment: The entire site provides an 8,000sqm central park and 2,703sqm linear park. This is in addition to the landscaped and communal areas proposed for each individual urban block. The subject application proposes a pocket park that will be located towards the south-western corner of the site as well as ground floor landscaped area to be utilised by the residents. The site is surrounded by open space specifically located at the Bonnie Doon Golf Course, Mutch Park and Jellicoe Park.

- *Retrospective approval for discrepancies with the Stage 1 consent*

Objectors' Comment: The application makes reference to the modification application for amendments to the Stage 1 consent. The objector requests that any determination of the subject DA be undertaken in accordance with the EPA Act 1979 and the EPA

Regulation 2000 governing staged development consents and processes for amending staged development consents.

Officers' Comment: The subject development application will not be determined until determination of the modifications applicable to this development have been approved by the Panel as this proposal seeks to replicate the changes proposed.

- *New habitable building space and increases in building height*

Objectors' Comment: The proposed roof top terraces will result in incremental creep in the building height throughout the site over time. Condition No. 16(c) of the Stage 1 consent explicitly states that no habitable areas shall be permitted above the maximum building height. Furthermore there is no mention in the SEE and Clause 4.6 variation relating to the introduction of habitable building space above the maximum building height. The objector remains concerned that the accumulative impact of the minor increases in the building height, scale and bulk and how they will impact on the surrounding areas.

Officers' Comment: The proposal does seek rooftop gardens however these areas will not be enclosed as habitable space. The only area of habitable spaces will be the stair landings on the rooftop. A condition of consent has been included stating that the rooftop areas will not be used as habitable space. Additionally, a precedent has been set for rooftop terraces as approved in the UB5W, UB5E and UB4 which were approved by the Panel. The stage 1 consent does state that no habitable areas are to be located on the rooftop however a rooftop terrace is not considered a habitable area.

- *Unit mix*

Objectors' Comment: The development application proposes a significant departure from the approved unit mix as stipulated in Stage 1 consent. The objector is concerned that this trend in unit mix variation will continue for the remaining lots on the site.

Officers' Comment: The unit mix proposed as part of this application seeks to be consistent with the unit mix amended within the Stage 1 consent. Should approval of DA-14/96/07 be carried out, the proposal will be consistent with the modified Stage 1 consent.

- *Limited car park spaces*

Objectors' Comment: It appears that there is a significant shortfall in the number of car parking spaces allocated to the development (approx. 189.5 spaces). If approved, the departure in spaces will have a spill over effect onto the general car parking area on the site and increased demand for on-street parking.

Officers' Comment: The applicant has amended their plans to provide three basement car parking levels to accommodate a total of 591 car parking spaces. The car parking spaces provided comply with the car parking rates within the Stage 1 consent.

- *Access ramp to basement*

Objectors' Comment: The realignment of the access ramp to the UB3 basement is to have no spill over traffic effects to the local residential and arterial roads.

Officers' Comment: The applicant has provided revised traffic report and letter demonstrating that the slight realignment will not have any impact internally to the road network. This is 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 6: Internal and external referrals

Referral Agency	Response Date	Comments
External Referrals		
Civil Aviation Safety Authority (CASA)	23 January 2017	No objections to the proposal. Conditions have been provided.
Sydney Water	27 March 2018	The conditions have been included in the Schedule of Consent Conditions.
Water NSW	22 February 2018	No objections. Conditions have been included in the Schedule of Consent Conditions.
NSW Police	12 January 2018	No objections. Advisory Conditions have been provided.
RMS	13 February 2018	No objections subject to conditions included in the Schedule of Consent Conditions.
Ausgrid	30 January 2018	No objections subject to conditions included in the Schedule of Consent Conditions.
Internal Referrals		
Landscape Architect	10 July 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	17 July 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	31 January 2018	Conditions have been incorporated into the Schedule of Consent Conditions.

Section 7.11 Contributions (formerly s.94)

In accordance with the *Botany Bay Section 94 Development Contributions Plan 2016*, the Section 7.11 Contributions for the proposed development are calculated as follows:

Residential

One Bedroom – 71 x \$20,000.00 = \$1,420,000.00

Two Bedroom – 237 x \$20,000.00 = \$4,740,000.00

Three Bedroom – 60 x \$20,000.00 = \$1,200,000.00

Total Contribution: \$7,360,000.00

The above is broken down as follows:

i) Community Facilities:	\$588,800.00
ii) Recreation Facilities:	\$6,182,400.00
iii) Transport Management:	\$515,200.00
iv) Administration:	\$73,600.00

The consent will be conditioned to require payment of the Section 7.11 Contribution prior to the issue of any Construction Certificate, as specified in the Plan and as indexed.

CONCLUSION

The proposal as amended is generally consistent with the amended Stage 1 consent restricting the envelopes of the urban blocks. The unit mix, unit and private open space sizes and the northern setback changes to the Stage 1 consent has been detailed as above. The proposed FSR and heights comply with Condition Nos. 12 and 15 of the consent however do not comply with the BBLEP 2013 height or FSR requirements. The applicant has submitted a Clause 4.6 variation to justify both standards and these have been accepted.

The non-compliances with the building separation, tower and podium protrusions and setbacks have also been addressed and are well founded particularly as appropriate visual privacy mechanisms have been proposed to prevent any direct overlooking into the neighbouring and subject units. The articulated areas to the facades outweigh the proposed protrusions at both the podium and the tower levels and any protrusion is limited to balconies outside the approved building envelope. The articulated form demonstrates a good design outcome.

In regards to the landscaped area and deep soil area, inclusion of the pocket park which is located on the site and will be privately owned however accessible to the public allows for greater landscaping and deep soil planting opportunities and this has been appropriately been conditioned. Issues relating to unit layout and family friendly apartments have been resolved by conditions in the consent.

The application was the subject of two (2) submissions which generally raised concerns relating to the bulk and scale of the development, inconsistencies between the Stage 1 consent and the proposal, car parking and traffic generation, 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 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is permissible within the R3 – Medium Density Residential and the B4 – Mixed Use zone and is considered to result in a development which is suitable in the context of the site. Therefore, the proposed development is recommended for approval, subject to the conditions of consent.

Attached Schedule

130-150 Bunnerong Road, Eastgardens

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.

Plans	Author	Dated / Received by Council
DA-010- Site Analysis Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-011- Site Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-100- Basement 03 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-101- Basement 02 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-102- Basement 01 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-103- Ground Floor Plan- Rev R5	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-104- Level 1 Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-105- Level 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-106- Level 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-107- Level 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-108- Level 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-109- Levels 6-10 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-110- Level 11 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-111- Level 12 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-112- Level 13 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-113- Level 14 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-114- Level 15 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-115- Roof Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018

DA-200- South Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-201- East Elevation Plan- Rev R5	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-202- North Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-203- West Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-210- Section 1 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-211- Section 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-212- Section 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-213- Section 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-214- Section 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-215- Section 6 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-216- Section 7 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-399- GFA B3- Ground Plan- Rev R1	Meriton Property Services Pty Ltd	Dated 16 July 2018; Received 17 July 2018
DA-400- GFA Level 1 to L4 Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-401- GFA L5 to L12 Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-402- GFA L13 to Roof Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-410- Solar- Ground to L3 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-411- Solar- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-412- Solar- L12 to L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-420- Ventilation- Ground to L3 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-421- Ventilation- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-422- Ventilation- L9 to L14 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-423- Ventilation- L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-430- Communal Open Space Shadow Diagram Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-431- Deep Soil and COS Calculation Diagram Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
Privacy and screening- Rev R1	Fox Johnston	Dated May 2018; Received 17 May 2018

SKT003- Turning Paths- main basement ramp access- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018
SKT004- Lower basement circulation- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018
DA-1711-03- Rev B- Landscape Masterplan	Sturt Noble Associates	Dated 28 September 2017; Received 27 November 2018
DA-1711-04- Rev B- Ground Floor- Communal courtyard		Dated 28 September 2017; Received 27 November 2018
DA-1711-05- Rev B- Ground Floor- Public Open Space		Dated 28 September 2017; Received 27 November 2018
DA-1711-06- Rev B- West Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-07- Rev B- East Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-08- Rev B- East and West Block- Level 16 roof terraces		Dated 28 September 2017; Received 27 November 2018
DA-1711-09- Rev B- Design Elements		Dated 28 September 2017; Received 27 November 2018
DA-1711-10- Rev B- Indicative Planting		Dated 28 September 2017; Received 27 November 2018

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-040	Wall to Wall	Dated 28 September 2017; Received 27 November 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Development Application Acoustic Report Ref: 20171309.1/1611A/R1/TA	Acoustic Logic	Dated 16 November 2017; Received 27 November 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 16 October 2017; Received 27 November 2017
Thermal Comfort and BASIX Assessment Ref: 17-0216 Rev B	Efficient Living	Dated 14 November 2017; Received 27 November 2017
Building Code of Australia Compliance Assessment Report Ref: 1423-110 Rev 01	AED Group	Dated 17 November 2017; Received 27 November 2017
Construction Management Plan- Rev 1	Meriton Property Services Pty Ltd	Dated 27 October 2017; Received 27 November 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 11 October 2017; Received 27 November 2017
SEPP 65 Design Statement and Apartment Design Guide	Fox Johnston	Dated November 2017; Received 27 November 2017

SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 27 November 2017
Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 27 November 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 17 November 2017; Received 27 November 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 27 November 2017
UB3 Solar Reflectivity and Glare Assessment Ref: 610.13932-R11	SLR	Dated 16 November 2017; Received 27 November 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 27 November 2017
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated October 2017; Received 8 May 2018
Waste Management Plan Rev B	Elephants Foot Waste Compactors Pty Ltd	Dated 17 October 2017; Received 27 November 2017
Qualitative Wind Assessment Ref: 610.13932.R10	SLR	Dated 12 October 2017; Received 27 November 2017
Clause 4.6 variation to vary height and FSR development standard	Meriton Property Services Pty Ltd	Dated 23 October 2017; Received 17 May 2017
Lift Traffic Analysis Report	KONE	Dated 7 May 2018; Received 17 May 2018
Addendum to traffic report	ARUP	Dated 10 May 2018; Received 17 May 2018
Swept/turning path report	ARUP	Dated 21 March 2018; Received 8 May 2018
Cover letter addressing RFI	Meriton Property Services Pty Ltd	Dated 8 May 2018; Received 8 May 2018
Civil Works Package- UB3	At&I	
13-155- 5600-01-Civil-DA Report/Stormwater Report	At&I	Dated September 2017; Received 8 May 2018
Stormwater Management Report- Rev 9	Aurecon	Dated 19 December 2011; Received 8 May 2018
Stage 2 Traffic and Transport Report	ARUP	Dated 30 August 2017; Received 8 May 2018
Traffic Letter	ARUP	Dated 21 November 2017; Received 8 May 2018
Apartment Schedule	Fox Johnston	Received 8 May 2018

- 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 4.55 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.
- 7
- a) Service Alterations – All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant's expense.
 - b) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

- c) All telecommunication and utility services are to be placed underground along the Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of telecommunication and utility services works.
- d) Street trees are to be provided in accordance with the Botany Street Tree Master Plan 2014.
- e) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
- f) All telecommunication and utility services are to be placed underground along the flowing streets: The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

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

- a) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
 - i) The existing network can support the expected electrical load of the development
 - ii) A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - iii) site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

- b) The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
- c) All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines.
- d) There are existing overhead electricity network assets in Banks Ave. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

Based on the design of the development provided, it is expected that the "as constructed" minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

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

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

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

- a) 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.
- b) 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.

- c) 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.
 - d) 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.
- 10 The following conditions are imposed by **Water NSW**:
- a) 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.
 - b) 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.
 - c) 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.
 - d) 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).
 - e) 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.
- 11 The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:
- a) 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.

- b) 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.
- c) 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.
- d) 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 A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- e) 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 If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- f) All works and regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

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

a) 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in service provides 24/7 access to a range of services including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Changes to an existing service or asset e.g. relocating or moving an asset

Sydney Waters Tap In online service is available at:

<http://sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

- 13 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.
- 14 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.
- 15 Erosion and sediment control devices shall be installed and in function prior to the commencement of any 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 construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 16 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.
- 17 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 18 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.

- 19 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th 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* 4th 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.
- 20 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 21 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.

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

- 22 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.
- 23 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 6m³
 - b) 2 Bedroom apartments 8m³
 - c) 3 Bedroom apartments 10m³At least 50% of the required storage is to be located within the apartment.
- 24 Prior to the issue of any Construction Certificate, the following fees are to be paid:-
 - a) Development Control \$13,583.00
 - b) Footpath Crossing Deposit \$314,700.00 (See below)
 - c) Section 7.11 Contributions \$7,360,000.00 (See below)
 - d) Long Service Levy See below
 - e) Tree Maintenance Bond \$7,500.00 (See below)

- | | | |
|----|------------------------------------|-------------------------|
| f) | Street Tree Planting Bond | \$7,500.00 (See below) |
| g) | Public Works Defect Liability Bond | \$25,000.00 (See below) |

25 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of **\$7,360,000.00** in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

- | | | |
|----|-----------------------|----------------|
| a) | Community Facilities | \$588,800.00 |
| b) | Recreation Facilities | \$6,182,400.00 |
| c) | Transport Management | \$515,200.00 |
| d) | Administration | \$73,600.00 |

The Section 7.11 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.

26 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.

27 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing 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.

28 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.

29 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) Proposed protection for Council and adjoining properties, and
- i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- j) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- k) The methodology to control dust on site.

30 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.

31 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.
- 32 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) A suitably qualified engineer shall design and certify the driveway access from Finch Drive to the development to ensure that stormwater from the road reserve is not directed into the basement structure, a suitable crest shall be provided to ensure flows are not directed into the basement structure, and
 - c) 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.
- 33 Prior to the release 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 shall enter the property front in front out,
 - 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.
- 34 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) At least fourteen (14) accessible car parking spaces shall be provided and clearly marked as specified in Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and

- b) All Accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.

35 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 Banks Avenue, 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 on Banks Avenue shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, 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 issue of the Construction Certificate.

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.

36 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 and 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' (SMTG), 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) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall service the toilets, clothes washers and any outdoor irrigation/taps for landscaping within the development, and
- f) Basement drainage shall be provided for the collection and removal of stormwater from all basement levels. The design is to comply with Botany DCP Part 10 Section 7 and AS/NZS 3500.3:2015, details of the pump out system shall be shown on the stormwater management plans, and
- g) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system, and
- h) All surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer’s maintenance and cleaning requirements shall be submitted to the Principal Certifier, and
- i) All electricity supply provided for all pump systems proposed for the development shall be backed up by an external power source in the event of a power outage, and
- j) Detailed calculations including computer modelling supporting the proposal.

All plans and documentation shall be certified by a suitably qualified engineer as specified in Botany DCP Part 10 Section 2.1.

- 37 Prior to the issue of the relevant Construction Certificate, at least two (2) car wash bays are to be provided. One of the additional residential spaces can be utilised for this purpose. A tap shall be provided along with a sign fixed to the wall saying 'Visitor Car Space and Car Wash Bay'. The car wash bay must be bunded in accordance with

AS1940 – 1993 and AS/NZS 4452 – 1997 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement.

- 38 Prior to the issue of the relevant Construction Certificate, a civil design plan must be prepared by a suitably qualified engineer and be approved by Bayside Council's Public Domain department for all frontage works that are required to be constructed within the public domain. A Public Domain Frontage Works application shall be submitted to Council for the works to be assessed, approved and a design brief provided, the form details can be found on the Bayside Council website. The frontage works shall be in accordance with any Council town centre plans, standard design drawings and specifications. Preliminary consultation with Council public domain department is highly recommended.
- 39 Prior to the issue of the relevant construction certificate, a Public Domain frontage landscape plan shall be submitted to Bayside Council. Landscape improvements plan shall be submitted and approved by Bayside Council's landscape architect. The plans shall include street planting, footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards, bins, bike racks, and ground level soft landscaping treatment. The public domain landscape plans shall include the following:
- a) Banks Avenue shall be planted with *Araucaria comlumnaris* (Cook Pines), minimum height to be installed five 5 meters high.
 - b) Tingwell Boulevard shall be planted with *Angophora costata*, (Smooth-barked Apple)
 - c) Finch Drive shall be planted with *Eucalyptus botryoides*, (Bangalay)
 - d) Minimum pot size supplied to be planted for street trees is 400 Litres.
 - e) Trees shall be sourced from a reputable supplier that grows to NATSPEC.
 - f) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
 - g) Tree pits shall be 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 have installed a RootRain Civic for an effective tree watering.
 - h) The Applicant is required to obtain a Council inspection of new trees prior to the planting to ensure plant stock is suitable and post planting prior to the maintenance period commencing.
 - i) 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 900mm, 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 permissable. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling.
 - j) 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.

- k) All street verges will be treated with groundcovers, no turf unless approved by council.
 - l) 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.
- 40 Prior to the issue of the relevant Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of RL 22.50m AHD. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 22.50m AHD. Details and certification shall be provided to the Principal Certifier for Assessment and approval.
- 41 If required, the subsurface structure shall be designed with a water proof retention system (i.e. tanking and waterproofing) to a level that provides adequate provision for the future fluctuation of the water table. This subsurface structure is required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. All subsoil drainage around this subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
- 42 The construction methodology, parameters, and recommendations prepared by Coffey Geotechnics Pty Ltd, ref: GEOTLCOV24928AE-AC, dated 5 February 2016, shall be implemented and relied upon during the preparation of the construction certificate documentation and the construction of the proposed development.
- 43 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 44 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.

- 45 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.
- 46 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 the Principal Certifying Authority 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.
- 47 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.
- 48 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.
- 49 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.

- 50 The applicant is to submit payment of a Tree Maintenance Bond of \$7,500.00. 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.
- 51 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 6 months after Council approval of all public domain works. At the completion of the 6 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.
- 52 Prior to the issue of the construction certificate, the landscape areas shown on Sturt Noble Landscape plans dated 28/09/2017 Issue B shall be the subject of detailed landscape construction level documentation to be submitted to and approved by the Bayside Council's Landscape architect. The plans shall address the following:
- a) All four existing trees (Tree 11 and 21: *Casuarina glauca*. Trees 12 and 16: *Eucalyptus botryoides*. Trees) can be removed and shall be replaced with four (4) *Corymbia maculata*, supplied at 500 Litres minimum pot size, to be planted in the deep soil area along Banks Avenue frontage setback within the site.
 - b) 500L minimum tree pot size is to be supplied for all trees on the ground level. The planting schedule is required to indicate pot sizes for all proposed plants;
 - c) A minimum of 12 canopy trees shall be provided along Banks Avenue frontage landscape setback.
 - d) All frontage landscape setback shall also include small and medium trees to provide a green buffer, this planting can include deciduous trees strategically located adjacent to north face terraces units to allow sun access in winter and shade in summer. Large canopy trees shall be included in all deep soil areas where the space allows. There shall be a variety of three heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80 to 90%) being indigenous local or native species where possible. All trees must be of appropriate scale to complement and ameliorate the built form and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Banks Avenue setback and soften buildings as a component of the streetscape and public domain.
 - e) Shrubs of varying heights shall be used throughout all setbacks of the site including at the base of the buildings to visually ground buildings and screen edges and façades. Lawn shall be minimised, and be limited to recreational areas in public open space area between UB5W and UB3, where sun access allows proper growth of grass.
 - f) Screen planting or buffer planting is required along the property boundary to provide screening and privacy for UB3 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.

- g) Planter boxes located between public open space and south façade of building shall include trees and shrubs to provide wind break and privacy.
- h) Landscape plans shall include/display all proposed and retained levels, top of walls and all stormwater relevant information: location of underground stormwater, pits and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised.
- i) A planting plan indicating all plant locations, groupings and centre/spacing. There is to be a dense, layered planting of canopy trees, medium trees and shrubs of a varying height and feature in all landscaped areas. All landscaped areas adjacent to public domain shall follow CPTED principles.
- j) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape handworks/materials such as retaining walls and paving.
- k) Provide details, sections and materials of fences, privacy screening, pergolas and walls visible from the public domain of both external roads and public open space.
- l) Indicate the location of all basement structures relative to the landscape areas on the landscape plan.
- m) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas, 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.
- n) **Terraces landscape treatment.** Terraces shall include screen shrubs in planter boxes, with small leaves to perform as a wind breaker and mitigate wind conditions, in particular for terraces and balconies areas exposed to the southwest, from where the strongest winds prevail.
- o) Level 11, level 14, and level 16 roof private terraces shall include perimeter built in planter boxes, providing a total or partial enclose of each terrace. Pot plants are not supported. Planting in planter boxes shall include low maintenance feature and screen shrubs to grow 700 to 1000 mm high.
- p) Level 4 and level 5 open balconies shall be treated to mitigate wind effect with planter boxes with screen planting to reach 1800mm from ground level or balustrade 1395 mm high, to comply with requirements of Qualitative Wind Assessment, prepared by SLR Consulting Australia Pty Ltd, dated 12th October 2017.
- q) Synthetic turf is not supported. Timber deck is recommended instead to avoid raised of temperature produced by synthetic turf, overuse of water to control temperature in summer, and related environmental issues.
- r) All proposed pergolas shall have climbers growing on top to ameliorate amenity and environment.
- s) Planter boxes will be fully automatic irrigated. Construction details, sections and external finishes shall be provided. Planter box depths and construction specifications to be in accordance with Apartment Design Guide, NSW Planning and Environment, July 2015.
- t) Maintenance schedule for all soft and hardscape works is to be provided.

- u) Deep soil area between UB5W and UB3 shall avoid lawn and maximised canopy planting; trees to be supplied at a minimum 400 Litre pot size.
 - v) The exhaust stack within the central communal open space on the ground floor must be screened with either decorative panels, climbers or similar to enhance its visual appearance within the open space and the outlook for residents.
- 53 The Remedial Action Plan (RAP) shall avoid the use containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.
- 54 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.
- Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.
- 55 Prior to the issue of a Construction Certificate, an application for Property Address Allocation and associated fee is required to be submitted to Council. Determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.
- The form is available for download at:
<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>
- The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:
[http://www.gnb.nsw.gov.au/ data/assets/pdf file/0007/199411/2018 NSW Address ing User Manual.pdf](http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/2018_NSW_Address ing_User_Manual.pdf)
- The numbering (sub-addresses) of the individual units in multi-level sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.
- Developers of multi-level buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the subdivision plan.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 56 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.

57 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.

58 Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work

practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

- 59 Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Inspections of the Banks Avenue road reserve prior and during the construction of the new road pavement,
 - e) Final inspection of driveway layback and adjacent kerb and gutter,
 - f) Final inspection of Council's kerb and gutter,
 - g) Final inspection of Council's footpath,
 - h) Final Inspection of new road pavement on Banks Avenue.
- 60 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 make 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.
- 61 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.
- 62 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.

- 63 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 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 64 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.
- 65 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.

- 66 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.
- 67 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.
- 68 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.
- 69 For any water from site dewatering to be permitted to go to the stormwater system, 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 it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 70 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.
- 71 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.

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.

- 72 Results of the monitoring of any field parameters such as soil, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 73 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.
- 74 Landscaping shall be installed in accordance with the approved Sturt Noble 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).
- 75 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.

- 76 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 located so that it is outside the tree canopy. No canopy pruning will be permitted for service wires.
- 77 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.

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- 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.
- 79 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.
- 80 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.
- 81 All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt.
- 82 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.
- 83 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 84 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.
- 85 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.
- 86 Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.
- 87 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.
- 88 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 547 residential spaces
 - b) 37 residential visitor spaces
 - c) 3 car share spaces with one located in car park and two on street;
 - d) 2 car wash bays
 - e) 1 service bay
- 89 Prior to the issue of the relevant Occupation Certificate, at least 37 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 90 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.
- 91 Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.

- 92 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.
- 93 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Banks Avenue, adjacent to development, remove redundant driveway crossover(s) and replace with kerb and gutter, turf, footpath and any other required tree planting and/or public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and
 - b) On Banks Avenue, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - c) On Banks Avenue, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
 - d) On Banks Avenue, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.
- 94 The work to Tingwell Boulevard, Finch Drive, and Banks Avenue 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.
- 95 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.
- 96 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. Certification must be provided by a suitably qualified engineer, certifying the design of the completed works.

97 Prior to the issue of the Occupation Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. Additionally, the plan must make provision for the following:

- a) Recommendations and precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and
- b) A flood evacuation strategy for occupants, and
- c) Indication of the flood levels present on the site and surrounding streets.

The plan shall be located and fixed in a suitable location that can be accessed by all occupants to the satisfaction of the Principal certifier.

98 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 "Easement for public pedestrian access" over the pocket park on the southern side of the site.

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

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

The terms of the 88 E 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.

100 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.

101 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 prior to the issue of the Occupation Certificate. Application fees apply.

102 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.

- 103 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.
- 104 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.
- 105 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.
- 106 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 *Sturt Noble Associates rev B* and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.
- 107 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
- 108 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-Built. All Australian Standards nominated in this Specification are to be the current issue.
- 109 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.
- 110 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.
- 111 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be 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) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

- 112 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

- 113 The rooftop terraces are not to be enclosed as habitable space.
- 114 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed:
- a) Solids shall be disposed to the waste disposal, and
 - b) De-sludged liquid shall be disposed to the sewer.
- 115 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 116 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 117 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.
- 118 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 119 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.
- 120 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.

- 121 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.
- 122 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 123 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.
- 124 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.
- 125 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.
- 126 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.