

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2018SCL008
DA Number	DA-2018/1003
Local Government Area	Bayside Council
Proposed Development	Construction of a mixed use development comprising of four (4) residential towers ranging between 13 and 21 storeys, ground floor retail tenancies, associated landscaping and site works. The development proposes a total of 515 apartments
Street Address	130-150 Bunnerong Road Eastgardens
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	Forty-three (43) objections
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$155,835,654.00
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- PTW Architects • Landscape Plans- Urbis • Clause 4.6 variations • Design Review Panel minutes

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 68.5m (RL 90.5 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 3.84:1; and
- c) Grant approval of Development Application No. 2018/1003 for the construction of a mixed use development comprising of four (4) residential towers ranging between 13 and 21 storeys, ground floor retail tenancies, associated landscaping and site works which will comprise of 515 apartments, subject to the conditions of consent in the attached Schedule.

EXECUTIVE SUMMARY

Council received Development Application No. DA-2018/1003 on 11 January 2018 for the construction of a mixed-use development comprising of four (4) residential towers ranging between 13 and 21 storeys, ground floor retail tenancies, associated landscaping and site works which will comprise of a total of 515 apartments at Urban Block 5C 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 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 2,221 apartments across 7 urban blocks. A recent modification was approved by the Panel which modified the Stage 1 consent particularly relating to the unit mix, unit sizes, building envelopes, reduction in the retail space and relocation of the civic open space to the northern side of the site at UB5C. This was approved by the Panel on 24 July 2018.

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

The Development Application was advertised from 24 January 2018 to 13 February 2018. Forty three (43) submissions were received which generally raised issue with the density of the development, lack of funding to local infrastructure, not consistent with the desired future

character of the site, lack of public transport to the site, building defects from the subject developer. This is further discussed in the report below.

The key issues in the assessment of the development application include non-compliances with the Stage 1 consent in particular relating to the building height, building separation, allocation of car parking, unit mix and the number of adaptable units. In regards to the building height, discussion is provided within the report below. A Clause 4.6 variation has been provided with the development application and is assessed further. Additionally, the development continues to be under the maximum RL of 91 that has been allowed by CASA.

In regards to the building separation, there is a non-compliance of 300mm between the north-eastern and north-western towers. The non-compliance is minor and no substantial floor space is located within this area therefore the non-compliance is acceptable. The car parking provided complies with the overall requirement within the Stage 1 consent however the car parking allocation does not. The proposal provides greater residential car parking in excess of the requirement and less retail spaces. The retail is required to provide 47 spaces however only provides 20. A condition of consent has been imposed requiring full compliance with this control. In regards to the unit mix, the development seeks 32% one bedrooms, 53% two bedrooms and 15% three bedrooms. This is a departure from the consent which required 30% one bedroom and 55% two bedroom. The condition also does allow a 10% variance. As the additional one bedroom units falls at a variance of less than 2%, the variation is acceptable. In regards to the adaptable units, the Stage 1 consent requires a total of 19 adaptable units. Council has counted a total of 17 adaptable units. As the development has proposed larger unit sizes, there is capacity for an additional two units to be adapted to adaptable units. This has been conditioned within the consent.

In regards to the building separation, from Levels 6 and above, the development provides a 12 metre building separation between the central and rear towers and between the central and northern 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 13 lifts to be provided as part of this development. The total number of lifts provided is 10 resulting in a shortfall of 3 lifts. The applicant has provided a lift traffic 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. Additionally, the number of units that are serviced per core on each floor is less than 12 units. Therefore the ADG non-compliances have been resolved.

The development proposes a maximum building height of 68.5m (RL 90.5) at its highest point. This departs from the maximum building height of 32m to 44m under the BBLEP 2013. The proposal is inconsistent with the Stage 1 consent in particular to Condition No. 15 which relates to the maximum building heights and this is discussed further below due to the flooding and road levels being inconsistent.

The FSR requirements under the BBLEP 2013 requires 3:1. The proposal has a FSR of 3.84:1 which surpasses the FSR. The proposal is consistent with the Stage 1 consent particularly to Condition No. 12 relating to the maximum FSR for the site at 3.84:1. Both issues have been addressed within Clause 4.6 variations which are provided in greater detail below. 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.

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. This has been further subdivided so that the subject lot is identified as Lot 22 in DP 1242288 and measures 13,095sqm in area.

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 been completed on UB5W which is located on the south-western portion of the site and construction is almost completed on UB5E and UB4 which is located on the eastern side 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.

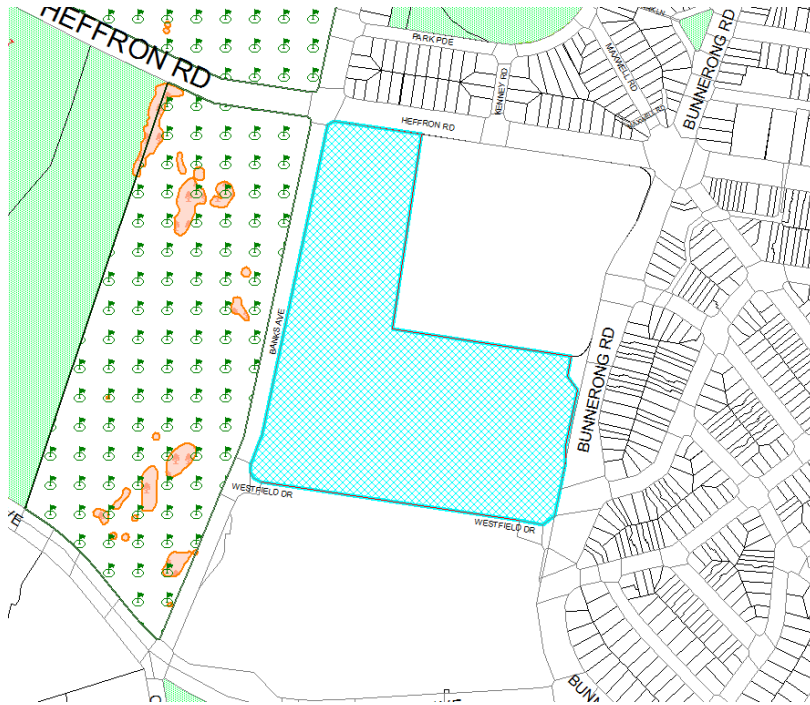


Figure 1. Locality map of the subject site

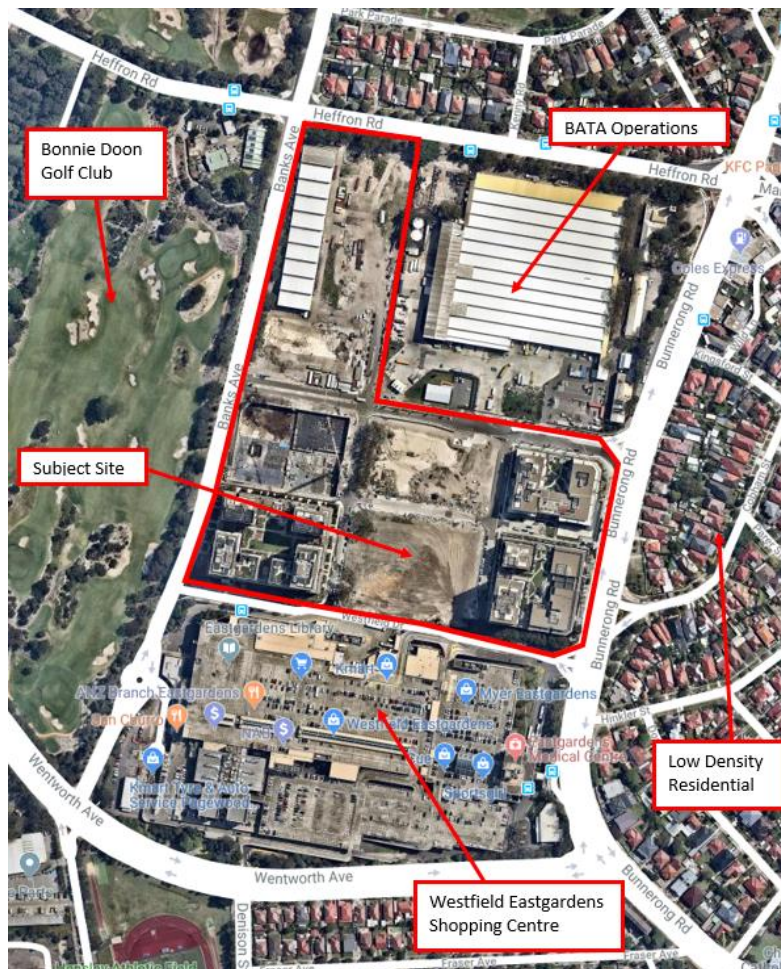


Figure 2. Aerial photograph of the subject site dated November 2018 (Source: nearmap.com.au)

SPECIFIC PORTION OF THE SITE SUBJECT OF THIS APPLICATION

The portion of the overall site relevant to this application is known as Urban Block 5C (UB5C) in the Stage 1 consent. UB5C is located on the central southern part of the site between Westfield Drive to the south, Oscar Place to the north, Finch Drive to the west and Studio 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 13,095sqm. The lot is generally rectangular in shape with a frontage to Westfield Drive.

The modification to the Stage 1 consent approved recently modified the approved building envelopes of the site as demonstrated within Figure 5 below. Specifically for UB5C, the Stage 1 approved plans were amended to demonstrate an additional level within UB5C, changes to the building envelopes to align with the built form of UB5W, reduction in the retail space (supermarket), relocation of the civic open space to the northern side of the site, unit mix, unit and private open space sizes. This was approved by the Panel on 24 July 2018.

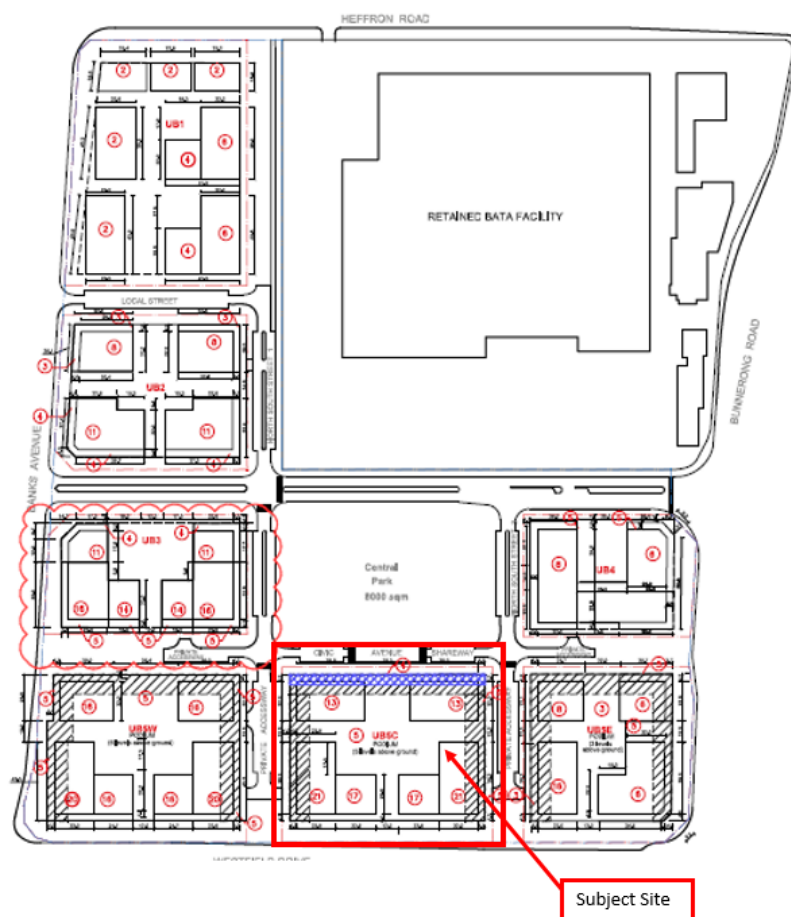


Figure 3. Building envelope plan of the Stage 1 consent determined as part of DA-14/96/02 and 14/96/07

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 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.

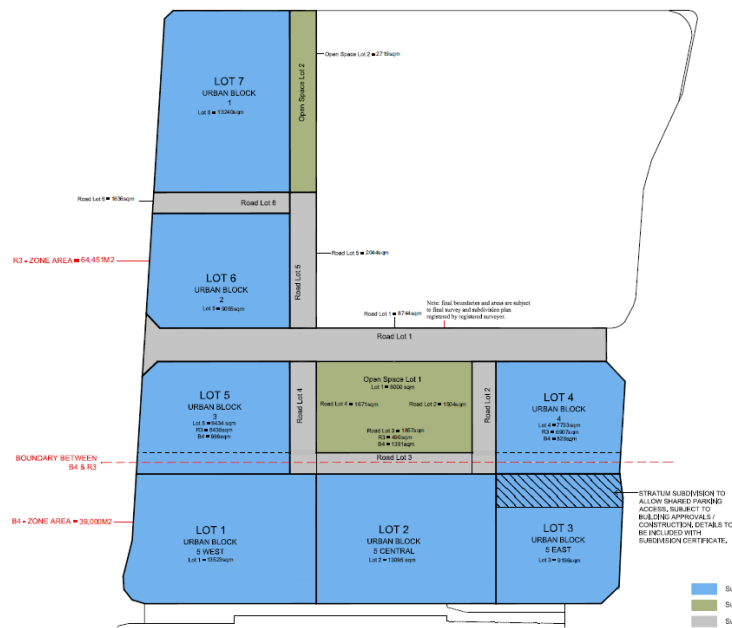


Figure 4. Approved Master plan concept subdivision plan DA-14/96



Figure 5. Approved Building Envelope Plan- DA-14/96

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

DA-14/96/02- Modifications included 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. This was approved by the Panel on 24 July 2018.

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.

DA-14/96/07- Modifications to the approved unit mix, unit sizes and private open space relating to Urban Blocks 3 and 5C and amendments to the setback requirements for Urban Block 3. This was approved by the Panel on 24 July 2018.

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 (UB5W)-** 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 (UB5E)-** 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 (UB4)-** 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-2017/1224 (UB3)-** 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. This was approved by the Panel on 2 August 2018.
- **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- approved by the Bayside Local Planning Panel on 24 July 2018.
- **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
- 6 August 2018 – Additional information letter sent to the applicant. Key points raised in the letter included non-compliance with the car parking, inconsistencies with the Stage 1 consent, minor modifications to the communal open space and private open space, additional information relating to storage requirement and lift traffic study, privacy screening, amended traffic report and additional information requested by Councils Development Engineer.
- 28 September 2018 and 13 November 2018 – Additional information received by Council

PROPOSED DEVELOPMENT

The proposed development (as amended) is for the construction of a mixed use development comprising of four (4) residential towers ranging between 13 and 21 storeys, ground floor retail tenancies, associated landscaping and site works which comprises of a total of 515 apartments and will include landscaping across the site and one level of basement car parking and five levels of above ground car parking.

Built Form

The development is broken up as follows:

- 5 storey podium with six towers with 2 x 8 storeys located on the north-eastern and north-western side of the site, 2 x 12 storeys located internally to the site and 2 x 16 storeys located on the south-eastern and south-western side of the site above the podium;
- One level of basement car park and five levels of above ground car park. Car parking vehicular access is proposed on the western side of the site;
- 515 residential apartments are proposed;
- 1,155sqm of retail space is proposed on the ground floor along the northern side of the site.

Apartment Mix

A breakdown of the apartment mix is as follows:

164 x 1 bedroom units- 32%
274 x 2 bedroom units- 53%
77 x 3 bedroom units- 15%

Car Parking and Servicing

The development proposes six levels of car parking with one level being a basement level and the remaining five levels being above ground sleeved with residential and commercial units. Entry to the car parking level is located on the western side of the site off Finch Drive. The car

parking levels includes a loading dock for MRV and a courier loading dock located at the ground levels for garbage collection and is attached to the waste holding rooms. Storage for the units is located within the basement car parking level. Details of the car parking are as follows:

Total number of car parking spaces within the site: **867** spaces

Residential: 840 car spaces

This is further broken up as follows:

- 53 visitor spaces
- 787 residential spaces

Retail: 20 car spaces

Service Vehicles: 2 loading docks (one for MRV and one for couriers)

Car Share Spaces: 2 spaces internally, 3 spaces on street

Car Wash Bay: 1 space

Bicycle Parking: 61 spaces

Motorbike Parking: 100 spaces

Communal Open Space

The development includes the following areas of communal open space:

- Level 6 – 2,636sqm. This open area is located on top of the podium and is in the centre of the site and will be the principal area of open space for residents of the development;
- Level 18 – 696sqm. This open area is located on Level 18 and is accessible from the southern towers. The space contains landscaped area and seating;
- Swimming pool and gym – 414sqm. This area is located on Level 5 along the northern side of the car parking area.

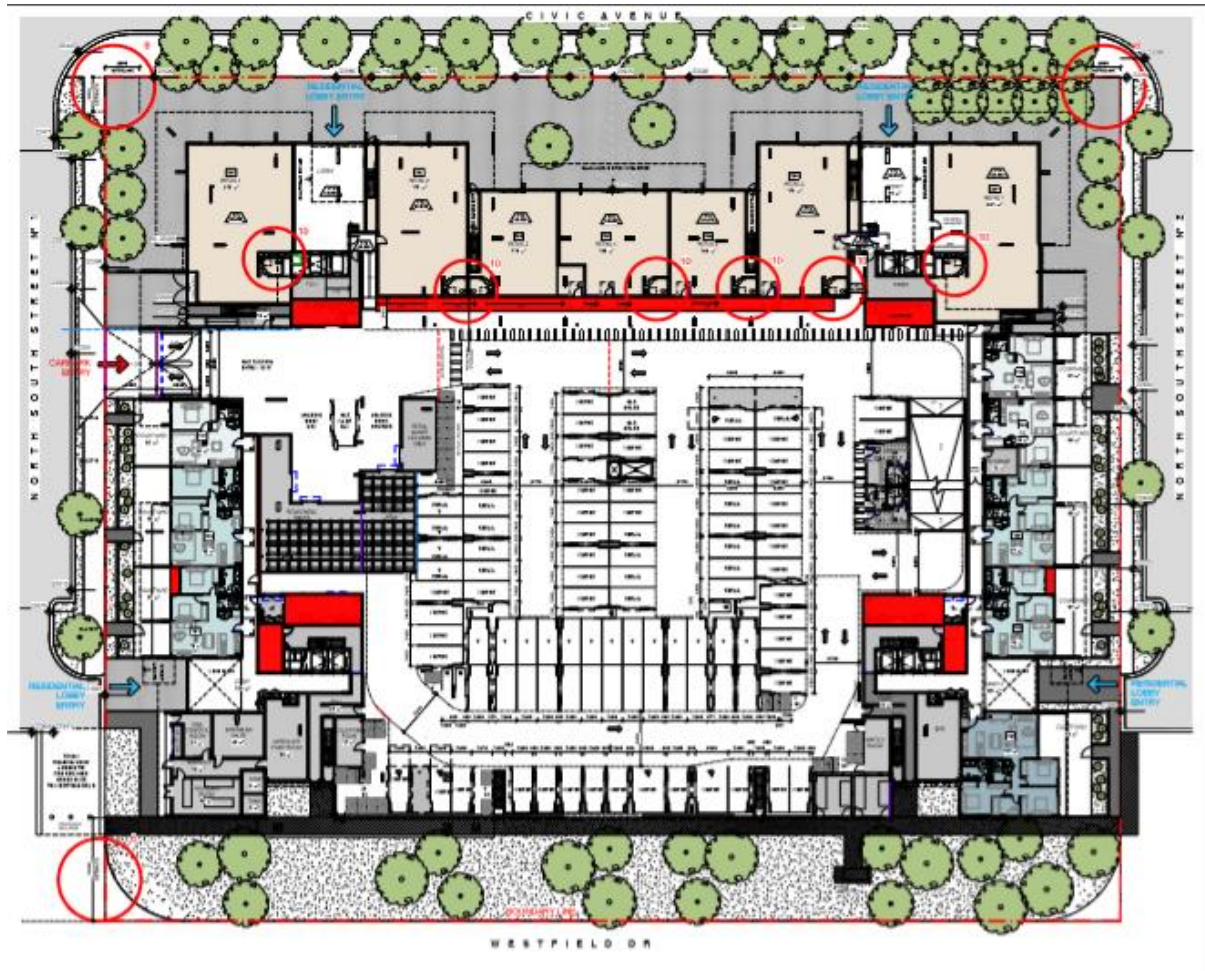


Figure 6. Proposed Ground Floor Plan



Figure 7. Proposed Southern Elevation Plan



Figure 8. Proposed Northern Elevation Plan



Figure 9. Proposed Eastern Elevation Plan



Figure 10. Proposed Western Elevation Plan



Figure 11. Photomontage viewed from the 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 50,306sqm FSR 3.84:1 Indicative Units 515	GFA: 50,306sqm FSR: 3.84:1 515 units proposed	Yes
Heights (Condition 15)	<u>Podium:</u> <ul style="list-style-type: none"> • B1 + B2- 15.3m (RL 37.3) • B4 + B5- 15.3m (RL 37.3) • B3 + B6- 15.3m (RL 37.3) <u>Building:</u> <ul style="list-style-type: none"> • B1 + B2- 40.5m (RL 62.5) • B4 + B5- 52.9m (RL 74.9) • B3 + B6- 65.3m (RL 87.3) <u>Plant Room:</u> <ul style="list-style-type: none"> • B1 + B2- 43.1m (RL 65.1) • B4 + B5- 55.5m (RL 77.5) • B3 + B6- 67.9m (RL 89.9) 	<u>Podium:</u> <ul style="list-style-type: none"> • B1 + B2- 15.9m (RL 37.9) • B4 + B5- 15.9m (RL 37.9) • B3 + B6- 15.9m (RL 37.9) <u>Building:</u> <ul style="list-style-type: none"> • B1 + B2- 40.7m (RL 62.7) • B4 + B5- 53.2m (RL 75.2) • B3 + B6- 65.8m (RL 87.8) <u>Plant Room:</u> <ul style="list-style-type: none"> • B1 + B2- 43.4m (RL 65.4) • B4 + B5- 55.9m (RL 77.9) • B3 + B6- 68.5m (RL 90.5) 	No- Refer to Note 1
FFL Ground floor (Condition 17)	FFL of GF apartments no greater than 1 metre above EGL	The ground floor does not exceed 1 metre above NGL.	Yes
Separation (Condition 18)	In accordance with building envelope detail and building separation plans. (12m-25.3m between the buildings)	<p>The development proposes a 25 metre building separation internally between Towers B1 and B2. This is a shortfall of 300mm.</p> <p>The remainder of the building is setback 4 metres from the side boundaries along podium and further setback 4 metres on the upper levels to have an 8 metre setback on from the boundaries. The ground floor courtyards encroach within the 4 metre setback however a condition of consent has been</p>	No – Refer to Note 2

Condition Control	Required	Proposal	Consistent
		imposed to reduce the distance of the courtyards from the balcony from 3.5 metres to 4 metres (excluding planter beds).	
Podium height (Condition 19)	UB5C- 5 storey podium for all tower components	The proposal has a five storey podium for all towers.	Yes
Floor to ceiling height (Condition 20)	Minimum 4 metres for retail, minimum 3.5 metres for commercial and comply with ADG for residential.	The proposed floor to floor heights demonstrate that compliance with the floor to ceiling heights could be achieved.	Yes
Street wall height (Condition 21)	5 storeys along Westfield Drive	5 storey podium is proposed along Westfield Drive.	Yes
Building elements (Condition 22)	All building elements including balconies, louvres, and screening is to be contained within the building envelope	All building elements other than the non-compliance to the building separation between B1 and B2 as stated above in Condition 18, complies.	Yes
Tower setbacks (Condition 23)	Min 4m setback for towers above a podium.	The towers are positioned 4 metres away from the edge of the podium.	Yes
Tower Articulation (Condition 24)	Max protrusion of 500mm from building envelopes for the towers for a maximum of 50% of each façade.	The towers entirely contained within the approved built envelope.	Yes
Podium Articulation (Condition 25)	Max protrusion of 500mm from building envelopes for the podiums for a maximum of 20% of each façade.	The podium is entirely contained within the approved built envelope.	Yes
Setbacks (Condition 26)	Podium and building setbacks to comply with setback hierarchy plan – minimum 12 metres (Westfield Drive)	The southern rear setback along Westfield Drive has a 12 metre setback.	Yes
Corridor lengths (Condition 27)	Maximum of 10 units are to be serviced by each lift core	Each tower proposes more than one lift core therefore the number of units that each lift	Yes

Condition Control	Required	Proposal	Consistent
	<u>Proportion: 30%</u> <u>Indicative maximum number of units: 154</u> Two bedroom: <u>Proportion: 55%</u> <u>Indicative maximum number of units: 284</u> Three bedroom: <u>Proportion: 15%</u> <u>Indicative maximum number of units: 77</u>	<u>One bedroom:</u> 164 units (32%) <u>Two bedroom:</u> 274 units (53%) <u>Three bedroom:</u> 77 units (15%)	
Adaptable Units (Condition 35)	Minimum number of adaptable units: 51 plus units = 2 units, plus an additional 1 unit for each 30 units (req. 19 adaptable units)	The proposal provides a total of 17 adaptable units as demonstrated on the plans.	No – Refer to Note 5
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 Podium communal open space minimum 2 hours solar access to 30% of area between 9am-3pm in mid-winter	359/515 units (70%) receive minimum 2 hours of sunlight in mid-winter. The podium communal open space receives at least 2 hours to 30% of its area mid-winter.	Yes
Active street frontage (Condition 39)	Active street frontage is to occupy the entire ground floor northern building frontage of UB5C	The entire street frontage facing Oscar Place (civic avenue) other than the residential lobbies are retail.	Yes

Note 1 – Departure to Building Height (Condition No. 15)

Condition No. 15 of the Stage 1 consent prescribes height controls for the podium, tower and plant room for each development. The specified height requirements for UB5C are as follows:

Podium:

- B1 + B2- 15.3m (RL 37.3)
- B4 + B5- 15.3m (RL 37.3)
- B3 + B6- 15.3m (RL 37.3)

Building:

- B1 + B2- 40.5m (RL 62.5)

- B4 + B5- 52.9m (RL 74.9)
- B3 + B6- 65.3m (RL 87.3)

Plant Room:

- B1 + B2- 43.1m (RL 65.1)
- B4 + B5- 55.5m (RL 77.5)
- B3 + B6- 67.9m (RL 89.9)

The proposal seeks to vary the height limits as follows:

Podium:

- B1 + B2- 15.9m (RL 37.9)
- B4 + B5- 15.9m (RL 37.9)
- B3 + B6- 15.9m (RL 37.9)

Building:

- B1 + B2- 40.7m (RL 62.7)
- B4 + B5- 53.2m (RL 75.2)
- B3 + B6- 65.8m (RL 87.8)

Plant Room:

- B1 + B2- 43.4m (RL 65.4)
- B4 + B5- 55.9m (RL 77.9)
- B3 + B6- 68.5m (RL 90.5)

The applicant has provided the following justification for the non-compliance in the height variation, as provided within the Clause 4.6 variation:

“Approved Development

Development Application DA-14/96/02 and DA-14/96/07 for a Stage 1 concept proposal to allow for the comprehensive redevelopment of the site for mixed use was approved by the Land and Environment Court on 7 August 2015. Condition 15 of the consent states the following:

(15)(a) The maximum approved building heights as depicted on DWG NO.A005 Building heights Plan Prepared by PTW dated 22 February 2018, as shown in Table 5. (DA-14/96/02).

Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height
Urban Block 5C	B1, B2	15.3m (RL37.3)	40.5m (RL62.5)	43.1m (RL65.1)
	B4, B5	15.3m (RL37.3)	52.9m (RL74.9)	55.5m (RL77.5)
	B3, B6	15.3m (RL37.3)	65.3m (RL87.3)	67.9 (RL89.9)

b) Subject proposal

The proposed development involves the construction of a mixed use development comprising a 5 storey podium with towers above. The towers range in height from 16 to 21 storeys (maximum building height of 68.8m or RL90.5m). The residential towers sit above the maximum height limit specified by BBLEP and as such the proposal is inconsistent with Clause 4.3 of the LEP. The Development Application proposes the following heights:

Block No.	Tower No.	Approved Podium Height	Proposed Podium Height	Variation	
Urban Block 5C	B1, B2b	15.3m (RL37.3)	15.9m (RL37.9)	+0.6m	2.5%
	B4, B5	15.3m (RL37.3)	15.9m (RL37.9)	+0.6m	2.5%
	B3, B6	15.3m (RL37.3)	15.9m (RL37.9)	+0.6m	2.5%

Block No.	Tower No.	Approved Building Height	Proposed Building Height	Variation	
Urban Block 5C	B1, B2b	40.5m (RL62.5)	40.7m (RL62.7)	+0.2m	0.5%
	B4, B5	52.9m (RL74.9)	53.2m (RL75.2)	+0.3m	0.6%
	B3, B6	65.3m (RL87.3)	65.8m (RL87.8)	+0.5m	0.8%

Block No.	Tower No.	Approved Plant Room Height	Proposed Plant Room Height	Variation	
Urban Block 5C	B1, B2b	43.1m (RL65.1)	43.4m (RL65.4)	+0.3m	0.7%
	B4, B5	55.5m (RL77.5)	55.9m (RL77.9)	+0.4m	0.7%
	B3, B6	67.9 (RL89.9)	68.5m (RL90.5)	+0.6m	0.9%

The Approved Masterplan and Proposed building heights are shown on the elevations attached as part of this Clause 4.6 Variation. The blue dotted line represents the Approved Masterplan building height and the green dotted line represents the proposed building height. As can be see, the proposed height variation is a slight increase in height when compared to the originally approved building height.

Condition 15 of DA-14/96/02 ad DA-14/96/07 identifies the maximum approved building heights for the Stage 1 concept proposal to allow for the comprehensive redevelopment of the site for mixed use.

As shown in the Table 2-4 above, across all heights the variation sought is between 0.5% and 2.5% of the approved Building Height contained within DA-14/96/02 and DA-14/96/07. This is a slight increase in height when compared to the originally approved building heights in the first table above.

It should be noted, the approved Masterplan - Development Application DA-14/96/02 and DA-14/96/07 didn't take into consideration the topography of the site (particularly

how different sections of the road slope) resulting in the flood level being higher than the road.

The proposal generally seeks to maintain the maximum height of the overall development with a minor increase proposed to respond to flood management on the site. As part of this proposal we have slightly increased the heights of the proposed buildings. The slight increase in height will ensure that buildings are being constructed above the flood level and still achieving the nominated freeboard level. This slight increase delivers a high level of safety and amenity for all residents and provides a margin of safety against unknown flood risk.

As identified within Condition 9 of DA-14/96/02 ad DA-14/96/07, the Stage 1 concept proposal was approved with a restrictive covenant. The condition states:

“Condition 9 does not permit the variance of GFA, FSR from the maximum stated in Table 4; or variance from the maximum Building Height from the maximum stated in Table 5; or variance for Unit Mix as stated in Table 8. Any variation within the terms of the covenant must be justified via a clause 4.6 variation and agreed to by the consent authority. This condition only varies the wording of the covenant condition to allow for future variations due to construction requirements, within the terms of the covenant. All variations will still need to be assessed on merit. Council will not unreasonably withhold agreement to modify the covenant for more substantive changes following merit based assessment”.

The proposed variation to the height standard has arose, due to the road level being elevated above the flood level and the requirement for the building to be constructed above the nominated freeboard level. In short, the proposed variation to the height standard is a construction requirement and will need to be assessed on merit.”

As provided by the applicant, the additional height is contributed from a flooding issue as well as locating the units and ground floor level above the road level which is satisfactory. The increase in height would allow for the development to meet the flooding freeboard which was not originally considered as part of the Stage 1 consent and particularly during the road construction. The additional height continues to be below the approved height of RL 91 which was allowed by CASA therefore no further concurrence by this authority is required. In this instance, the non-compliance in the height is accepted as the additional height does not contribute to any negative impact on the surrounding properties regarding to visual privacy and solar amenity, which haven't already been considered. Further justification and how it meets the Clause 4.6 requirements is further discussed in the report below.

Note 2 – Departure to Building Separation (Condition No. 18)

Condition No. 18 of the Stage 1 consent states that in accordance with building envelope detail and building separation plans approved in the Stage 1 consent, any proposed Stage 2 development is to be consistent with the building separation distances. The proposal requires an internal building separation of 12 metres between the northern and southern towers, 12 metres between the two internal south-western and south-eastern towers and 25.3 metres between the north-western and north-eastern towers. The proposed development provides a 25 metre building separation which is a shortfall of 300mm between the two northern towers. The below figures demonstrate the approved building envelope and the proposed building separation.

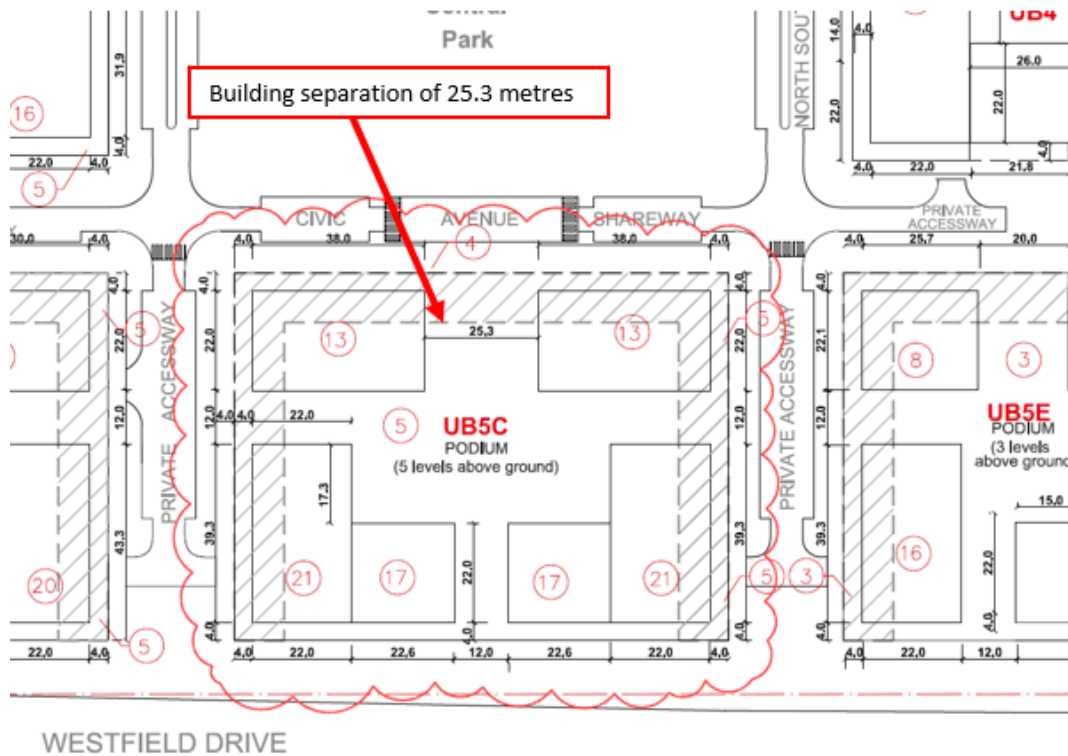


Figure 12. Approved building separation for UB5C

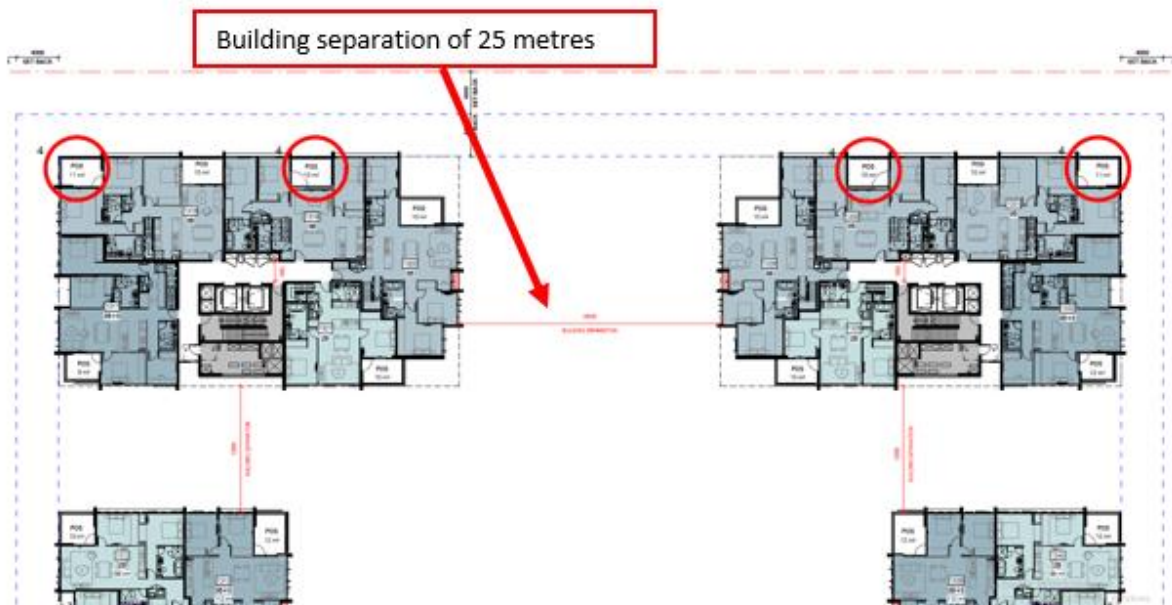


Figure 13. Proposed building separation

The non-compliance could be measured as being the thickness of the external walls of the development. It is not considered that a substantial habitable area falls within the non-compliant zone. It is key to note that while not consistent with the Stage 1 building separation, the proposed development is consistent with the ADG separation distance of 24 metres for towers that are 9 storeys or above. The minor non-compliance of 300mm is acceptable in this instance.

Note 3 – Departure to Retail Car Parking (Condition No. 29)

Condition No. 29 of the Stage 1 consent requires proposed development to be consistent with the retail car parking rates as provided within Table 1 of Part 3A of the BBDCP 2013. The proposed retail on the ground floor has a total GFA of 1,155sqm. There is no use allocated for the retail tenancies as part of the current proposal therefore under the definition of the DCP/LEP, the car parking rates generated would be calculated on the basis of a 'shop'. A shop has a car parking rate of 1 car space per 25sqm. Based on the GFA proposed, the development generates a total of 47 retail car parking spaces. The ground floor plan provided demonstrates a total of 20 retail car parking spaces which is a shortfall of 27 retail car parking spaces. The entire development provides a total of 787 residential car parking spaces. The proposal requires a total of 729 car parking spaces therefore there is an excess in residential car parking which could be allocated to the retail component to comply. A condition has been included within the consent to provide compliance with the 47 retail car parking spaces while continuing to maintain the required residential car parking spaces generated from the proposal.

Note 4 – Departure to Unit Mix (Condition No. 34)

Condition No. 34 of the Stage 1 consent requires the development to comply with the approved Stage 1 unit mix for UB5C. The approved unit mix is as follows:

- 1 bedroom units = 30%
- 2 bedroom units = 55%
- 3 bedroom units = 15%

The proposed development has provided the following unit mix breakdown:

- 164 x 1 bedroom units- 32%
- 274 x 2 bedroom units- 53%
- 77 x 3 bedroom units- 15%

The number of one bedroom units is greater than the unit mix provided while the number of two bedroom units is less than what required. The condition also includes the following note:

"The mix of units provided within UB5C and UB3 shall comply with the table below with a tolerance of 10%. No studio apartments are permitted. The development application for each individual future stage must comply with this mix."

The variation provided for the one bedroom units is 9 additional units (1.7%) and the variation for two bedroom units is a reduction of 10 units (1.9%). Therefore the variation continues to be within the 10% tolerance for unit mix and is acceptable in this instance as there is no major changes in the number of car parking and GFA proposed or indicated as approved within the Stage 1 consent.

Note 5 – Departure to Adaptable Units (Condition No. 35)

Condition No. 35 of the Stage 1 consent requires developments which have over 51 units to provide 2 adaptable units plus an additional 1 unit for each of the 30 units. The proposal has a total of 515 units therefore a total of 19 adaptable units are to be provided on the site. The plans that have been provided to Council demonstrates a total of 17 adaptable units which is a shortfall of 2 adaptable units. The size of the units are large enough for two additional units

to become adaptable units. Therefore a condition of consent is to be included within the consent to require an additional two adaptable units.

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. RMS was notified of the DA during the notification period.

Council received a response in a letter dated 21 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 PTW Architects. The Panel considered the strengths and weaknesses of the proposal. The strengths that were raised included strong architectural form and expression, prominent roof profile, building entries are articulated, podium is well proportioned, civic open space will function successfully and reinforce the retail frontage, skillfully planned apartments with high degree of amenity particularly relating to view angles, private open space and room layout and outlook. Additionally it was agreed that the design is able to attain a reasonable level of yield. 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 design will benefit from a hierarchy between the front and rear towers. Explore measures to subtly differentiate the towers, such as tonal variation in the colour palette.*

Officer Comments:

The amended design has provided a distinction between the hierarchy of towers by providing tonal differences to the northern and southern facades of the development.

Jury Comments:

- *The tower facades should be enriched by carefully selecting colours for the horizontal overhangs, vertical fins and coloured-back glass panels, etc. This would provide variety to the predominantly white colour scheme.*

Officer Comments:

The development provides a range of colours that are predominantly mixed with the podium however there are some breaks in the tower façade with colours that emulate those that are provided in the podium.

Jury Comments:

- *The materiality and detailing of the podium facades should be further developed to provide a finer grained quality. It should have a warmer tone to contrast with the towers.*

Officer Comments:

Materials have been considered carefully and have been adopted with the development proposal with a warmer tone on the podium.

Jury Comments:

- *The voids (behind exposed beams) on the northern, eastern and western elevations of the podium are to be open to the sky while still maintaining structural integrity. There are concerns about the amenity of those bedrooms that are recessed under a slab edge.*

Officer Comments:

The internal void areas behind the exposed beams have been deleted so no voids are present and greater articulation within the podium is provided. Amenity to the rooms is sufficient.

Jury Comments:

- *Achieve a hierarchy of residential lobbies, so that there is a main lobby with a building manager's desk.*

Officer Comments:

The north-eastern lobby has provided a building managers desk with the other three lobbies on the north-western, eastern and western side of the development being secondary.

Jury Comments:

- *Ensure that residential entries are clearly distinguished from retail tenancies. Consider locating lobbies at the corners with retail inboard and allowing them to be serviced from back-of-house.*

Officer Comments:

The residential lobbies along the northern elevation continue to be amongst the retail spaces however these are distinguished by colour/material change as well as higher canopies above.

Jury Comments:

- *For the northern towers, there are cross viewing problems between the balconies and bedroom windows of the adjoining apartments at the inner corners. Similarly,*

for the southern towers there are cross viewing problems at the re-entrant corners. These problems need to be resolved.

Officer Comments:

A privacy and screening plan has been provided with the development proposal demonstrating that screening is to be provided within the internal corners along the northern elevation, where necessary.

Jury Comments:

- *Further consideration should be given to appropriate screening methods between habitable rooms in opposing towers.*

Officer Comments:

As above, a privacy and screening plan has been provided for the assessment of the proposal. The plan demonstrates screening where necessary and is satisfactory.

Jury Comments:

- *East- or west-facing windows should be provided to the south-facing apartments on levels 18- 21 of the rear towers to improve solar access.*

Officer Comments:

This has been incorporated with the development proposal.

Jury Comments:

- *Units with no sun should be identified in accordance with the ADG and demonstrated with detailed view from the sun diagrams. Analysis must include overshadowing from future neighbouring buildings and self-overshadowing.*

Officer Comments:

Solar analysis plans have been provided with the development application. Compliance has been provided with regard to solar amenity.

Jury Comments:

- *The effectiveness of the vertical fins in mitigating low angle sun for the full-height glazing on the eastern and western elevations is questioned. The design should consider increasing the width of the fins and incorporating horizontal overhangs to provide suitable shading. The reflectivity and insulation properties of the full-height glazing should be detailed.*

Officer Comments:

This has been taken into consideration as part of the development proposal.

Jury Comments:

- The location, positioning and design of windows are to achieve natural cross ventilation objectives in the ADG. Note that the use of slots does not meet the definition for “natural cross ventilation” in the ADG.

Officer Comments:

The proposal utilizes corner apartments as well as large indents to allow for cross ventilation to occur. 53% of the units are corner units while 7% are serviced through indents. The total amount of cross ventilation is 60% which complies with the ADG requirements.

Jury Comments:

- *There are opportunities to further develop the design of the rooftop hood elements. The hoods or portals may incorporate variations in terms of materiality (e.g. claddings, soffit finishes) and perforation (e.g. partial opening of the hood) so that they do not become too repetitive. The detailed design needs to consider the functional relationship between the hoods and the spatial quality and amenity of the top floor apartments.*

Officer Comments:

This hasn't been clearly demonstrated within the proposal however it is shown that the hoods will be extended with glass. In regards to the materiality and cladding, this is unclear.

Jury Comments:

- *Operable windows are to be provided in the common hallways to enable natural ventilation.*

Officer Comments:

The plans do not demonstrate that the windows proposed within the corridors/hallways are not operable therefore a condition of consent requiring this change has been included within the consent.

Jury Comments:

- *Suitable back-of-house areas with convenient access to the loading dock are to be provided. Consideration should be given to amenities and storage typically required by food and drink premises.*

Officer Comments:

The plans have been amended so that each of the retail tenancies includes individual sanitary facilities therefore the requirement to have a common sanitary facility is not

necessary. The ground floor also includes a separate retail waste area close to the loading docks.

Jury Comments:

- *A high quality landscape design with fine paving details and street furniture is to be prepared for the civic plaza along the northern frontage of the development. The design is to create a sense of place, encourage public usage and access, and contribute to the success of the retail suites.*

Officer Comments:

The proposal provides for a well-designed civic open space on the ground floor northern side of the site. The landscape design, paving and street furniture proposed has been looked at by Council's landscape architect and appropriate conditions of consent have been included in the attached schedule.

Jury Comments:

- *The podium landscape is currently under developed. The landscape design needs to be based upon detailed analysis of the programmatic requirements. A series of spaces for passive and more active recreation with suitable furniture and shelters are to be provided. Downdraft from the towers and wind tunnel effects are to be considered in the design.*

Officer Comments:

The podium landscaping on Level 6 has been improved and this is provided within the amended landscape plan provided to Council for assessment. The landscape plan indicates separate dining pavilion, BBQ seating and picnic tables, outdoor table space, mounding, secret gardens, sculptural lawn, seating pods and private lawn. Many trees have been proposed as well to mitigate wind.

Jury Comments:

- *The communal rooftop terraces on level 18 should incorporate more planting and green areas.*

Officer Comments:

The amended landscape plan demonstrated that the Level 18 rooftop has been provided with greater planting and green area.

Jury Comments:

- *Additional attention should be given to the length and narrowness of the common corridor on Level 5. Consider ways to alleviate its length by providing wider areas and daylight from above where possible. The wall to the swimming pool area may also be partly opened up with glazing.*

Officer Comments:

The plans do not demonstrate that natural sunlight is received within the corridor however the pool has a skylight located above. The plans are not clear whether the wall between the swimming pool and corridor is transparent. The applicant has reduced the length of the corridors by providing a larger area in front of the lift cores as well as providing articulation by shifting the units along the northern façade.

Jury Comments:

- *Adequate soil depths are to be provided to enable a variety of tree and shrub planting in the podium / rooftop. In general, a minimum of 600mm to 1,200mm is required for on-slab planting to support a variety of vegetation.*

Officer Comments:

There are a number of setbacks proposed to provide for deep soil planting, in particular along the southern setback of the site. This will allow for a variety and size of trees to be planted along the site.

Jury Comments:

- *A detailed landscape design is required for the 12m setback areas along Westfield Drive. The planting is to respond to the shady condition. The design is to encourage activation and provide a sense of safety for this setback zone.*

Officer Comments:

A detailed landscape plan accompanies the development application and further conditions have been imposed in the consent by Council for further information to be provided prior to the relevant Construction Certificate stage.

Jury Comments:

- *Address or justify any non-compliances with the Stage 1 conditions of consent including, but not limited to, habitable spaces beyond the height limit (condition 15) and number of units per floor (condition 27).*

Officer Comments:

The proposal has been designed so that each level is accessed by two or three lift cores therefore the amount of units that are serviced by each lift is less than 10 units. The proposal does not demonstrate any habitable spaces beyond the building height limit. The only structures on the roof form is pergolas, plant equipment, stairwell leading up to the rooftop terraces. A part of the building frame extends above the building height however this is considered to be an architectural roof feature.

Jury Comments:

- *Provide adaptable housing in accordance with Condition 35 of the Stage 1 consent.*

Officer Comments:

The proposal provides 17 adaptable units as part of the proposal which is not consistent with the required amount of adaptable housing required under Condition No. 35 however appropriate conditions have been imposed in the consent requiring compliance.

Jury Comments:

- *A Section 96 modification to the Stage 1 master plan is currently under assessment by Council. Assuming approval, the future development application for this site needs to comply with the Stage 1 master plan as amended, including, but not limited to, the revised minimum amount of retail floor space, revised civic space requirements and revised balcony sizes.*

Officer Comments:

- The proposed development is consistent with the approved Stage 1 consent with the exception of the height and a slight non-compliance with building separation. This has been addressed in greater detail in the report above.

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



Figure 14. Design Competition photomontage of northern elevation



Figure 15. Development Proposal photomontage of northern elevation



Figure 16. Southern Elevation under the design competition



Figure 17. Proposed southern elevation under the development application

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	The proposal complies with the minimum unit sizes provided within the ADG. The breakdown is as follows: One bed: 50sqm to 59sqm One bed + study: 62sqm to 69sqm Two bed: 78sqm to 92sqm Two bed + study: 88sqm to 100sqm Three bed: 114sqm to 116sqm	Yes

		Three bed + study: 112sqm to 117sqm	
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m	All units have a floor to floor distance of between 3m to 3.1m therefore there is space to achieve compliance with the floor to ceiling heights for the development.	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.	2,192sqm (17%)	Yes
Communal Open Space	25% of site.	3,332sqm (25.4%)	Yes
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter.	Both the communal open space on Level 6 and 18 receive at least 2 hours of sunlight mid-winter.	Yes
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm.	70% achieved (359 out of 515 units)	Yes
Cross Ventilation	60% required for first 9 storeys. (Required: 138 apartments out of 231)	60% is provided (53% corner apartments and 7% through indents)	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> <ul style="list-style-type: none"> • 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> <ul style="list-style-type: none"> • All units are facing a street therefore no issues regarding to building separation 	Yes
	<u>Five to eight storeys (25m):</u>	<u>5-8 Storeys: 18m required</u>	

	<ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p><u>Nine storeys and above (greater than 25m):</u></p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<ul style="list-style-type: none"> • Podium- facing street • 12m to 25m between habitable and habitable, non-habitable and balconies for towers above <p><u>9 and greater storeys: 24m required</u></p> <ul style="list-style-type: none"> • 12m to 25m between habitable to habitable, non-habitable and balconies 	<p>No – Refer to Note 6</p> <p>No – Refer to Note 6</p>
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	The apartments provide the following breakdown of private open space: One bed: 8sqm to 33sqm One bed + study: 8sqm to 56sqm Two bed: 10sqm to 49sqm Two bed + study: 10 sqm to 88sqm Three bed: 12sqm to 47sqm Three bed + study: 12sqm to 61sqm	Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3+ bed: 10m ³	1 bed: 6sqm 2 bed: 8sqm 3 bed: 10sqm Majority of storage is in apartments.	Yes
Common circulation	1 lift/ 40 units (13 req)	Ten lifts have been provided. Departure of 3 lifts.	No – Refer to Note 7

Note 6 – Building Separation

The proposal does not meet the ADG minimum building separation distances at Levels 6 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 northern and southern towers and between the south-eastern and south-western towers. Therefore from Level 6 and above, the development does not comply with the minimum building separation required under the ADG. Due to the minimized building separation, the applicant has provided a privacy and screening plan. The key areas of concern are the internal corners of the north-facing units on the podium as well as windows within the 12 metre separation zone between the northern towers. The below figure demonstrates the measures imposed on preserving the visual privacy of these units.

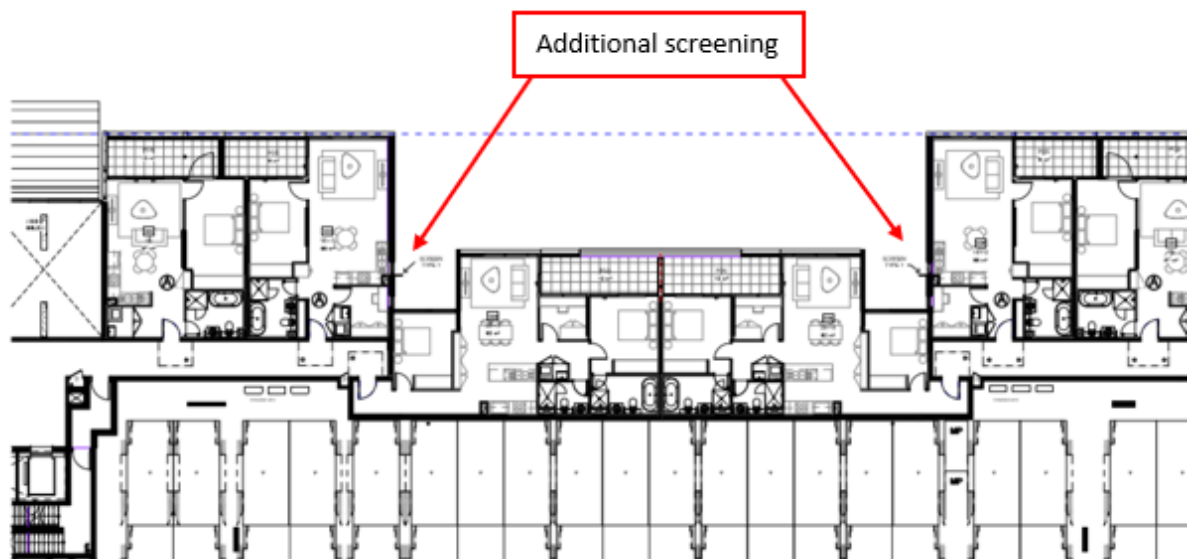


Figure 18. Screening proposed for internal corners on the northern side of the podium level



Figure 19. Additional screening measures between the two buildings

The screening over the windows towards the southern and central sections 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 515 units therefore the total number of lifts required is 13. The development proposes a total of 10 lifts with three lifts located within each of the southern towers and two lifts located in each of the northern towers. This is a shortfall of 3 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. It is also key to note that each level in the towers has a maximum of 12 units that are serviced by the lift core therefore there are two/three lifts available to cater to the residents at any one time. 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. 886467M prepared by Efficient Living Pty Ltd and dated 20 December 2017 committing to environmentally 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 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 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>
What is the height of the building?	No - Refer to Note 8	<p>Variable maximum height limit of 32 metres and 44 metres across UB5C</p> <p>Does not comply as follows:</p> <p><u>Podium:</u></p> <ul style="list-style-type: none"> • B1 + B2- 15.9m (RL 37.9) • B4 + B5- 15.9m (RL 37.9) • B3 + B6- 15.9m (RL 37.9) <p><u>Building:</u></p> <ul style="list-style-type: none"> • B1 + B2- 40.7m (RL 62.7) • B4 + B5- 53.2m (RL 75.2) • B3 + B6- 65.8m (RL 87.8) <p><u>Plant Room:</u></p> <ul style="list-style-type: none"> • B1 + B2- 43.4m (RL 65.4) • B4 + B5- 55.9m (RL 77.9) • B3 + B6- 68.5m (RL 90.5)
What is the proposed FSR?	No – Refer to Note 9	Maximum FSR is 3:1 (39,285sqm) under the BBLEP 2013.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		Proposed FSR is 3.84:1 (50,306sqm) which does not comply.
Is the land affected by road widening?	N/A	The subject site is not identified as being affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site is not identified as being affected by ASS. Regardless, the Stage 1 consent includes a condition which requires that every Stage 2 application include an ASS Management Plan.</p> <p>In accordance with the Stage 1 consent, an ASS Management Plan prepared by Consulting Earth Scientists was submitted with the application. Council's Environmental Scientist has reviewed the plan and raised no objection subject to conditions which have been included in the consent.</p> <p>The development proposes one level of basement. The geotechnical report indicates that the excavation for the basement will not encounter groundwater therefore the development is not integrated and was not required to be referred to Water NSW.</p> <p>The Development Application involves an underground On Site Detention system and rainwater tank located within the basement car park towards the south-western side of the site. The proposal has been reviewed by Council's Development Engineer who raised no objection subject to conditions which have been included on the consent.</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.8 - Airspace operations	Yes	<p>The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings above this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration.</p> <p>CASA provided comments dated 23 January 2017 that apply to the entire site stating that they have no objection to the development providing it does not exceed the overall RL 91.0m for the entire site. The development falls beneath this height.</p>
6.9 – Development in areas subject to aircraft noise	Yes	<p>The subject site is not affected by Aircraft Noise. Regardless, the Stage 1 consent includes a condition which requires that every Stage 2 application include an Acoustic Report addressing AS2021-2000 and BBDCP 2013 Part 9D.</p> <p>In accordance with the Stage 1 consent, an Acoustic Report prepared by SLR was submitted with the application. 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</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		Panel members who have no objection to the proposal.

Note 8 – Variation to the Building Height Development Standard

The applicant has provided a Clause 4.6 variation to the maximum permissible height of 32m and 44m 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 68.5 metres (RL 90.5). A breakdown of the proposed heights across the development is as follows:

Podium:

- B1 + B2- 15.9m (RL 37.9)
- B4 + B5- 15.9m (RL 37.9)
- B3 + B6- 15.9m (RL 37.9)

Building:

- B1 + B2- 40.7m (RL 62.7)
- B4 + B5- 53.2m (RL 75.2)
- B3 + B6- 65.8m (RL 87.8)

Plant Room:

- B1 + B2- 43.4m (RL 65.4)
- B4 + B5- 55.9m (RL 77.9)
- B3 + B6- 68.5m (RL 90.5)

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

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

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

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

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

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

A summary of the Clause 4.6 variation provided to justify contravening the height standard is provided below:

“Clause 4.6(3)(a) – Is the Development Standard Unreasonable or Unnecessary?”

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118, 5 matters were listed to demonstrate whether compliance of a development standard was unreasonable or unnecessary, as established in Wehbe v Pittwater Council (2007) NSWLEC 827. This case also stipulated that all 5 methods may not need demonstrate compliance is necessary where relevant. Each of the matters are addressed below.

1. Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].

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.

2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].

The proposed development is able to demonstrate that strict compliance with the numerical height development standard is unnecessary in the particular circumstances of the proposal, as the development is able to:

- *Meet the objectives of the development standard as outlined in Section 8 of this report;*
- *Meet other built form development standards;*
- *The approved Masterplan - Development Application DA-14/96/02 and DA-14/96/07 did not take into consideration the topography of the site (particularly how different sections of the road slope) resulting in the flood level being higher than the road. The height variation responds the sites levels due to the sites topography.*

3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].

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

4. Establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development

consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47].

The proposed heights were developed through an extensive master planning process and have been approved as part of a Stage 1 Development Consent.

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 UB5C site is suitable for building taller than the LEP controls permit.

5. Establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48].

As stated earlier in the report, 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.

Through the Stage 1 masterplan application the Pagewood Green site has been assessed as being suitable for more intensive development than would normally be achievable under the LEP, noting the building height limits that apply.

Clause 4.6(3)(b) – Is there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118, the written request under Clause 4.6 must be “environmental planning grounds” by their nature established under Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of Clause 1.3- Objects of the Environmental Planning and Assessment Act 1979.

a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,

The proposed additional height is considered to be acceptable particularly when balanced against the benefits of the project which are:

- *The proposal is entirely consistent with the maximum building height limits allowable by the approved Stage 1 masterplan for this part of the Pagewood Green site.*
- *Strict compliance with the height controls would result in a poorer design outcome for the site as it would prevent the delivery of the Pagewood Green site as envisaged by the Stage 1 masterplan consent.*
- *The bulk and scale of the proposed development is consistent with the adjoining large scale regional retail facility (Westfield Eastgardens) to the south and the*

other developments approved within the Pagewood Green site, being Urban Blocks 5W, 5E and 4.

- The proposed development is consistent with the intent of Clause 4.3 of the LEP which is to minimise adverse amenity impacts on neighbouring residential properties and to support the desired future character of the area.
- The proposal will not result in the loss of views, nor will it result in adverse amenity impacts and satisfies all relevant amenity criteria of the ADG, including access to sunlight, natural ventilation and privacy.

b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

The proposed variation to the height development standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the Pagewood Green Development as it related to flooding.

c) to promote the orderly and economic use and development of land,

The proposed development and additional height has been designed to provide for the highest and best use of the land, which ensures the orderly and economic use and development of land.

The proposed height variation is consistent with the Desired Future Character, without adverse external impacts.

d) to promote the delivery and maintenance of affordable housing,

Not applicable. The proposed development has the opportunity to increase the supply and diversity of residential accommodation within the Pagewood Green Development.

e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

The additional height will have no impacts in respect of threats to native animals and plants, ecological communities and their habitats.

f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

The subject site contains no Aboriginal cultural heritage. The additional floor space will have no impacts in this respect.

g) to promote good design and amenity of the built environment,

The additional height proposed will ensure that buildings are being constructed above the flood level and still achieving the nominated freeboard level. The increase in height will provide a high level of safety and amenity for all residents and provides a margin of safety against unknown flood risk.

h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

The proposed buildings and additional height will be constructed to the required standards, including the Building Code of Australia, to ensure the protection of the health and safety of their occupants.

i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

The additional height will have no impacts on the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.

Clause 4.6(4)(a)(ii) – the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

From the case Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC1, the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. Further the case states that “It is the proposed development’s consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest”.

A response to each of the objectives of the height of building control in Clause 4.3 follows:

<i>Objectives</i>	<i>Proposed Development</i>
<i>(a) To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner.</i>	<i>Height responds to surrounding development and land uses. The subject site is not located in the vicinity of residential areas.</i>
<i>(b) To ensure the taller buildings are appropriately located.</i>	<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>
<i>(c) To ensure that building height is consistent with the desired future character of an area.</i>	<i>Consistent with the desired future character of the area as presented in Part 9D of the BBDCP 2013, the proposal provides new residential uses complemented by public open space and mixed use development across the wider Pagewood Green site.</i>

<i>(d) To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</i>	<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>
<i>(e) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.</i>	<i>The proposed development will make a positive contribution to the streetscape. Buildings have been designed to a high standard and comprise good quality materials and finishes.</i>

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.

It is viewed that there is a significant environmental justification in non-complying with the Stage 1 consent as the site is impacted by flooding and when the development application for the internal roads was approved, the design of the development and levels were not significantly taken into consideration thereby the level of the road was to differ from the level of the development. The additional height sought in this variation seeks to remedy this issue while still maintaining adequate floor to ceiling heights hence why the development has been raised as a whole and not just on the podium.

The height proposed is consistent with the winning design competition scheme which was endorsed in this application. The bulk and scale of the development is not considered to cause any unreasonable impact onto the immediate neighbours.

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 50,306sqm or 3.84:1. This is inconsistent with the maximum FSR of 3:1 (39,285sqm) under the BBLEP 2013 as the subject site has variable FSR across the height.

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

- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) That there are sufficient environmental planning grounds to justify contravening the development standard.*

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

“Proposed Variation

Pursuant to Clause 4.4 of the BBLEP 2013 and the accompanying FSR map a maximum FSR of 3:1 applies to the site.

The proposed development involves the construction of a mixed use development comprising a total GFA of 50,306sqm. Based on a site area of 13,095sqm this equates to a FSR of 3.84:1, as such the proposal is inconsistent with Clause 4.4 of the LEP. The potential to exceed the nominated LEP FSR control for the Pagewood Green site was thoroughly explored in the consideration of the Stage 1 masterplan proposal. As part of that assessment it was accepted that the site as is suitable for more intensive development than the LEP controls permit.

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 3.84:1

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 FSR development standard. The consistency of the proposed development with these objectives is set out in the table below:

Objectives	Proposed Development
(a) To establish standards for the maximum development density and intensity of land use.	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. The proposed FSR is entirely consistent with the Stage 1 masterplan consent.
(b) To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.	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.” The additional FSR proposed is a result of the transitional building height approach adopted by the Stage 1 masterplan. 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 UB5C.
(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.	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 and UB5E developments beyond which is the established Westfield Eastgardens shopping centre. The bulk and scale of the proposed UB5C development reflect

	<i>the character of more intensive development on that site when compared to lower density residential development on Heffron Road.</i>
<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>	<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>
<i>(e) To minimise adverse environmental effects on the use of enjoyment of adjoining properties and the public domain.</i>	<i>The subject site is distant from residential properties. The proposal will not result in adverse impacts on any residential property.</i>
<i>(f) To provide an appropriate correlation between the size of a site and the extent of any development on that site.</i>	<i>The 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>
<i>(g) To facilitate development that contributes to the economic growth of Botany Bay.</i>	<i>The proposed development will directly contribute to the economic growth of the Pagewood locality and wider Bayside LGA through the investment of \$155 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.</i>

Officer's Comments:

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

The proposed FSR is consistent with Condition No. 12 of the Stage 1 consent which outlined the maximum FSR for UB5C as 3.84:1. 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 similar to 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 (164 req) 2 space / 2/3 bedroom (702 req.) Sub-total = 866 1 visitor space /5= (103 req.) <u>Retail</u> <ul style="list-style-type: none"> 1 space per 25sqm (47 req.) <u>Total spaces</u> 1,016 car spaces Note: No requirement for car wash bays	<u>Residential</u> <ul style="list-style-type: none"> 787 spaces for apartments 53 visitor spaces 2 car share spaces <u>Retail</u> <ul style="list-style-type: none"> 20 spaces 2 service vehicle space 1 car wash bay Total car spaces: 865 car spaces	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 on the ground level car parking area close to the car park entry along the western side of the site. All vehicle access will be carried out from a single driveway that connects off Finch Drive which is constructed under DA-14/159. Pedestrian access is easily identifiable and pedestrian entrances and exits are	Yes

Control	Proposed	Complies (yes/no)
	<p>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 the ground floor car parking area.</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 18 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>	
<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 the ground floor car parking level. 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</p> <p>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: 101 (1,016 car spaces required by DCP)</p>	<p>The plans demonstrate approximately 61 bicycle parking spaces. While the proposal is inconsistent with the 10% requirement under the DCP, it is consistent with 10% of the proposed units therefore this is acceptable and supported.</p>	Acceptable

Control	Proposed	Complies (yes/no)
3A.3.3 Traffic and Transport Plans and Report C1 A traffic and parking impact assessment report shall be provided for development listed in Schedule 3 of the Infrastructure SEPP 2007.	A traffic and transport report and swept/turning path report prepared by ARUP was provided with the development application.	Yes
3A.3.4 On-site loading and unloading facilities C2 The number of service bays for residential flat buildings with greater than 200 units is: <ul style="list-style-type: none"> • 4 service bays; plus • 1 service bay for MRV or larger per 100 dwellings Total required: 6 service bays	The development proposes one service bay to accommodate an MRV vehicle. One service bay for an SRV has been provided as well.	No – Refer to Note 10
3G.2 Stormwater Management		
C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	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.	Yes
3H Sustainable Design		
C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate No. 886467M prepared by Efficient Living Pty Ltd and dated 20 December 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

Control	Proposed	Complies (yes/no)
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, private 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 9 – 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
- 2 courier vans, 1 SRV space and 1 MRV space for development that has a retail space between 1,000sqm and 1,499sqm.

The development generates a total of 14 service bays. The proposal provides 1 service bay for a MRV vehicle and 1 service bay for a courier vehicle. This is a shortfall of 12 service bays. The applicant's traffic report provides the following justification for the non-compliance:

"For loading facilities, the Part 3A: Car parking BBDCP states the minimum rates for loading as:

- *4 service bays for first 200 units; plus 1 service bay (for MRV or larger) per additional 100 dwellings/units (note that 50% of total number of service bays shall be designed for MRV or larger)*
- *2 courier vans, 1 Small Rigid Vehicle (SRV) and 1 Medium Rigid Vehicle (MRV) loading space for retail (i.e. for retail between 1,000-1,499m² GFA)*

Given these rates, it is interpreted that a total of four (4) MRV spaces, one (1) SRV space and five (5) courier spaces are required for the development. However, the

RTA Guide to Traffic Generating Development (Section 5.4.3) 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 larger loading purposes, one (1) SRV space for retail loading and shared visitor/service vehicle spaces. It is fairly common for developments to share loading requirements as delivery times of use are unlikely to overlap. This is a common approach in larger CBD developments. A loading dock management plan can be considered to ensure loading movements are appropriately catered for."

The RTA Guidelines for Traffic Generating Development requires one loading dock for residential use. The shortfall in service bays to cater for MRVs and couriers is accepted in this case. The service bay for the MRV is located in an appropriate location right next to the retail spaces for easy access to this area and directly adjoining to the waste collection area for garbage collection. The frequency of deliveries to the site can be negotiated with building managers to allow times when trucks can load for retail.

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 height. The streetscape presentation is compatible with the desired future character for UB5C. The southern side of Westfield Drive is a shopping centre and there is no surrounding low density development that will be directly impacted by the development.	Yes
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.	No- Acceptable as it is consistent with Stage 1 and winning design

Control	Proposed	Complies
	(ii) The building facades are modulated and articulated with balconies, courtyards, and building indentations for the entrances and the towers above.	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 13,095sqm: Soft landscaping: 4,688sqm (35.8%) Deep soil: 2,192sqm (17%)	Yes
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"> Level 6 – 2,636sqm. This open area is located on top of the podium and is in the centre of the site and will be the principal area of open space for residents of the development; Level 18 – 696sqm. This open area is located on Level 18 and is accessible from the southern towers. The space contains landscaped area and seating; Swimming pool and gym – 414sqm. This area is located on Level 5 along the northern side of the car parking area. The primary communal open space area at the podium exceeds the minimum required amount of solar access during mid-winter.	Yes
4C.2.6 Setbacks		
C2 All front, side and rear setbacks are to provide deep soil	Due to the basement, deep soil is provided along all boundaries	Yes

Control	Proposed	Complies
zones to allow unencumbered planting areas.	however the greatest setback is along the southern side of the site. This will allow for appropriate large tree planting. Appropriate setbacks are proposed on all four boundaries.	
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 controls for Family Apartments.	The proposal provides the following: 1 bed – 32% 2 bed – 53% 3 bed – 15% The number of 1 bedroom apartments does exceed 25% however this is generally consistent with the Stage 1 consent. Modifications to the Stage 1 consent are discussed in the report above. For a response to the family friendly controls, please refer to below.	Generally consistent – refer to Note 4 above No - Refer to Note 10
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	Most 3 bedroom apartments do not have 2 separate living spaces.	No - Refer to Note 10

Control	Proposed	Complies
height of the walls enclosing the study are to be a maximum of 1500mm		
C2 Studies not to be enclosed with a door	Separate studies all include doors.	No - Refer to Note 10
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 11
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 is to be large enough to allow for parental supervision	All 2 and 3 bedroom apartments include two bathrooms with one easily accessible off the primary corridor. At least one bathroom in all apartments includes a bathtub.	Yes
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	Conditioned

Control	Proposed	Complies
	comply with the minimum amount within the unit however this has been conditioned to comply.	
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 two/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. (103 req.)	17 adaptable apartments have been provided. This does not comply with the rates within the DCP or the Stage 1 consent therefore a condition of consent requires an additional 2 adaptable units to be provided.	No – Refer to Note 5 above
<u>Accessible Parking</u> In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings.	18 accessible parking spaces have been provided within the development.	Yes
4C.5.2 Access		

Control	Proposed	Complies
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 10 – 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 77 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 112-117sqm, all of which are between 17sqm to 22sqm in excess of the minimum requirement of 95sqm (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.

Note 11 – 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 – 212 apartments of the 515 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 3 to 25sqm. Additionally, all of the 3 bedroom apartments exceed the ADG minimum apartment size by 17sqm to 22sqm. 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.

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 UB5C 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 mixed use 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 24 January 2018 to 13 February 2018. Forty-Three (43) submissions with the majority of them being pro-forma letters were received and the key issues raised in the objections are as follows:

- *Density of the site*

Objectors Comment: Concerns are raised that there will be six (6) x twenty-one storey towers on the site and the density that results from 515 apartments.

Council's Comment: The development does provide 515 apartments however the towers are staggered so that they are not all at 21 storeys in height. The proposal provides for a five storey podium with two towers eight storeys above podium, two towers with 12 storeys above podium and two towers with 16 storeys above podium. The density of the site was approved under the Stage 1 consent and subsequent modifications therefore it was anticipated that the height and density would be

provided on each individual site. The density and the impact of the buildings onto surrounding development have been taken into consideration in the report above.

- *Lack of funding to local infrastructure*

Objectors Comment: Concerns are raised that there is no improvements or funding to the local infrastructure as a result of the development. There are no increase in the number of public transport services to the area.

Council's Comment: In regard to improvements to the road network, the developer has carried out works to the surrounding street network to allow the proper flow of traffic to be considered. This has been carried out through new slip lane on the intersection of Heffron and Bunnerong Road and new traffic lights on the intersection of Heffron and Banks Avenue. In regards to the increase in public transport services, that falls outside the scope of Council jurisdiction and is related to State Government services.

- *Inconsistency with the desired future character of the site*

Objectors Comment: Concerns are raised that the development is not consistent with the desired future character that is established under the BBLEP 2013 and Part 9D of the BBDCP 2013.

Council's Comment: The desired future character as stated within Part 9D of the BBDCP 2013 has been overruled by the Stage 1 consent that was approved by the Land and Environment Court which set out controls which related to the how the sites would be dictated in regard to the density. The FSR and height controls, while inconsistent with the zoning and the maps within the BBLEP 2013, are generally consistent with the Stage 1 consent, with slight variation to the height due to flooding levels. The Stage 1 consent sets the desired character for the BATA development.

- *Lack of public transport to the site*

Objectors Comment: Concerns are raised in regard to the lack of public transport that is servicing the site.

Council's Comment: The amount of public transport that services the site is out of the scope of assessment of the current application. Public transportation and the local traffic/road network was considered originally as part of the Stage 1 consent.

- *Building defects from the subject developer*

Objectors Comment: Concerns are raised regarding to the quality of the development and defects that have been found on developments elsewhere that have been built by this developer.

Councils Comment: This falls outside the scope of assessment for this development application.

- *Inconsistency with the Stage 1 Consent*

Objectors Comment: Concerns were raised by Randwick Council on the development application being lodged prior to determination of the modifications for the Stage 1 consent (DA-14/96/02 and DA-14/96/07).

Council's Comment: The proposal was put on hold until the Stage 1 consent was determined as an approval. The proposal is generally consistent with the Stage 1 consent with the exception of Notes 1-5 as stated in the report above. This is provided in greater detail in the report.

(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	26 March 2018	The conditions have been included in the Schedule of Consent Conditions.
NSW Police	6 February 2018	No objections. Advisory Conditions have been provided.
RMS	21 February 2018	No objections subject to conditions included in the Schedule of Consent Conditions.
Internal Referrals		
Landscape Architect	26 October 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	31 October 2018	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	6 November 2018	Conditions have been incorporated into the Schedule of Consent Conditions.

Section 7.11 Contributions (formerly s.94)

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

164 x 1 bedroom units @\$20,000.00 each = \$3,280,000.00

274 x 2 bedroom units @\$20,000.00 each = \$5,480,000.00

77x 3 bedroom units @\$20,000.00 each = \$1,540,000.00

Total contributions = **\$10,300,000.00**

The following breakdown of contributions is as follows:

a) Community Facilities \$824,000.00

b)	Recreation Facilities	\$8,652,000.00
c)	Transport Management	\$721,000.00
d)	Administration	\$103,000.00

The applicant has sought to stage the payment of the Section 7.11 Contributions to the relevant construction certificates for the podium and towers. The Contribution plan states that deferred payment will not be accepted by Council unless Council provides consent in special situations. This has been reviewed by Council and the staging of contributions is not granted.

Additionally the applicant has sought a credit on the workers on the site that when calculating the retail contributions associated with the development. As the site falls outside one of the special precincts within the contribution plan, employment contributions do not apply therefore a credit cannot be calculated.

CONCLUSION

The proposal as amended is generally consistent with the amended Stage 1 consent restricting the envelopes of the urban blocks. The unit mix, adaptable units, car parking allocation and building separation changes to the Stage 1 consent has been detailed as above. The proposed FSR comply with Condition Nos. 12 of the consent however do not comply with the BBLEP 2013 FSR requirements. The proposal seeks to vary the Stage 1 consent for the building height under Condition No. 15 as the development considers road/flood levels. The applicant has submitted a Clause 4.6 variation to justify both standards and these have been accepted.

The non-compliance with the building separation has been well founded particularly as appropriate visual privacy mechanisms have been proposed to prevent any direct overlooking into the neighbouring and subject units. The non-compliance in the loading and unloading of the site is accepted as the development provides loading bays in close proximity to the retail that could be serviced by the residential as well. Compliance with the full requirement of MRV loading spaces may create conflict within the car parking levels and within the predominantly residential nature of the entire site. Issues relating to unit layout and family friendly apartments have been resolved by conditions in the consent.

The application was the subject of forty-three (43) submissions which generally raised concerns relating to the density of the development, lack of funding to local infrastructure, not consistent with the desired future character of the site, lack of public transport to the site, building defects from the subject developer and non-compliances with the Stage 1 consent. 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 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

SCHEDULE OF CONSENT CONDITIONS

Premises: 130-150 Bunnerong Road Eastgardens

DA-2018/1003

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-01-0200 Rev A- Site Plan	PTW Architects	Dated 22 December 2017; Received 11 January 2018
DA-05-0010 Rev A- Site Analysis Plan		Dated 22 December 2017; Received 11 January 2018
DA-09-100 Rev A- Basement Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1100 Rev C- Level 01 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1200 Rev B- Level 02 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1300 Rev C- Level 03 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1400 Rev C- Level 04 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1500 Rev C- Level 05 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1600 Rev C- Level 06 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-1700 Rev C- Level 07-12 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-2300 Rev B- Level 13 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-2400 Rev B- Level 14 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-2500 Rev B- Level 15-17 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-2800 Rev B- Level 18-20 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-3100 Rev B- Level 21 Plan		Dated 12 September 2018; Received 28 September 2018
DA-09-3200 Rev B- Level 22 Plan		Dated 12 November 2018; Received 15 November 2018
DA-09-3300 Rev B- Level 23 Plan		Dated 12 November 2018; Received 15 November 2018
DA-20-0100 Rev C- Building Elevation- North		Dated 12 November 2018; Received 15 November 2018

DA-20-0200 Rev C- Building Elevation- South	PTW Architects	Dated 12 November 2018; Received 15 November 2018
DA-20-0300 Rev C- Building Elevation- East		Dated 12 November 2018; Received 15 November 2018
DA-20-0400 Rev C- Building Elevation- West		Dated 12 November 2018; Received 15 November 2018
DA-30-0100 Rev B- Section- North Internal		Dated 12 November 2018; Received 15 November 2018
DA-30-0200 Rev B- Section- South Internal		Dated 12 November 2018; Received 15 November 2018
DA-30-0300 Rev B- Section- West Internal		Dated 12 November 2018; Received 15 November 2018
DA-42-0500 Rev A- External Finishes- Material Board		Dated 22 December 2017; Received 11 January 2018
DA-91-0100 Rev B- GFA Diagrams Level 00-09- Sheet 1		Dated 12 September 2018; Received 28 September 2018
DA-91-0110 Rev B- GFA Diagrams Level 10-21- Sheet 2		Dated 12 September 2018; Received 28 September 2018
DA-50-0100 Rev A- Façade Materials- Tower Facades- Sheet 1		Dated 22 December 2017; Received 11 January 2018
DA-50-0200 Rev A- Façade Materials- Tower Facades- Sheet 2		Dated 22 December 2017; Received 11 January 2018
DA-50-0300 Rev A- Façade Materials- Tower Facades- Sheet 3		Dated 22 December 2017; Received 11 January 2018
DA-50-0400 Rev A- Façade Materials- Podium Facades- Sheet 4		Dated 22 December 2017; Received 11 January 2018
DA-50-0500 Rev A- Façade Materials- Car park Screen- Sheet 5		Dated 22 December 2017; Received 11 January 2018
DA-70-0100 Rev A- Adaptable Apartments		Dated 22 December 2017; Received 11 January 2018
DA-95-0300 Rev A- Landscape Plan- Streetscape + Public Domain		Dated 22 December 2017; Received 11 January 2018
DA-95-0400 Rev B- Communal Open Space		Dated 12 September 2018; Received 28 September 2018
DA-90-1310 Rev A- Level 03 Privacy Screen Plan		Dated 12 September 2018; Received 28 September 2018
DA-50-1200 Rev A- Carpark Ramp Plan and Section		Dated 12 September 2018; Received 28 September 2018
SK-30-001- Rev A- Sections Architectural Frame Sections	-	Dated 12 November 2018; Received 13 November 2018

Reference Document(s)	Author	Dated / Received by Council
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Landscape Report	Urbis	Dated 10 September 2018; Received 28 September 2018
DA Access Report	Wall to Wall Design and Consulting	Dated 9 January 2018; Received 11 January 2018
Acoustic Report	Acoustic Logic	Dated 8 December 2017; Received 11 January 2018
Arboricultural Impact	Jacksons Nature Works	Dated 18 December 2017; Received 11 January 2018
Thermal Comfort and BAIX Assessment Rev A	Efficient Living	Dated 20 December 2017; Received 11 January 2018
Section J Report	Efficient Living	Dated 20 December 2017; Received 11 January 2018
Construction Management Plan	Karimbla Constructions Services (NSW) Pty Limited	Dated 18 December 2017; Received 11 January 2018
Updated Remediation Action Plan	Douglas Partners	Dated September 2013; Received 11 January 2018
SEPP 55 letter	Consulting Earth Scientists	Dated 10 April 2014; Received 11 January 2018
Site Audit Report and Site Audit Statement	AECOM	Dated 31 March 2014; Received 11 January 2018
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 4 January 2018; Received 11 January 2018
Geotechnical Investigation Report	Coffey	Dated 5 February 2016; Received 11 January 2018
UB5C- Reflectivity Assessment	SLR	Dated 9 January 2018; Received 11 January 2018
Waste Management Plan	Elephants Foot recycling solutions	Received 11 January 2018
UB5C Qualitative Wind Assessment	SLR	Dated 9 January 2018; Received 11 January 2018
DCP Assessment Table	-	Received 11 January 2018
Stage 1 Masterplan Consent Compliance Table	-	Received 11 January 2018
Acid Sulfate Soils Management Plan	Consulting Earth Scientists	Dated 21 January 2016; Received 11 January 2018
BCA Report	AED Group	Dated 22 December 2017; Received 11 January 2018
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 13 November 2018; Received 15 November 2018
Amended Traffic Report	ARUP	Dated 27 September 2018; Received 28 September 2018
Storage Plan	-	Received 28 September 2018
Traffic Analysis Report	Kone	Dated 13 July 2018; Received 28 September 2018
Civil DA Report	At&I	Dated 22 January 2018; Received 28 September 2018
Response to RFI Letter	Karimbla Constructions Services (NSW) Pty Limited	Dated 28 September 2018; Received 28 September 2018
Clause 4.6 Variation	-	Received 15 November 2018

- 2 This Consent relates to land in Lot 22 in DP 1242288 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
 - 3 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
 - 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
 - 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
 - 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
 - (a) Note:

Relevant BASIX Certificate means:

 - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 7
- a) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993

- b) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- c) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- d) Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.

8

- a) All telecommunications and utility services are to be placed underground along the Street frontages within the site. 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.
- b) 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.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

9 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 Westfield Drive. 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
- 10 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.
- 11 The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:
- (a) All buildings and structures, together with any improvements integral to the future use of the site shall be wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
 - (b) 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.
 - (c) 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.
 - (d) 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. A ROL can be obtained through <http://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

- (e) 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:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works: Ph: 88492114 or Fax: 8849 2766.

- (f) 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.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124
Telephone 8849 2114
Fax 8849 2766

If it necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (g) The road upgrade works required to support the development must be completed in accordance with the conditions of consent for the Master Plan (and subsequent modifications), and must reach practical completion, under the Works Authorisation Deed (WAD) with Roads and Maritime in relation to the road upgrade works, as evidenced by a practical completion certificate issued by Roads and Maritime under the WAD, prior to the issues of an Occupation Certificate to UB5C.
- (h) 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

Sydney Waters' servicing investigation shows that the trunk drinking water system has adequate capacity to service the proposed development.

(b) Wastewater

- i. Sydney Waters' servicing investigation shows that the trunk wastewater system has adequate capacity to service the proposed development.
- ii. If the developer is extending the wastewater network, they will need to design an extension in keeping with the Sewerage Code requirements. The limit of gravity servicing is estimated at a level of approximately 17 metres, meaning development below this level (e.g. basements) cannot be connected to the system by gravity.

(c) Group Property

Where proposed works are in close proximity to Sydney Water land or easements, the developer may be required to carry out additional works to facilitate their development in order to not encroach within the Sydney Water land parcel or easement. Proposed subdivision DP 1236250 shows multiple lots being affected by wastewater mains and disused assets which will require a release of easements in future. Lot 2 in DP 1187426 is burdened by the following:

- i. Easement for Water Supply Purposes 3 Wide
- ii. Easement for Access and Drainage Variable Width
- iii. Positive Covenant
- iv. Easement for Stormwater Drainage Purposes 7.5 Wide

These easements are not to be built over or encroached in without the consent of Sydney Water. If there is a requirement to construct a new main or deviate an existing main to get a Section 73 Certificate and the mains are not in a dedicated public road or pathway, the developer will have to pay to create or release an easement in favour of Sydney Water.

The developer will not be given a Section 73 Certificate until:

- a) The main(s) have been constructed;
- b) You have paid to have a survey and the survey has been completed, before the trenches are backfilled, to define the centreline of each water main
- c) All plans and documents relating to easements have been approved by Sydney Water
- d) You have paid our related costs
- e) You have paid the property security we require for easements until registered.

This advice is not a formal approval of our servicing requirements. Formal requirements for servicing the development will be determined as part of the Section 73 application. More information about the Section 73 application

process is available on Sydney Waters' web page in the Land Development Manual.

(d) Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is urbangrowth@sydneywater.com.au.

(e) 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.

(f) 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 survey 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 A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.
- Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.
- Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.
- 16 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.

- 17 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.
- 18 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 19 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.
- 20 Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities
- 21 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.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority 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.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

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

22 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

(a)	Development Control	\$13,583.00
(b)	Section 7.11 Contributions (s.94)	\$10,300,000.00 (See below)
(c)	Long Service Levy	See below

(d) Tree Preservation Bond \$4,450.00 (See below)

23 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of **\$10,300,000.00** in accordance with Council's Section 7.11 Contributions Plan 2016 which is broken down as follows:

e)	Community Facilities	\$824,000.00
f)	Recreation Facilities	\$8,652,000.00
g)	Transport Management	\$721,000.00
h)	Administration	\$103,000.00

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.

24 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.

25 Prior to the issue of the relevant Construction Certificate, revised plans are to be provided to the principal certifying authority to be approved as follows:

- (a) Amended car parking level to demonstrate 47 retail car parking spaces to comply with the Stage 1 consent requirement;
- (b) An additional two apartments are to be converted to adaptable apartments to result in a total of nineteen (19);
- (c) A loading dock management plan of the ground floor loading dock is to be prepared demonstrating the management of the loading dock during operations. This is to be provided to the Council and the Principal Certifying Authority prior to the issue of the Occupation Certificate;
- (d) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean;
- (e) The location mailboxes within the lobby of each building is to be identified on the amended plans. The mailroom within the basement is not supported;
- (f) Study nooks are to be provided to two and three bedroom units that do not have a separate study and are not be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
- (g) Include gas (where available) and water tap connections to each balcony;
- (h) The courtyards on the ground floor apartments along the eastern and western elevations are to be setback a further 500mm so that they are encompassed within the 4 metres setback zone; and
- (i) Windows within the corridors and hallways are to be operable and comply with the requirements of the BCA.

- 26 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.
- 27 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.

- 28 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.

- 29 Prior to the issue of the relevant Construction Certificate, access in accordance with the relevant Australian Standards and compliance with Part 3C of the Botany Bay Development Control Plan 2013 must be provided. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of the relevant Australian Standards.

Note: Compliance with Botany Development Control Plan Part 3C – Access and Mobility and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

- 30 Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM 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. Sydney Water's Tap inTM online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
- 31 Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
- 32 Prior to the issue of the relevant Construction Certificate, a dedicated car wash bay with associated tap and fixed sign stating 'Car Wash Bay' is required to be demonstrated/detailed in revised plans. The runoff shall be directed and treated as per Botany DCP Part 10 - Stormwater Management Technical Guidelines.

- 33 Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany DCP Part 10 – Stormwater Management Technical guidelines sets out the minimum documentation requirements for detailed design plans.
- 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 eighteen (18) 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.
- 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 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.
- 37 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.

- 38 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.
- 39 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.
- 40 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.
- 41 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.

- 42 Prior to the issue of the relevant 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.

- 43 The applicant is to submit payment of a Tree Preservation Bond of \$4,450.00 to ensure protection of the seven (7) trees listed in the arborist report in Condition No. 1 above from damage during construction. The duration of the Bond shall be limited to a period of 12 months after the issue of the Occupation Certificate. At the completion of the Bond period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of retained trees by Council. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time during construction, then all or part thereof of the bond shall be forfeited.

- 44 Prior to the issue of the relevant Construction Certificate, the landscape areas shown on Urbis Landscape plans dated 19th September 2018, shall be the subject of detailed landscape construction level documentation (plans and specification) to be submitted to and approved by the Bayside Council's Landscape architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to:

- a) Seven (7) existing trees outside development work (Trees Number 13, 15, 16, 18 & 19, *Callistemon salignus*, tree 14 *Casuarina glauca* and tree 17 *Banksia integrifolia*) are to be retained and protected, as specified in the Arborist report prepared by Jacksons Nature Works, dated 18th December 2017, and shall be demonstrated on the landscape plan.

- b) Ground level Setbacks:

- i) The 12 meters southern setback area provided along Westfield Drive, is to be densely planted with a 3-tier of advanced trees, shrubs and groundcovers. To replace the eleven (11) *Corymbia citriodora* trees which are proposed to be removed, a minimum of eighteen (18) canopy trees of 200 Litres minimum container size each are to be planted. The provision of large canopy trees shall be maximised within this setback with the species of trees provided but not limited to the following: *Corymbia citriodora* (Lemon Scented Gum), *Eucalyptus microcorys* (Tallowood), *Eucalyptus saligna* (Sydney Blue Gum), *Angophora costata*, *Melaleuca quinquenervia* (Broad Leaved Paperbark), *Eucalyptus piperita* (Sydney Peppermint).

- ii) The 4 metre northern setback along Oscar place is to maximise the deep soil planting with advanced canopy trees. Planter beds shall be generous in space to allow groundcovers and feature plants below the proposed canopy trees. Design along this setback shall be integrated with Oscar Place (Civic Avenue) design, and all relevant elements of Oscar Place shall be included in the Construction Certificate Landscape Plan.
- iii) The 4 metre setback deep soil area along Finch Drive and Studio Drive shall be planted with a mix of canopy trees, and undercover planting. Paved areas shall be limited to access links.
- c) Flue pipes and carpark exhaust within the communal open space area on Level 06 must be screened to enhance its visual appearance within the open space and the outlook for residents. Turf open areas, circulation and access areas shall minimise the visibility of these service elements/structures.
- d) Landscape planting and vegetation shall not impede the views to the communal areas or public street and spaces, landscape design shall follow CPTED principle.
- e) 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.
- f) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape handworks/materials such as retaining walls and paving are to be provided.
- g) 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.
- h) Indicate the location of deep soil and all basement structures relative to the landscape areas on the landscape plan.
- i) Synthetic turf is not supported in non-shaded areas. 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.
- j) Planter boxes will be fully automatic irrigated. Construction details, sections and external finishes shall be provided demonstrating proposed irrigation treatment. Planter box depths and construction specifications to be in accordance with Apartment Design Guide, NSW Planning and Environment, July 2015.
- k) Maintenance schedule for all soft and hardscape works to cover a 12 months period and provide a guide on how to best maintain all proposed landscaped areas.
- l) Landscape plan shall include street planting, footpaths, paving, street tree pit treatments, tree guards and soft landscaping treatment. Street trees shall be supplied all at 400 litres on the following:
 - (i) Studio Drive (North-South Street N2) shall be planted with *Corymbia maculata* (Spotted Gum)

- (ii) Finch Drive (North-South Street N1) shall be planted with *Eucalyptus botryoides* (Bangalay)

45 Prior to the issue of the relevant Construction Certificate, a Public Domain frontage landscape plan and 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) Street trees shall be supplied all at 400 litres minimum, as follow:
 - i. Studio Drive (North-South Street N2) shall be planted with *Corymbia maculata* (Spotted Gum).
 - ii. Westfield Drive shall be planted in the private domain area.
 - iii. Finch Drive (North-South Street N1) shall be planted with *Eucalyptus botryoides*, (Bangalay)
 - iv. Trees shall be sourced from a reputable supplier that grows to NATSPEC.
 - v. A Dial-Before-You-Dig enquiry is required prior to all tree planting.
- b) 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.
- c) Tree guards shall be constructed for each tree with four (4) posts as per Bayside Council Specifications.
- d) All street verges will be treated with groundcovers, no turf unless approved by Council.
- e) 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.

46 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.

47 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.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 48 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.
- 49 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.
- 50 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 51 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.

- 52 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.
- 53 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.
- 54 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.

- 55 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.
- 56 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.
- 57 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.
- 58 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.
- 59 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.
- 60 Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

- 61 All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- a) preserve and protect the building from damage and
- b) underpin and support the building in an approved manner, if necessary and
- c) give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

- 62 All contractors shall comply with the following during all stages of demolition and construction:

- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.

- e) A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

63 The following conditions are necessary to ensure minimal impacts during construction:

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- d) Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i. spraying water in dry windy weather
 - ii. cover stockpiles
 - iii. fabric fences
- g) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the

whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- h) Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 64 The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Botany DCP Part 10 - Stormwater Management Technical Guidelines.

A silt/litter arrestor pit as detailed in Botany DCP Part 10 - Stormwater Management Technical Guidelines shall be provided prior to discharge of stormwater from the site.

- 65 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.
- 66 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.

- 67 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.
- 68 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.
- 69 Landscaping shall be installed in accordance with the approved Urbis landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan).

- 70 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.
- (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.

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

- 71 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.
- 72 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.
- 73 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*.
- 74 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.
- 75 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 76 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- (a) Minimum 729 residential spaces
 - (b) 53 residential visitor spaces
 - (c) 47 retail spaces
 - (d) 2 car share spaces within the site;

- (e) 1 car wash bay
 - (f) 2 service bay
- 77 Prior to the issue of the relevant Occupation Certificate, at least 61 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 78 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.
- 79 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.
- 80 Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 81 All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
- 82 Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times" prior to the issue of the relevant Occupation Certificate.
- 83 Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.
- It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- Application 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.
- 84 Prior to the issue of the relevant Occupation Certificate, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
- 85 Prior to the issue of the relevant Occupation Certificate, a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany DCP Part 10 – Stormwater

Management Technical guidelines. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

- 86 A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
- 87 The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
- 88 Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

- 89 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.
- 90 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.

- 91 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.
- 92 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.
- 93 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.
- 94 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.
- 95 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.
- 96 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
- 97 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- (a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.
- 98 The condition to be inserted under the heading of prior to Issue of the relevant 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.
- 99 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.

- 100 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.

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

- 101 The rooftop terraces are not to be enclosed as habitable space.
- 102 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.
- 103 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 104 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 105 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 52 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 106 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 107 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.
- 108 New street trees shall be maintained by the owner/strata management 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.

- 109 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.
- 110 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.
- 111 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.
- 112 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.
- 113 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.
- 114 The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
- 115 All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

- 116 Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the MRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the MRV are not permitted to enter the site.
- 117 The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- (a) permit stormwater to be temporarily detained by the system;
 - (b) keep the system clean and free of silt, rubbish and debris;
 - (c) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (d) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (e) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (g) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
- 118 The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system. The Registered Proprietor will:
- (a) permit stormwater to be temporarily detained and pumped by the system;
 - (b) keep the system clean and free of silt, rubbish and debris;
 - (c) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (d) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (e) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;

- (g) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

119 All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

The operation of the premises shall be conducted in a manner which does not pollute waters as defined by the Protection of the Environment Operations Act 1997.