

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2018SCL017
DA Number	DA-2017/1022/02
Local Government Area	Bayside Council
Proposed Development	Section 4.55(2) Application to modify Development Consent No. 2017/1022 to introduce rooftop terraces above the top floor apartments, internal reconfiguration to convert six (6) x 1-bedroom apartments to 2 bedroom apartments, removal of basement ramp to the south and changes to the childcare parking, access and open space at UB4
Street Address	130-150 Bunnerong Road Eastgardens
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	Three (3) submissions
Regional Development Criteria (Schedule 4A of the Act)	Section 4.55(2) Application to modify a consent determined by the Panel
List of All Relevant s4.15(1)(a) Matters (previously Section 79C)	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; ○ Botany Bay Local Environmental Plan 2013. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii); <ul style="list-style-type: none"> ○ Nil • List any relevant development control plan: s4.15(1)(a)(iii); <ul style="list-style-type: none"> ○ Botany Bay Development Control Plan 2013. • List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iiia); <ul style="list-style-type: none"> ○ Nil • List any coastal zone management plan: s4.15(1)(a)(v) <ul style="list-style-type: none"> ○ Nil • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288

	○ Nil
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural plans - Nettleton Tribe • Landscape Plan – Urbis • Wind Report – SLR • Cover Letter- Karimbla Construction Services (NSW) Pty Ltd
Report by	Angela Lazaridis – Senior Development Assessment Officer

RECOMMENDATION

It is RECOMMENDED that the Sydney Eastern City Planning Panel resolve pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. 2017/1022 at Urban Block 4 at 130-150 Bunnerong Road Eastgardens, as indicated within the updated Schedule of Conditions and for the following reasons:

- a) The non-compliances with the Stage 1 consent will not create any adverse material impact on the approved development and surrounding properties.
- b) There is no overall loss of landscaped area on the site.
- c) The proposed modifications is substantially the same development as that originally approved.
- d) The proposed modification will not alter the built form or character of the development and is carried out in an orderly manner.

EXECUTIVE SUMMARY

Development Application No. 2017/1022 was approved by the SECPP on 5 October 2017 for the integrated development application for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development was approved with 167 apartments and a child care centre.

On 17 January 2018, the applicant lodged the subject Section 4.55(2) Application to modify the approved development to introduce rooftop terraces above the top floor apartments, internal reconfiguration to convert six (6) x 1-bedroom apartments to 2 bedroom apartments, removal of basement ramp to the south and changes to the childcare parking, access and open space at UB4.

The application was placed on public exhibition and was advertised under the *Environmental Planning and Assessment Regulation* for a fourteen (14) day period from 14 February to 28 February 2018. Three (3) submissions were received and the issues have been addressed in the report below.

Key points that are discussed relate to the height of the proposed pergolas/stair core on the rooftop level and their compliance with the Stage 1 consent heights as well as unit mix, unit sizes and POS associated within the Stage 1 consent and landscaped area changes under Part 4C of the BBDCP. The height of the pergolas and stair core is similar to the maximum height of the plant rooms approved in the original development application. The balustrading

proposed is 1.395 metres in height and is in accordance with the wind report and is located only around the terraces and not the edge of the buildings.

The reconfiguration of the units from one bedroom to two bedroom will amend the approved unit mix of 23% one bedroom units to the proposed 20% one bedroom units. The proposal is consistent with the Stage 1 consent which was previously approved from a departure from the control. In regards to the unit sizes, a number of the two bedroom units will be reduced in size from 86sqm to 82sqm which falls below the Stage 1 requirement of 85sqm. Justification relating to this issue is discussed in Modification 2 discussion in the report below.

The application does not significantly alter the approved building. The modification is considered to be substantially the same development is not considered to create any likely impacts to the surrounding development.

The Section 4.55(2) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

BACKGROUND

Stage 1 – Master Plan (DA-14/96)

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

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

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

The key details of the approved Masterplan are as follows:

- The applicant must enter into a Planning Agreement including the following:
 - Central Park embellished and dedicated to Council,
 - Roads within the site constructed, embellished and dedicated to Council,

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

The VPA has been entered into and currently the applicant seeks an amendment to it. It is noted that Part 9D of the 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.

Subject Urban Block

The subject site forms one of seven urban blocks within the site. The overall Stage 1 Masterplan 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. UB4 is Lot 4 on the approved subdivision plan and has an area of 7,733sqm as approved in DA-14/96/03. The lot is generally rectangular in shape with a frontage to Bunnerong Road of 88.325 metres and 91.465 metres to Civic Avenue to the south. The lot includes the private access way on the southern side which adjoins the approved North-South Street 2.



Figure 1. Approved subdivision plan (DA-15/104) with UB4 outlined in red



Figure 2. Approved location of UB4 on the subject site

APPROVED DEVELOPMENT

The proposed development is carried out on UB4 which the Panel approved on 5 October 2017 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development was approved with 167 apartments and a child care centre and includes landscaping across the site. The proposal approved shared basement with UB5E and vehicular access provided at UB5E located to the south. A total GFA of 18,225sqm (FSR of 2.3:1) was approved when the site had a site area of 7,915sqm. The approval of DA-14/96/03, which allowed for a minor boundary adjustment across the whole site, amended the site area of UB4 from 7,915sqm to 7,733sqm. Therefore the FSR for the site is 2.36:1. A total height of 28.8 metres (RL50.8m) to the plant rooms was approved. The proposal included tree removal and landscaping across the site.

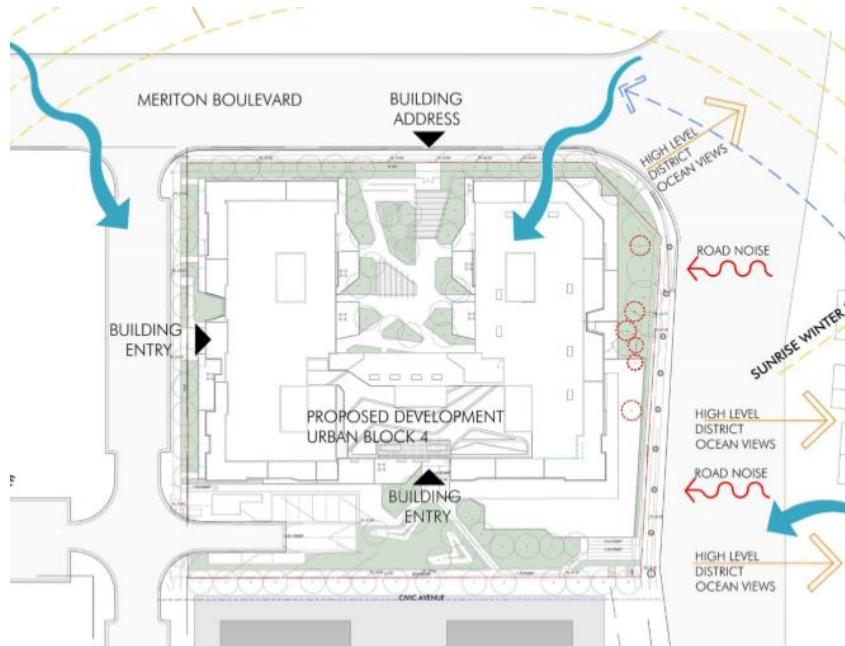


Figure 3. Approved Site Analysis Plan

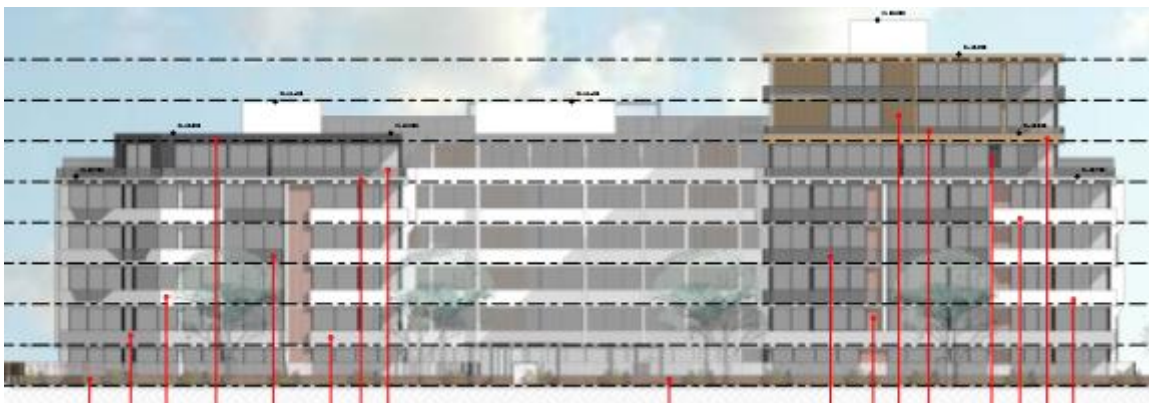


Figure 4. Approved Northern Elevation



Figure 5. Approved Southern Elevation



Figure 6. Approved Western Elevation



Figure 7. Approved Eastern Elevation

RELATED MODIFICATIONS

One previous Section 4.56 Application to the Stage 1 consent has been considered by Council under delegation. Details relating to the modifications is as follows:

- DA-14/96/03- Section 4.56 Application to modify Development Consent No. 14/96. This modification is for a minor boundary realignment of the lots. Provision for stratum subdivision to allow shared parking access between Urban Block 4. This was approved on 23 November 2017. The change allowed the site area of Urban Block 4 to be amended from 7,915sqm to 7,733sqm.

DESCRIPTION OF PROPOSED MODIFICATIONS

The proposed development in its amended form seeks consent to introduce rooftop terraces above the top floor apartments, internal reconfiguration to convert six (6) x 1-bedroom apartments to 2 bedroom apartments, removal of external ramp to the south of the site and changes to the childcare parking, access and open space. Description of the proposed modifications is provided as follows:

- Installation of six (6) private rooftop terraces on top of Level 7 of the western building and associated with units A-701, A-702, A-705, A707, A-708 and A-709. Each terrace contains

light weight pergola structures, outdoor BBQs, landscaped area all surrounded by 1.395 metre high balustrading;

- Internal reconfiguration of these units to accommodate stairs up to the terrace has been proposed;
- Six (6) units are to be converted from one bedroom plus studio to two-bedroom units. The units that are being converted are Unit A-G11, B-G03, A-705, A-G26, A-G39 and A-605.

Ground Floor Plan:

- Approved staircase up from the basement car park to ground level on the south-western side of the site external to the buildings has been removed and replaced by a ramp.
- Ramping adjacent to the external childcare car parking has been removed.
- Turning head located at the end of the childcare car parking area has been modified, the approved turning bay has been removed and the eight car parking spaces have been reconfigured. Landscaping has been reduced by 41sqm from the reconfiguration.
- Slight reconfiguration of the outdoor childcare play area to increase its size from 546sqm to 593sqm.
- Door to the internal area of the childcare centre has been relocated.
- The kiosk and substation approved on the south-western corner of the site has been increased in size.
- Minor external stair changes to units A-G05, A-G06 and A-G07.
- Western lobby has been modified to delete the mail boxes, slight modification to the reception area and ramping outside the lobby.
- Unit A-G10 has reduced in unit size from 125sqm to 112sqm (decrease of 13sqm).
- Unit A-G11 has increased in unit size from 83sqm to 94sqm (increase of 11sqm).
- Unit B-G05 has reduced in unit size from 126sqm to 113sqm (decrease of 13sqm).
- Unit B-G03 has increased in unit size from 83sqm to 94sqm (increase of 11sqm).

Levels 1-4 Plan:

- The A/C Room on each level has increase in size on the western building.

Level 5 Plan:

- Unit A-G26 has reduced in unit size from 86sqm to 82sqm (decrease in 4sqm).
- Unit A-G39 has reduced in unit size from 86sqm to 82sqm (decrease in 4sqm).

Level 6 Plan:

- Unit A-602 has increased in unit size from 120sqm to 130sqm (increase of 10sqm). The balcony has reduced from 26sqm to 18sqm and the northern elevation of the bedroom has been modified from facebrick wall to glass.
- Unit A-605 has reduced in unit size from 86sqm to 82sqm (decrease in 4sqm). The balcony has reduced from 15sqm to 13sqm.
- Plant room has been removed from the rooftop near the landscaped area.

Level 7 Plan:

- Unit A-701 has reduced in unit size from 113sqm to 108sqm (decrease of 5sqm).
- Unit A-702 has reduced in unit size from 120sqm to 119sqm (decrease of 1sqm). Balcony size has been reduced from 27sqm to 22sqm.
- Unit A-703 has been reduced in unit size from 90sqm to 88sqm (decrease of 2sqm). The balcony size has increased from 15sqm to 16sqm.

- Unit A-705 has reduced in unit size from 86sqm to 82sqm (decrease of 4sqm). The balcony has reduced in size 15sqm to 13sqm.
- Unit A-708 has reduced in unit size from 86sqm to 83sqm (decrease of 3sqm).
- Unit A-709 has increased in unit size from 84sqm to 92sqm (increase of 8sqm). The balcony has been reduced from 13sqm to 12sqm.
- All units within Level 7 has been reconfigured internally.

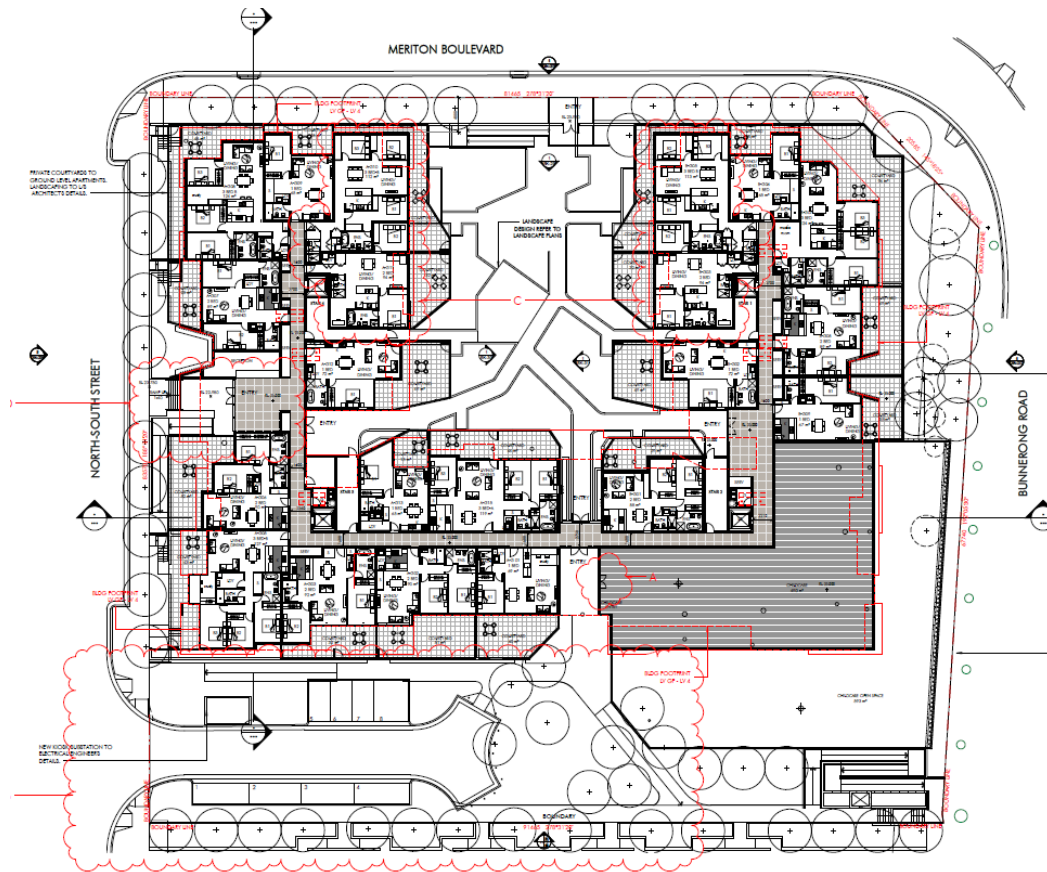


Figure 8. Proposed modifications to the ground floor plan

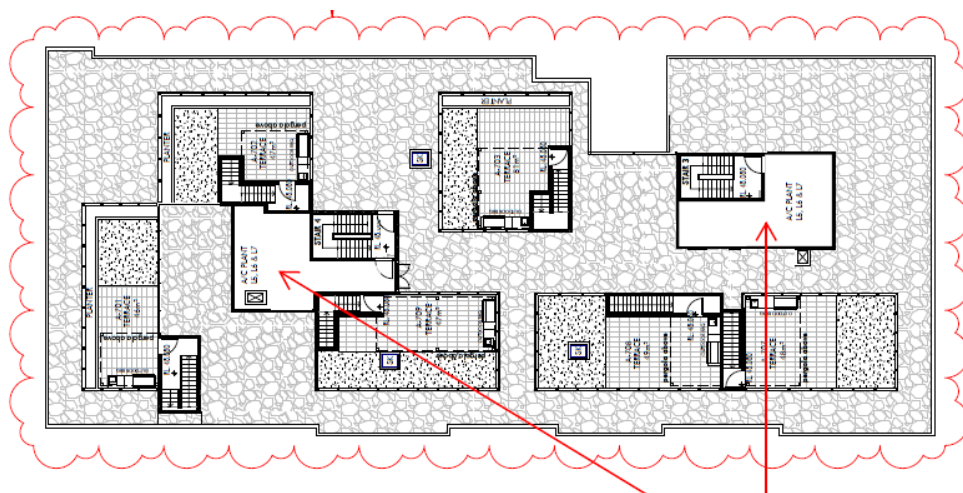


Figure 9. Proposed rooftop terraces on the top of Level 7



Figure 10. Proposed Northern Elevation



Figure 11. Proposed Southern Elevation

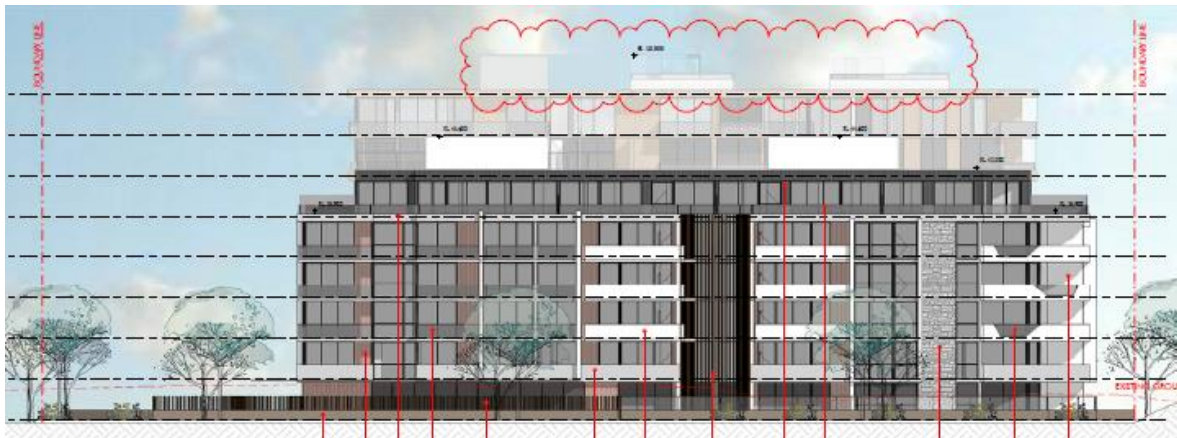


Figure 12. Proposed Eastern Elevation



Figure 13. Proposed Western Elevation

ASSESSMENT OF PROPOSED MODIFICATIONS

An assessment of the modifications is as follows:

Modification No. 1 – Construction of private rooftop terraces and associated structures

The proposed terraces will number six and will be located on the rooftop of Level 7 on the western building. Access to the terraces is provided by internal stairs from the units below. To accommodate the stairs within each unit, the units have been reconfigured. The size of the rooftop terraces is acceptable and are located away from the edges of the building therefore the impact and visibility from the street will be negligible. The terraces propose light weight pergolas which provide shading and will adopt a height like that which was approved to the plant rooms. These pergolas will also not be visible from the streetscape. Additionally, the proposed terraces will provide landscaped areas in the form of planter beds proposed at a 500mm width around the outer edges of the terraces and having an area of approximately 7.7sqm.

Further to the changes to the rooftop terraces, consideration of wind mitigation was required to be assessed. The applicant provided an amended wind report which provided acceptable mitigation for these rooftop areas. The report was amended to reduce the balustrading to 1.395 metres so that the area is not included as GFA. The application was referred to SACL who had no objection as the pergolas would have the same height to the approved plant rooms therefore their conditions have not changed.

The Stage 1 Masterplan concept (DA-14/96) limited the development to the massing, modulation, overall siting and setbacks, maximum buildings, maximum GFA, uses, maximum FSR, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers and minimum car parking provisions. The approved FSR for UB4 is 2.3:1 (as required in Table 4, Condition No. 12) and as amended as part of DA-14/96/03 which approved an FSR of 2.36:1 and the heights approved as part of DA-2017/1022 as stipulated below:

Building	Stage 1 Building Height	Stage 1 Plant Room Height	Approved Building Height	Approved Plant Room Height
A1 (eastern)	20m (RL42.0)	22.6m (RL44.6)	20m (RL42.0)	22.6m (RL42.0)
A2 (western)	26.2m (RL48.2)	28.8m (RL50.8)	26.2m (RL48.2)	28.8m (RL50.8)

As demonstrated within the table, it is noted that the approved development was generally consistent with the height stipulated within the Stage 1 consent. The pergolas/terraces were not included or considered as part of the masterplan therefore the assessment is subject to this application. The proposed pergolas on the rooftop terraces will match the height of the plant rooms approved at RL50.8 for the western building. The balustrades have a total height of RL49.595 and while this comprises part of the building, the balustrades are located around the terraces only and not the outer edges of the buildings. The overall height is acceptable for the development.

Modification No. 2 – Conversion of one-bedroom + study units to two-bedroom units

The proposal seeks to modify six units that were approved as one bedroom plus study into two-bedroom units. The six units that will be modified are Units A-G11, B-G03, A-705, A-G26, A-G39 and A-605. The table below demonstrates the degree of change within each unit:

Unit	Approved Number of bedrooms	Proposed Number of bedrooms	Approved Unit Size	Approved POS	Proposed Unit Size	Proposed POS
A-G11	1 bed + study	2 bed	83sqm	32sqm	94sqm	No change
B-G03	1 bed + study	2 bed	83sqm	32sqm	94sqm	No change
A-G26	1 bed + study	2 bed	86sqm	12sqm	82sqm	No change
A-G39	1 bed + study	2 bed	86sqm	12sqm	82sqm	No change
A-605	1 bed + study	2 bed	86sqm	15sqm	82sqm	13sqm
A-705	1 bed + study	2 bed	86sqm	15sqm	82sqm	13sqm

As shown, the proposal will increase the unit sizes of the ground floor units by 11sqm each with no change to POS, will decrease the Level 5 and 6 units by 4sqm each for the unit size and 2sqm for the POS.

The conversion of the units to two-bedroom units results in a modification to the approved unit mix for the site. Table 8 within Condition No. 34 of the Stage 1 consent required unit mix to comply with the following rate:

Unit Size	Proportion
Studios	N/A
One bedroom	Maximum 20%
Two bedroom	50%
Three + bedroom	Minimum 30%

The development was approved with a unit mix that had one-bedroom units at 23% (39 units), two bedrooms at 49% (82 units) and three bedrooms at 28% (46 units) and was a departure from the Stage 1 consent. The increase in the number of two-bedroom apartments results in a unit mix that has one-bedroom units at 20% (33 units), two-bedroom units at 52% and three + bedroom units at 28% (46 units). While there is still a departure in the number of three-bedroom units, the proposed modifications now comply with the ratio of one and two-bedroom units that was envisaged as part of the Stage 1 consent. The unit mix will have a negligible impact on the overall distribution of unit types and provides a reasonable proportion of one, two and three bed units. Additionally, the occupancy rate between a one bedroom plus study to a two bedroom unit will not significantly increase and be adverse in nature.

By increasing the number of two-bedroom units and decreasing the number one-bedroom units within the development results in an additional parking requirement of three spaces. Adequate parking has been provided to accommodate the additional parking requirement generated by the changed unit mix. Table 6 in Condition No. 29 of the Stage 1 consent outlines the car parking provision for developments on the site. The below table provides the rates, what was approved and what is proposed.

Unit Type	Required Spaces	Approved Units	Parking Requirement	Proposed Units	Parking Requirement
1 bed	1	39	39	33	33
2 bed	1.5	82	123	88	132
3 bed	2	46	92	46	92
Total		167	254	167	257

Currently under assessment with Council is an application to amend the allocation of car parking within the car parking levels of UB4 and UB5E (DA-16/143/02). The application demonstrates that there is adequate provision for the additional three car parking spaces therefore the proposed car parking requirement is met.

While Condition No. 29 and 34 of the Stage 1 consent has been addressed, the conversion of the one-bedroom to two-bedroom units results in a non-compliance of the provisions related to unit size and POS size. Condition No. 33 requires one-bedroom units to have a minimum unit size of 65sqm and POS of 12sqm, two-bedroom units to have a minimum unit size of 85sqm and POS of 12sqm and three + bedroom units to have a minimum unit size of 110sqm/124sqm and POS of 15sqm/24sqm. The converted two-bedroom units will be reduced in size from 86sqm to 82sqm and POS is reduced from 15sqm to 13sqm. This falls under the requirement by 4sqm and 2sqm respectively. While this is a non-compliance to the Stage 1 consent, the units will continue to receive adequate internal and external amenity and provide unit sizes and POS that are in excess to the minimum unit sizes that are provided for within the ADG. The applicants have submitted a modification to the Stage 1 consent (DA-14/96/07) to amend the approved unit mix, unit size and POS to reflect the ADG provisions considering that the ADG was adopted after the Stage 1 was approved. Should the application be supported, the two-bedroom conversion would comply with the unit size provision.

Based on the above justification, the proposed bedroom conversions are supported.

Modification No. 3 – Modifications to the childcare car parking, deletion of ramp and landscape area on the ground floor

The proposed modification involves a slight change to the approved outdoor childcare parking area by increasing the size of the turning head, removing the basement ramp and reconfiguration of the car parking. The below figures show the approved and proposed arrangement of the car parking area which is external to the built form.

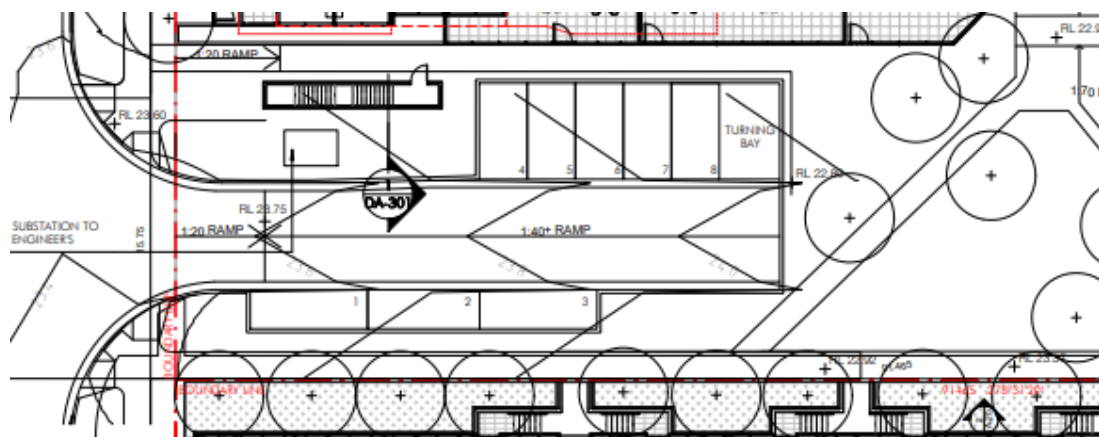


Figure 14. Approved childcare car parking area to the south-western side of the site

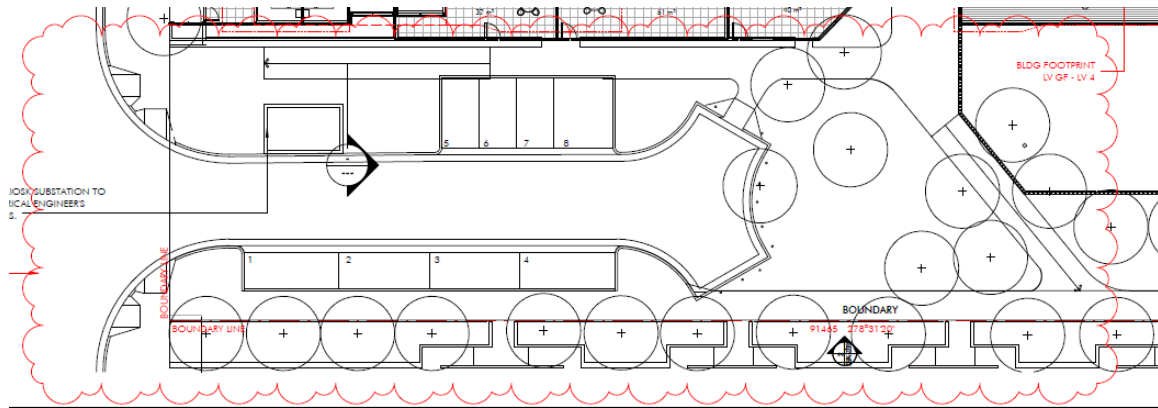


Figure 15. Proposed childcare car parking area to the south-western side of the site

As demonstrated above, the ramp that was originally approved on the ground floor will be deleted as there is no access to the basement car parking level from this area. This was approved in error as the original proposal approved access for a shared basement from UB5E. The proposal deletes the turning bay space and replaces this with a turning head to allow for appropriate maneuvering within the private road. The introduction of a turning head amends the approved landscaped area that is directly adjacent to the childcare and the car parking. The landscaped area is slightly reduced by approximately 43sqm. While this is a reduction in the landscaped area, the change is necessary to allow appropriate vehicular access and maneuverability to this area. There is a proposed increase in the landscaped area on Level 6 which removes a plant room that was approved within the landscaped area and is approximately 46sqm and new planter beds are proposed on the rooftop terraces measuring 7.7sqm. This space could easily be converted into landscaping which would address the non-compliance on the ground floor that has resulted from the reconfiguration. As seen, the car parking has been slightly modified so that there are four car parking bays located on the southern side of the private road and four located on the northern side. There is no change in the number of car parking provided therefore the proposed modification is acceptable.

Modification No. 4 – Reconfiguration of apartments and change in unit size

In addition to the modification of a number of units that were converted from one-bedroom to two-bedroom units as discussed in Modification No. 2 above, another eight units have been reconfigured and have been increased or decreased in unit size and POS. The table below demonstrates the proposed changes with the approved development.

Unit	Approved Unit Size	Approved POS	Proposed Unit Size	Proposed POS
A-G10	125sqm	46sqm	112sqm	No change
B-G05	126sqm	46sqm	113sqm	No change
A-602	120sqm	26sqm	130sqm	18sqm
A-701	113sqm	17sqm	108sqm	No change
A-702	120sqm	27sqm	119sqm	22sqm
A-703	90sqm	15sqm	88sqm	16sqm
A-708	86sqm	12sqm	83sqm	No change
A-709	84sqm	13sqm	92sqm	12sqm

As demonstrated, six of the units have decreased in size ranging between 1sqm to 13sqm whereas there are two units that have increased in size ranging between 8sqm and 10sqm.

The majority of the units have no change to the POS proposed however there are some units that have their POS decreased. One of the units (A-709) does not comply with Condition No. 33 of the Stage 1 consent relating to POS and two of the units do not comply with the unit sizes (A-701 and A-708). Justification regarding to non-compliances with the Condition No. 33 of the Stage 1 consent has been discussed in Modification No. 2 above and applies to this proposed modification. The overall GFA for the development has not increased or decreased as the proposed reconfiguration of the subject units and the units that have been included within Modification Nos. 1 and 2, balance the GFA and FSR provided on the site. Therefore, the FSR continues to be 2.36:1. The proposed modification is supported.

Modification No. 5 – Minor modifications to the ground floor plan

The proposed modifications to the ground floor are as follows:

- Approved staircase up from the basement car park to ground level on the south-western side of the site external to the buildings has been removed and replaced by a ramp.
- Slight reconfiguration of the outdoor childcare play area to increase its size from 546sqm to 593sqm.
- Door to the internal area of the childcare centre has been relocated.
- The kiosk and substation approved on the south-western corner of the site has been increased in size.
- Minor external stair changes to units A-G05, A-G06 and A-G07.
- Western lobby has been modified to delete the mail boxes, slight modification to the reception area and ramping outside the lobby.

The deletion of the basement staircase is acceptable as there is alternate access to the basement from within the building by stairs and lift. The introduction of a ramp will allow for accessible entry from the car parking area to the southern lobby and childcare centre.

The reconfiguration of the outdoor childcare area is acceptable as there is no decrease in outdoor play area but an increase of 47sqm. The extension to the outdoor area provides a more functional area for the children to play in therefore this proposed modification is acceptable. Additionally, the door to the childcare has been relocated. Access to the childcare continues to be maintained and there is no objection to its relocation.

The kiosk and substation located on the south-western corner of the site has increased in size slightly. The increase in size will not result in a considerable amount of landscaped area and is acceptable.

The western elevation of the development proposes several changes to access into the western lobby and the ground floor residential units. The development was approved with stairs up to the external courtyards of the ground floor units. A-G05, A-G06 and A-G07 external stairs have been relocated from their approved location however continue to provide access to the units. Ramping that was approved up to the western lobby has been modified and the mail room within the lobby has been deleted. This is also acceptable, and the proposed modifications are supported.

Modification No. 6– Modifications to Conditions

The proposed modifications will require a number of conditions to be modified.

Condition No.1

This condition will be modified to reflect the amended plans and documentation.

Condition No. 44(c) and 45

The proposed conversion of six one bedroom units to two bedroom units results in a slight increase to the Section 7.11 (formerly 94) Contributions under the Section 94 Contributions Plan 2016. The rate for one bedroom units is \$8,654.53 and two bedroom units is \$14,239.60. The six x one bedroom units originally were calculated at \$51,927.17. Six x two bedroom units are calculated at \$85,437.58. The applicant is to pay the difference in the Section 94 Contributions as follows:

$$\$85,437.58 - \$51,927.17 = \$33,510.41$$

The total contribution to be paid is \$33,510.41. The breakdown of the Section 94 Contributions is as follows:

Community Facilities:	\$5,750.29
Recreation Facilities – Citywide:	\$24,978.09
Transport Management – Citywide:	\$2,353.5
Administration:	\$428.54

Condition No. 43(c) and 44 of the consent have been modified to reflect the updated calculation.

Condition No. 111

The condition relates to car parking allocation for the development. The condition is to be amended:

“Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:

- a) Minimum ~~254~~ 257 residential spaces*
- b) 17 residential visitor spaces*
- c) 1 car share spaces within the car park*
- d) Minimum 32 childcare centre spaces”*

The condition has been modified within the consent as above.

SECTION 4.55(2) CONSIDERATIONS (previously Section 96(2))

Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

- a) ***It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and***

The Section 4.55(2) modification application relates to amendments to the approved development by constructing rooftop terraces above the top floor apartments, internal reconfiguration to convert six (6) x 1 bedroom apartments to 2 bedroom apartments, removal of basement ramp to the south and changes to the childcare parking, access and open space and minor modifications to the development, and as such, the modifications will result in substantially the same development as approved under DA-2017/1022 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

- b) ***It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

The modification does not require consultation with the Minister. The application was referred to SACL as there are rooftop terraces being proposed. SACL had no objection to the proposed modification.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 14 February to 28 February 2018.

- d) ***It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.***

There were three submissions received during the public notification period. The key issues that were raised in the submissions are as follows:

- *Concern is raised regarding relating to new habitable space on the rooftop*

Comment: Concern is raised the introduction of rooftop terraces would have the potential for incremental creep in building height throughout the development in addition to the development is inconsistent with Condition No. 16(c) of the Stage 1 consent which does not permit habitable areas above the maximum building heights. The additional heights would contribute to additional bulk and scale of the development. The applicant has amended their plans so that the rooftop terraces will not be enclosed habitable areas. The balustrading around the terraces will have a height of 1.395 metres and the top of the staircase will be the only enclosed structure associated with the units

that will be on the rooftop. The stair cores are located away from the edge of the building therefore the bulk and impact from the streetscape is negligible.

- *The number of units will increase from 166 to 167 adding further pressure on surrounding roads*

Comment: There is no increase in the number of units as part of this modification as the approved development had a total of 167 units.

- *The increase in car parking will add further unnecessary pressure on the roads. No indication of additional visitor car parking has been proposed.*

Comment: The proposal generates an additional three car parking spaces which have been accommodated within the proposal. As there is no change in the number of units that have been proposed there is no requirement for additional visitor spaces as part of this proposal. Three additional spaces will not contribute to adverse impact onto the existing road network.

- *No additional green areas have been provided for the general public as a result of the increase in development. No green space for off-leash dogs has been provided within the development and in the entire site.*

Comment: The amount of landscaped area within the site and UB4 balances out. There is no increase in the overall number of units on the site and the units will have access to the ground floor and Level 6 landscaped communal open area for their own use. Additionally, the BATA site requires an 8,000sqm central park and 2,703sqm linear park is to be constructed. This is currently under assessment with Council and once constructed will provide open space for the residents of the site and surrounding sites. In regards to off-leash park, this has not been considered at this stage and will be considered once the parks have been constructed.

- *The conversion of the units from one-bedroom to two-bedroom units there will be additional increase in population further to that considered by Council in the original DA and plans which the local infrastructure is not capable of accepting.*

Comment: The Stage 1 Consent originally anticipated an indicative number of units at 182. The approved development had a total of 167 units. The increase relates to six units which will have an additional bedroom in each. While this has the potential for population increase, the increase is not significant. The additional population has been considered with the imposition of additional car parking spaces on the site to accommodate the additional rooms. The impact on the existing road network from the additional bedrooms will not be significant.

- *Concerns for the local residential streets - the development does not provide sufficient parking for each apartment already. To potentially double the residential capabilities of some of the apartments by reconfiguration from 1 to 2 bedroom apartments there needs to be comparable increase in parking provided for each apartment. On-street car parking in the surrounding local streets should not be taken by the residents of 130-150 Bunnerong Road as they cannot be accommodated on the site.*

Comment: As discussed above, the conversion of the units from one bedroom to two bedroom will not create a significant impact onto the existing car parking arrangement and onto the road system. The car parking has been provided by including an additional three spaces within the development. The car parking approved for the site and the

surrounding sites relies on Condition No. 29 which provides car parking rates for the development. All the approved developments have been approved with the correct car parking. Council cannot regulate on whether residents of the building would park on the surrounding local streets.

- *Increase in units and car parking will place added pressure on existing local infrastructure such as schools and roads. We have seen no new investment in local infrastructure and none planned to it.*

Comment: Consideration of any impact on the local infrastructure was considered as part of the Stage 1 consent. The proposed modification has no significant impact on the findings and works proposed to the site and surrounding local network as discussed above. As part of the Stage 1 consent, the applicant is required to carry out works in upgrading the intersection surrounding the site. In regards to new schools, there is no plans that have been considered in that regard.

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 modification to a Stage 2 Development Application and as per the Section 4.42(2) it cannot be inconsistent with the Stage 1 consent. Below is an assessment of the proposed modification against the relevant requirements of the Stage 1 consent.

Condition Control	Required	Proposal	Consistent														
Heights (Condition 15)	<table><tr><th>Block No.</th><th>Tower No.</th><th>Maximum Podium Height</th><th>Maximum Building Height</th><th>Maximum Plant Room Height</th></tr><tr><td rowspan="2">Urban Block 4</td><td>A1</td><td>16.9m (RL38.9)</td><td>20.0m (RL42.0)</td><td>22.6m (RL44.6)</td></tr><tr><td>A2</td><td>16.9m (RL38.9)</td><td>26.2m (RL48.2)</td><td>28.8m (RL50.8)</td></tr></table>	Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height	Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)	<p>The approved heights are as follows:</p> <ul style="list-style-type: none">Podium: 16.9m (RL 38.9m) <p><u>Tower A:</u></p> <ul style="list-style-type: none">20m (RL 42.0m)- building height22.6m (RL 44.6m)- plant room height <p><u>Tower B:</u></p> <ul style="list-style-type: none">26.2m (RL 48.2m)- building height28.8m (RL50.8m)- plant room height <p><u>Proposed Rooftop terraces:</u></p> <ul style="list-style-type: none">Pergola/stair core: 28.8m (RL50.8m)Balustrades: 27.595n (RL49.595m)	No
Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height													
Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)													
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)													

Condition Control	Required	Proposal	Consistent																						
Car Parking (Condition 29)	<u>Residential</u> <ul style="list-style-type: none">1 space / 1 bedroom (33 req)1.5 space / 2 bedroom (132 req)2 space / 3 bedroom (92 req.)Sub-total = 2571 visitor space /10= (17 req.)22 car share spaces (10 in basements) across entire site (1 req)Sub-total residential: 284 spaces req. <u>Childcare:</u> <ul style="list-style-type: none">1/2 employees (8 req.)1/5 children (18.2 req.)1/20 children drop off/pick up (4.55 req.)Sub-total: 32 spaces <u>Total spaces</u> 307 car spaces	<u>Residential</u> <ul style="list-style-type: none">257 spaces for apartments17 visitor spaces1 car share spaces <u>Child Care</u> <ul style="list-style-type: none">8 childcare staff spaces19 childcare visitor spaces8 visitor spaces (ground floor) Total spaces proposed = 307	Yes																						
Dwelling Sizes (Condition 33)	<table><tr><th>Unit Type</th><th>Area</th><th>Size sq. m</th></tr><tr><td rowspan="2">One bedroom</td><td>Internal</td><td>65</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="2">Two bedroom</td><td>Internal</td><td>85</td></tr><tr><td>External</td><td>12</td></tr><tr><td rowspan="4">Three bedroom</td><td>Internal</td><td>50% of units per urban block 124 50% of units per urban block 110</td></tr><tr><td>External</td><td>24 for 124 sq. m units 15 for 110 sq. m units</td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>	Unit Type	Area	Size sq. m	One bedroom	Internal	65	External	12	Two bedroom	Internal	85	External	12	Three bedroom	Internal	50% of units per urban block 124 50% of units per urban block 110	External	24 for 124 sq. m units 15 for 110 sq. m units					Internal areas comply: 1 bed units: 65-86sqm 2 bed units: 82-101sqm 3 bed units: 112-133sqm A number of the two bedroom units have reduced the POS from 15sqm to 12sqm.	No
Unit Type	Area	Size sq. m																							
One bedroom	Internal	65																							
	External	12																							
Two bedroom	Internal	85																							
	External	12																							
Three bedroom	Internal	50% of units per urban block 124 50% of units per urban block 110																							
	External	24 for 124 sq. m units 15 for 110 sq. m units																							
Unit Mix (Condition 34)	<table><tr><th>Unit Size</th><th>Proportion</th><th>Indicative Maximum Number of Units</th></tr><tr><td>Studios</td><td>N/A</td><td>0</td></tr><tr><td>One bedroom</td><td>Maximum 20 %</td><td>445</td></tr><tr><td>Two bedroom</td><td>50%</td><td>1,112</td></tr><tr><td>Three + bedroom</td><td>Minimum 30%</td><td>666</td></tr><tr><td>TOTAL</td><td></td><td>2,223</td></tr></table>	Unit Size	Proportion	Indicative Maximum Number of Units	Studios	N/A	0	One bedroom	Maximum 20 %	445	Two bedroom	50%	1,112	Three + bedroom	Minimum 30%	666	TOTAL		2,223	1 bed – 20% 2 bed – 52% 3 bed – 28%	Yes - Acceptable				
Unit Size	Proportion	Indicative Maximum Number of Units																							
Studios	N/A	0																							
One bedroom	Maximum 20 %	445																							
Two bedroom	50%	1,112																							
Three + bedroom	Minimum 30%	666																							
TOTAL		2,223																							

As demonstrated in the table above, there are non-compliances with the Stage 1 consent relating to building height for the pergolas, dwelling sizes of the two-bedroom units and their POS and unit mix. In regard to the height of the development, the rooftop terraces seek to match the height of the approved plant rooms. There is no exceedance in the height of the overall development. This is discussed in greater detail in the discussion above and in Note 1 below. In regard to the unit mix, the proposal seeks a greater number of two-bedroom units therefore the unit mix has been altered to comply with the Stage 1 consent for one and two-bedroom units. There still is a non-compliance with the three-bedroom units however the

proposal does not alter this. In regard to the unit and POS sizes, a number of the newly converted two-bedroom units have proposed smaller units to the Stage 1 consent from 86sqm to 82sqm and POS from 15sqm to 12sqm. This is discussed in greater within Modification No. 2 above in the report. The proposed changes to the Stage 1 are acceptable as they do not account for significant modifications to the bulk and envelope of the approved development.

SECTION 4.15 CONSIDERATIONS (previously section 79c)

The relevant matters for consideration pursuant to Section 4.15 are addressed as follows:

(a) The provisions of any EPI and DCP and any other matters prescribed by the Regulations.

State Environmental Planning Policy (Building Sustainability Index: BASIX)

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. An amended BASIX Certificate and report prepared by Efficient Living has been provided and assessed as part of this proposal. This new report has been included within Condition No. 1 of the consent.

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

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 proposed modification as assessed against the controls and provisions of the Apartment Design Guide are as follows:

SEPP 65 – ADG			
Control	Required	Proposal	Complies
Car Parking	Not located within 800m of a train station. Accordingly, BBDCP 2013 car parking rates apply.	-	N/A
Dwelling Size	Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 65-86sqm 2 bed units: 82-101sqm 3 bed units: 112-133sqm	Yes Yes Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m	Habitable rooms: 2.7m Non-habitable rooms: 2.4m	No change to approved
Deep Soil	Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m.	The site achieves 622sqm or 7.9% of the site as deep soil with min. dimensions of 6m.	No change to deep soil
Communal Open Space	25% of site.	2,001.1sqm (25.8%)	Yes
Solar Access	50% direct sunlight to the principal usable part of the	52.1% of COS receives greater than 2 hours of sun.	Yes, no change to approved

	COS for a minimum of 2 hours during mid-winter.		
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm.	71% achieved (118 out of 167 apartments)	Yes, no change to approved
Cross Ventilation	60% required for first 9 storeys. (Required: 101 apartments out of 169)	101 out of 167 apartments are cross ventilated (60%). 10 of these units are cross ventilated through skylights.	Yes, no change to approved
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, no change to approved
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary <u>Five to eight storeys (25m):</u> 4.5m from non-habitable rooms to site boundary 9m from habitable rooms/balconies to site boundary	<u>Up to 4 storeys: 12m required (podium)</u> Internal to the development: <ul style="list-style-type: none"> 22.35m to 27m between habitable and habitable. Balconies that are located within 6 metre distance between balconies and windows in surrounding units have been appropriately screened. This is appropriately provided within the balconies in the internal corners of the site. 19.4m to 24m distance balconies to southern site boundary. 	Yes, no change to approved
		<u>5-8 Storeys: 18m required</u> <ul style="list-style-type: none"> 22.35m to 27m between habitable and habitable Balconies that are located within 6 metre distance between balconies and windows in surrounding units have been appropriately screened. This is identified on the north-facing units within the centre of the site for Level 5. Level 6 to 7 does not have any building separation issue as the building is setback 19.4 	Yes, no change to approved

		metres from the southern boundary.	
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	1 bed: Min 10sqm 2 bed: Min 12sqm 3 bed: Min 16sqm Ground Floor: 18sqm-96sqm	Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3+ bed: 10m ³	1 bed: Min 6sqm 2 bed: Min 8sqm 3 bed: Min 10sqm Majority of storage area located in basement.	No change to approved

The proposed changes do not alter the provisions and requirements under the ADG. In regards to the rooftop terraces and pergolas, consideration of the skyline and the aesthetics have been provided in the assessment. From a skyline appearance perspective, the pergolas do not create any visual obstruction from the surrounding developments in the immediate area or in surrounding suburbs. The pergolas and the plant rooms have been integrated within the bulk of the approved development. The aesthetics of the pergolas are acceptable as they are lightweight structures and are predominantly opened. In regards to the reconfiguration of the units and the conversion of units from one bedroom to two bedroom units, the internal amenity continues to be maintained. While the unit sizes and the POS of four of the units do not comply with the Stage 1 consent (Condition No. 33), the units will continue to comply with the ADG sizes. The applicant has provided a revised design verification statement by Nettleton Tribe which supports the changes proposed and their compliance with SEPP 65.

Botany Bay Local Environmental Plan 2013

The subject site is zoned R3 Medium Density Residential zone and the B4 Mixed Use zone in accordance with the provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	N/A	The site is zoned R3 Medium Density Residential and B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed modifications are permitted with consent in the R3 and B4 zone.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed modifications are consistent with the zone objectives in the BBLEP 2013 as approved.
What is the height of the building?	Acceptable- Note 1	Variable maximum height limit of 11 metres and 22 metres across UB4. The overall approved building and plant room heights have not been changed as part of this modification. The pergolas will match the height of the approved

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		plant rooms at RL50.8 for the western building. The balustrades proposed will have a height of RL49.595 which exceeds the height of RL 48.2 for buildings, the increased height is accepted as it is required within the wind report and surrounding only the terraces and away from the edge of the buildings.
What is the proposed FSR?	N/A	There is no change in the approved FSR.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS) 6.2 – Earthworks 6.3 – Stormwater management 6.8 - Airspace operations 6.16 – Design excellence</p> <p>6.9 – Development in areas subject to aircraft noise</p>	<p>No change</p> <p>Yes</p>	<p>The conclusions within DA-16/143 have not changed.</p> <p>The application was re-referred to SACL due to the rooftop terraces. SACL had no issues with the proposed rooftop terraces.</p>

Note 1 – Height exceedance from proposed pergolas

The proposed height exceedance is stipulated in the table below. The submission of a Clause 4.6 variation request is not required from Section 4.55 applications, provided the modifications satisfy the provisions of Section 4.55.

Block No.	Tower No.	Maximum Podium Height	Maximum Building Height	Maximum Plant Room Height
Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)

The proposed breach to the LEP height limits is supported for this modification as it satisfies the objectives to Clause 4.3. The structures proposed above over the approved height limit have been designed to account for amelioration of solar and wind protection to maintain the amenity of the rooftop terraces. The height exceedance will contribute to an improved design outcome by providing six private rooftops to the below units and greater POS to these units. The proposal ensures that the built form is developed in a coordinated and cohesive manner whilst maintaining the consistent

height with the desired future character with the overall development, which was approved under a Stage 1 consent. The height of the pergolas do not exceed the overall height of the plant rooms however matches their height. It is not considered that the height exceedance will contribute to incremental increase of the FSR if the pergola and stair cores associated with the terraces are enclosed as Condition No. 16(c) of the Stage 1 consent does not allow habitable areas above the maximum building height shown in the table at Condition No. 15. Therefore the non-compliance to the height under the BBLEP is acceptable.

Botany Bay Development Control Plan 2013

The proposed modifications will comply to the same extent with the provisions and objectives of the DCP as the original development consent, with the exception of landscaped area. The proposed modifications will not impact significantly upon the visible external appearance of the development when viewed from the public domain areas.

Part 4C.4.4 – Landscaped Area

Control C1 of Part 4C.2.4 of the BBDCP 2013 require residential flat buildings to have a minimum landscaped area of 35% and a maximum un-built upon area of 20%. The approved development provided a total of 2,991.5sqm (33%) soft landscaping, 987.3sqm (11%) of hard landscaping and 1,560sqm (17%) of deep soil area. The proposed development will remove approximately 43sqm of landscaped area from the ground floor where the works to the turning head and the childcare car parking will be carried out. While this is a loss to the landscaped area, the proposal will remove a 46sqm plant room that is located within the communal area on Level in addition to planter beds being proposed to three of the rooftop terraces. Therefore the total amount of landscaped area on the site is 3,002.2sqm which results in an overall landscaped area of 38.8% (based on a site area of 9,733sqm). The figure below demonstrates the landscaped area that is proposed on the rooftop.



Figure 16. Proposed landscaped area on the rooftop terraces

It was noted that there are some modifications to the approved planting of trees along the western side of the building at ground level. The trees that are to be planted should be retained.

(b) Likely impacts

The proposed modifications relate only to amendments predominantly to the construction of terraces on the rooftop, reconfiguration of units and minor amendments to the ground floor of the site and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2017/1022.

(c) Suitability of the site

The suitability of the site was addressed in the original approval of DA-2017/1022.

(d) Submissions

Three objections were received. These are addressed above.

(e) The public interest.

The proposed amendments will have no significant adverse impact upon the public interest.

SECTION 7.11 CONTRIBUTIONS

The proposed conversion of six one bedroom units to two bedroom units results in a slight increase to the Section 7.11 (formerly 94) Contributions under the Section 94 Contributions Plan 2016. The rate for one bedroom units is \$8,654.53 and two bedroom units is \$14,239.60. The six x one bedroom units originally were calculated at \$51,927.17. Six x two bedroom units are calculated at \$85,437.58. The applicant is to pay the difference in the Section 94 Contributions as follows:

$$\$85,437.58 - \$51,927.17 = \$33,510.41$$

The total contribution to be paid is \$33,510.41. The breakdown of the Section 94 Contributions is as follows:

Community Facilities:	\$5,750.29
Recreation Facilities – Citywide:	\$24,978.09
Transport Management – Citywide:	\$2,353.5
Administration:	\$428.54

Condition No. 43(c) and 44 of the consent have been modified to reflect the updated calculation.

CONCLUSION

The Section 4.55(2) Application seeks to modify Development Consent No. 2017/1022 which approved the demolition and construction of a residential flat building with childcare centre. The modifications include the construction of rooftop terraces above the top floor apartments, internal reconfiguration to convert six (6) x 1-bedroom apartments to 2 bedroom apartments, removal of basement ramp to the south and changes to the childcare parking, access, open space modification to conditions. The development, as modified, is substantially the same development as that originally approved. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 2017/1022/02

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-000 Rev E F - Cover page	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Received 3 May 2018
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-002 Rev C- Building Articulation Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-005- Rev E- UB4_Parking Level (Sheet 1)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-006- Rev E- UB4_Parking Level (Sheet 2)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-100 Rev F G - UB4 Ground Floor Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Dated 8 March 2018
DA-101 Rev C- UB5E Ground Floor Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-102 Rev E F - Level 1-4 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018
DA-103 Rev D E - Level 5 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017

		<i>Dated 21 November 2017; Received 17 January 2018</i>
DA-104 Rev E F - Level 6 Plan	Nettleton Tribe	<i>Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018</i>
DA-105 Rev D E - Level 7 Plan	Nettleton Tribe	<i>Dated 25 July 2017; Received 3 August 2017 Dated 31 November 2017; Received 8 March 2018</i>
DA-106 Rev D F - Roof Plan	Nettleton Tribe	<i>Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 3 May 2018</i>
DA-201 Rev D F - North and South Elevations	Nettleton Tribe	<i>Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 8 March 2018</i>
DA-202 Rev D F - East and West Elevations	Nettleton Tribe	<i>Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 8 March 2018</i>
DA-203 Rev C- Elevations Comparisons	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-301 Rev D- Sections 01	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-430 Rev C D - GFA Area Plans	Nettleton Tribe	<i>Dated 25 July 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018</i>
DA-501 Rev C- Ventilation Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-602 Rev B- Solar Point Perspective Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-603 Rev C- Solar Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-604 Rev C- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-801 Rev B- Survey Plan Sheet 1	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-802 Rev B- Survey Plan Sheet 2	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-803 Rev B- Survey Plan Sheet 3	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1001- Rev A- Adaptable Unit (Sheet 1)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1002- Rev A- Adaptable Unit (Sheet 2)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1101- Rev B- Privacy and Screening	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017

DA-1201- Rev B- BASIX Commitment Notes	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1401- Rev C- UB4 and UB5e Basemen Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1402- Rev C- UB4 and UB5E Ground Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1403- Rev C- UB4 and UB5E Parking Level 1 Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1404- Rev C- UB4 and UB5E Level 2 Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1601- Deep Soil Calculation	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
Landscape Report Ref: ND1710	Urbis	Dated 10 August 2017 Received 11 August 2017
L01 Rev C- Level 8 Rooftop Plan	Urbis	Dated 3 May 2018; Received 3 May 2018

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Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-026 Rev 3	Wall to Wall	Dated 1 February 2017; Received 13 February 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Noise Impact Assessment Report Ref: 610.16881-R01	SLR	Dated 2 February 2017; Received 13 February 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 14 August 2017; Received 13 September 2017
Thermal Comfort and BASIX Assessment Ref: 16-0764 Rev A-Ref: 17-1513 Rev B	Efficient Living	Dated 23 January 2017; Received 13 February 2017 Dated 22 December 2017; Received 17 January 2018
Building Code of Australia Compliance Assessment Report Ref: 1423-78 Rev 01	AED Group	Dated January 2017; Received 13 February 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated January 2017; Received 13 February 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 19 January 2017; Received 13 February 2017
SEPP 65 Design Verification	Nettleton Tribe	Received 13 February 2017 Received 7 May 2018
SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 13 February 2017
Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 13 February 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 30 January 2017; Received 13 February 2017

Site Audit Statement Ref: JC_NSW11C	NSW EPA	Received 13 February 2017
Site Audit Report: S11394_SAR_JC-NSW11C	AECOM	Dated 31 March 2014; Received 13 February 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 13 February 2017
Reflectivity and Glare Assessment Ref: 610.13932-R01	SLR	Dated 27 January 2017; Received 13 February 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 13 February 2017
Statement of Environmental Effects	Urbis	Dated February 2017; Received 13 February 2017
Stage 2 Traffic and Transport Report Ref: 237575-00	ARUP	Dated 7 February 2017; Received 13 February 2017
Waste Management Plan Rev B	Elephants Foot	Dated 13 January 2017; Received 13 February 2017
Qualitative Wind Assessment Ref: 610.13932.R08 610.13932-L03-v.01 UB4 S96	SLR	Dated 31 January 2017; Received 13 February 2017 Dated 12 February 2018; Received 3 May 2018
Clause 4.6 variation to vary height and FSR development standard	Urbis	Dated February 2017; Received 13 February 2017
Amended Cover letter	Karimbla Constructions Services (NSW) Pty Ltd	Dated 7 March 2018; Received 8 March 2018
CC Stormwater Report-Urban Block 4	At&I	Dated October 2017; Received 8 March 2018

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- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.

a) Note:

Relevant BASIX Certificate means:

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

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

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

- 7 Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.
- 8 Ausgrid requires the following conditions with respect to Chamber substations. For a chamber station within the property or within 6m of the development, the substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. In addition to above, Ausgrid requires the

substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment. For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
 - a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - b) Ausgrid Network Standards
 - c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrid's Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
- 11 Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- 12 The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site). The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

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

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

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

- 17 A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
- 18 An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
- 19 If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
- 20 Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
- 21 If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

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

- 22 Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structure, together with any improvements integral to the future use of the site is wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
- 23 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 24 All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Bunnerong Road.
- 25 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.

- 26 Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- 27 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au If it necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

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

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

28 Sydney Water Servicing

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

29 Building Plan Approval

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

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

- 30 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
- 31 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act

1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
- 32 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 33 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 34 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:

to a public sewer; or

if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

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

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

- 40 Prior to the issue of the relevant Construction Certificate, revised plans are to demonstrate that the pop up skylights on Tower A are to not to exceed the maximum building height as stipulated in Condition No. 15 of the Stage 1 Consent. The skylights are to be velux-style skylights.
- 41 Prior to the issue of the relevant Construction Certificate, revised plans are to be provided to the Principal Certifying Authority demonstrating that the eastern wall of media rooms- G07 and B-108 shall be deleted to achieve sunlight access to the habitable rooms.
- 42 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.

- 43 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:

- a) 1 Bedroom apartments 6m³
- b) 2 Bedroom apartments 8m³
- c) 3 Bedroom apartments 10m³

At least 50% of the required storage is to be located within the apartment.

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

- | | | |
|----|------------------------------------|---|
| a) | Development Control | \$13,225.00 |
| b) | Damage Deposit | \$314,700.00 (See below) |
| c) | Section 94 Contributions | \$2,361,207.88 \$2,394,718.29 |
| d) | Long Service Levy | See below |
| e) | Tree Preservation Bond | \$7,500.00 (See below) |
| f) | Tree Maintenance Bond | \$7,500.00 (See below) |
| g) | Street Tree Planting Bond | \$7,500.00 (See below) |
| h) | Public Works Defect Liability Bond | \$25,000.00 (See below) |

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

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

An additional Section 94 Contribution of \$33,510.41 applies to the development. The breakdown of the Section 94 Contributions is as follows:

- | | | |
|----|---|---------------------------|
| a) | <i>Community Facilities:</i> | <i>\$5,750.29</i> |
| b) | <i>Recreation Facilities – Citywide:</i> | <i>\$24,978.09</i> |
| c) | <i>Transport Management – Citywide:</i> | <i>\$2,353.5</i> |
| d) | <i>Administration:</i> | <i>\$428.54</i> |

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution

is paid in a later financial year the fee applicable at the time will be required to be paid.
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- 46 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.
- 47 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$314,700.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 48 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.
- 49 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,

- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- l) The methodology to control dust on site.

50 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.

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

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

- 52 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - b) All service vehicles to leave the access way into the public roads in a forward direction.
 - c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 53 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 7 February 2017, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 54 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 55 Prior to the issue of the relevant Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.

- c) The Ausgrid lighting poles along Bunnerong Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
- d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider and is to be completed prior to the issue of the final Occupation Certificate, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the commencement of these works.

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

- 56 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority or Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

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

- 57 Prior to the issue of the relevant Construction Certificate, the recommendations of the Qualitative Wind Assessment Report from SLR referred to in this consent are to be incorporated into the design in order to ensure compliance with the Councils maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1 of the DCP 2013) as follows:
- a) 10 metres/second along commercial/retail streets;
 - b) 13 metres/second along main pedestrian streets, parks and public places; and
 - c) 16 metres/second in all other streets.
- 58 The building shall be designed in accordance with the Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy', and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Suitably endorsed construction plans and specifications addressing these criteria's shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
- 59 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.

- 60 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.

- 61 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 62 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
- 63 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.
- 64 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.
- 65 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$9,000 to ensure protection of the 9 new street trees along Bunnerong Road from damage to replace the 9 *Cupaniopsis anacardioides* that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of 24 months after issue (*or cease upon issue of*) of the Occupation Certificate. At the completion of the *maintenance* period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 66 The applicant is to submit payment of a Tree Maintenance Bond of \$9,000.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- 67 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$9,000 to ensure the installation and establishment of nine (9) street trees (species to be advised) in accordance with Condition mentioned below and Councils Street Tree Master Plan. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to

a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.

- 68 Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

- 69 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$69,000 for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

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

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

- 70 A frontage works approval be submitted to council prior to any construction certificate being issued. Prior to the issue of the relevant Construction Certificate, a public domain improvements plan be completed by Urbis shall be submitted for approval by Council. The Plan will include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting, maintenance and finishing details. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements.

- 71 The landscape areas shown on the Urbis Landscape plans dated 10/08/2017 rev G shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to:

- a) A site plan showing building envelopes, paved areas and areas to be landscaped.

- b) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
- e) An irrigation plan comprising of subsurface drip systems and automatic timers with rainwater / soil moisture sensor controls; where possible storm water runoff will be directed to the lawn and garden beds. Irrigation will be provided to all soft landscape areas and will be specified in an updated landscape plan.
- f) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- g) All fencing, privacy screening and pergolas/arbours/pavilions – elevations and materials.
- h) Details of other landscape elements such as furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations.
- i) Bench seats should also be provided with and without hand rests on
- j) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP and compliant with AS 4419 and AS 3743.
- k) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised and kept to the edges of landscaped spaces. Provide lawn as well as planted areas, trees for shade and seating.
- l) Trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to complement and scale with the building form (setbacks, communal open space) and to pedestrianise landscaped open spaces. Deep soil zones must include larger trees. Consider avenue plantings and specimen tree entry features. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- m) Show the location of underground stormwater and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks.
- n) Show the location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.

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

accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 72 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.
- 73 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.
- 74 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).

- 75 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.
- 76 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.
- 77 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.
- 78 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.
- 79 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 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.
- 80 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.
- 81 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.
- 82 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan '*Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW*' prepared by Douglas Partners, Project 71631.12, dated September 2013 and
 - e) The '*Proposed Remediation Action Plan Amendment – Revision 1 Part 130 - 150 Bunnerong Road, Pagewood*' prepared by Douglas Partners, Project 85009 Rev 1 dated 2 September 2015.
- 83 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.

- 84 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 85 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.
- 86 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 87 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 88 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.
- 89 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).
- 90 There are street trees identified on the Arborist plan within the nature strip that will require tree protection depending when the replacement of nine (9) trees is actioned. Protection (and tree bond) to existing trees in the Bunnerong Road nature strip based on the Arborist Report from Jacksons Nature Works (Arboricultural Impact Assessment Report, for Urban Block 4 -13/9/2017).

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

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

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

The TPZ should not be impacted ensuring their retention.

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

Tree protection zones must also comply with the following requirements:

- a) Tree Protection Zone areas of 2m radius of tree.
- b) Tree Protection Zones shall be fenced to protect the TPZ as a preventative measure.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site;
- d) All site personnel and contractors shall be aware of all tree protection requirements associated with the conditions of consent; and
- e) The Project Arborist shall provide written certification of compliance with the above, including photographs to the certifying authority.

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

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

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

Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection; During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

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

- 92 In order to ensure that the *Cupaniopsis anacardioides* is protected during construction, and its health and structural stability ensured, the following is required:
- a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the Arborist's report dated 13/09/2017
 - b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report/Landscape Plan.
 - c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete.
 - i) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction.
 - ii) Fencing shall be erected to ensure the public footway is unobstructed.
 - iii) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
 - d) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
 - e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
 - f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer (or Consultant Arborist).
 - g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
 - i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree.

- j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- k) Any sub-surface OSD tank is to be located underneath the driveway, be a minimum of 3 metres beyond the canopy dripline of the existing tree and not located where it will limit the planting of trees on the property. Excavation shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- l) Masonry boundary fencing/walls or retaining walls shall be of piers or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- m) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new subsurface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- n) All waste concrete and debris shall be removed from areas to be landscaped on the site, not buried, to minimise soil contamination.
- o) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council (or the Consultant Arborist) at the completion of construction.
- p) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

OR

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

- 93 Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels. Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree and not located where it will limit the planting of trees on the property. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil

compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.

- 94 If kerb and gutter and footpath replacement is required **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer. This includes the demolition of existing structures, to be undertaken with small machinery only, excavation for required subgrades/drainage and the construction of formwork. Tree roots 35mm in diameter or greater that require pruning shall be done **only** under the direction of Council's Tree Management Officer after site inspection so as not to impact or harm the existing street tree.

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

96

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

97

- a) Prior to the issue of an Occupation Certificate, five (5) Angophora costata tree, at least 1.8 metres in height and 200 litre pot size, at 10 metre centres, shall be installed in the front of east-west Boulevard of the development and provide amenity to the streetscape by a qualified landscape contractor. The tree/s shall be sourced from a reputable supplier that grows to NATSPEC.
- b) Five (5) Corymbia maculata trees min height 1.6metres and pot size 200 litre shall be planted at 10m centres along North South Street 2 of the property to provide screening and privacy for adjoining residents. Trees shall be sourced from a reputable supplier that grows to NATSPEC.
- c) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
- d) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
- e) The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing.

- f) Council is not liable for any damage to subsurface infrastructure during public domain works.
- g) The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be staked as required.
- h) Two hold point inspections are required : prior planting trees to ensure plant stock is suitable and post planting.
- i) The street tree planting to all internal roads (East-West Boulevard, North-South Street 2 and Civic Avenue are to use the Citygreen Stratavault system of planting to be incorporated into the updated Landscape plans and documentation.
- j) There must be irrigation to the site prior to installation of any trees.

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

- 98 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.
- 99 The applicant is required to install 7 Eucalyptus microcorys trees; pot size 200 litre at minimum 1.6m height, at 8 metre centres to setback along Bunnerong Road. Irrigation must be provided to these trees as with all tree plantings to this site prior to installation.
- 100 Prior to the issue of an Occupation Certificate, no more than 50% of the street setback shall be hard paved (including stepping stones and large expanses of gravel). Paving shall be confined to the driveway and a pathway to the dwelling only. The driveway location and dimensions shall be in accordance with the approved Urbis plan, splaying within the property to meet the alignment of the Council crossover, no additional paving shall be provided. The remainder of the setback shall be deep soil and soft landscaped, including the residual area between driveway carpark and through link. As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
- 101
 - 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.
- 102 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor prior to landscaping works commencement. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water

and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

OR

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

- a) all site boundary landscape setbacks and frontages, and
- b) the communal open space areas.

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

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

- b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
- c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 109 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.
 - 110 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.
 - 111 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
 - a) Minimum ~~254~~ **257** residential spaces
 - b) 17 residential visitor spaces
 - c) 1 car share space within the car park
 - d) Minimum 32 Childcare Centre spaces
- (DA-2017/1022/02)**
- 112 Prior to the issue of the relevant Occupation Certificate, at least 32 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
 - 113 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.

114 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.

115 Prior to the issue of the relevant Occupation Certificate, the applicant shall carry out the following works:

- a) On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and
- b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
- c) On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.

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

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

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

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

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

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

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

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

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

- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

- 120 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.
- 121 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy. Application fees apply.
- 122 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.
- 123 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.
- 124 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 125 Prior to the issue of the Occupation Certificate, all noted screen or buffer planting is required along the property boundary to provide screening and privacy for UB4 residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level. Planter beds shall be a minimum width of 0.75 metres.
- 126 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.
- 127 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.

- 128 Concrete wheel stops shall be installed in all car spaces adjoining garden beds in accordance with Council specifications and Australian Standard AS/NZS 2890.1:2004 prior to the issue of an Occupation Certificate to prevent overhang and damage to garden beds.
- 129 The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved *Urbis Landscape plan rev H* and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.
- 130 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
- 131 Prior to the issue of the Occupation Certificate, the following applies:
- a) Any tree size modifications (ie from stated 400 litre to 200 litre or less) requires a Section 96 approval prior for compliance certification.
 - b) Any variation in planting from the submitted CC Plant Schedule requires a Section 96 approval prior to certification.
- 132 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Built. All Australian Standards nominated in this Specification are to be the current issue.
- 133 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:

- i) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
 - ii) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
 - iii) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 134 Prior to the issue of the Occupation Certificate for the Child Care Centre, the child care centre is to comply with the requirements of the NSW Children Services Regulations 2004 and any other requirements as specified by the NSW Department of Community Services.
- 135 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 136 A separate application is to be submitted for the fit out of the child care centre.
- 137 The use of studies as bedrooms is prohibited.
- 138 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.
- 139 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 140 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 141 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 142 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.

- 143 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.
- 144 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 145 Ongoing maintenance of grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 146 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.
- 147 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.
- 148 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.
- 149 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.
- 150 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.