

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL042
DA Number	DA-16/143/02
LGA	Bayside Council
Proposed Development	Section 4.55(1A) Modification to modify Development Consent No. 16/143 to align the development with the adjoining UB4 development including adjustment to the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements
Street Address	130-150 Bunnerong Road Eastgardens
Applicant/Owner	Karimbla Construction Services (NSW) Pty Ltd/ Karimbla Properties (No. 39) Pty Ltd
Date of DA lodgement	6 July 2017
Number of Submissions	Nil
Recommendation	Approval, subject to modifications to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Section 4.55(1A) Application to modify a consent determined by the Panel
List of all relevant s4.15(1)(a) matters	<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 <ul style="list-style-type: none"> ○ Nil
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans - Nettleton Tribe
Report prepared by	Angela Lazaridis – Senior Development Assessment Officer
Report date	22 May 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Not Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION

SECPP No	2018SCL042
DA Number	DA-16/143/02
Local Government Area	Bayside Council
Proposed Development	Section 4.55(1A) Modification to modify Development Consent No. 16/143 to align the development with the adjoining UB4 development including adjustment to the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements
Street Address	130-150 Bunnerong Road Eastgardens
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Section 4.55(1A) 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 <ul style="list-style-type: none"> ○ Nil

List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> Architectural plans - Nettleton Tribe
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(1A) of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. 16/143/02 at Urban Block 5E at 130-150 Bunnerong Road Eastgardens, as indicated within the updated Schedule of Conditions and as follows:

- a) Amend Condition No. 1 which relates to the plans modified as part of the subject application;
- b) Amend Condition No. 89 which relates to the car parking allocation; and
- c) Amend Condition No. 112 to refer to this Section 4.55(1A) Application.

The reasons to support the application are as follows:

- a) The amended application is substantially the same as the original;
- b) The amendments do not have a material impact on the surrounding.

EXECUTIVE SUMMARY

Development Application No. 16/143 was approved by the Panel on 16 February 2017 for a Stage 2 integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a three storey podium including car parking sleeved with apartments and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above at UB5E.

Bayside Council received Development Application No. 16/143/02 on 6 July 2017 seeking consent to modify the approved development to align the development with the adjoining UB4 development including adjustment to the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements.

The application was placed on public exhibition for a fourteen (14) day period from 29 November to 13 December 2017. No objections were received.

Key points that are discussed relate to car parking. The car parking will be redistributed on the site to accommodate the approved car parking at both UB4 and UB5E within the shared basement car parking. A number of the UB5E approved spaces have been relocated between Ground Level and Level 2. There is no reduction in the number of car parking spaces as part of this proposal therefore there is no issue with the proposal.

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(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

BACKGROUND

History

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. Stage 2 applications are to be submitted to Council for assessment for each individual block.

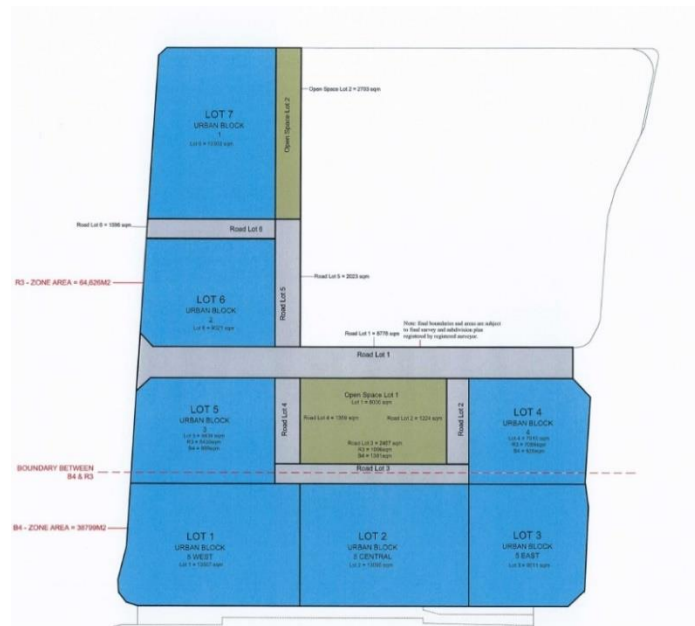


Figure 1. Approved Master plan concept subdivision plan DA-14/96

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. The subject site is located on the south-eastern corner of the entire site and has a total site area of 9,196sqm.

APPROVED DEVELOPMENT

- DA-16/143- The proposed development as carried out on UB5E which the former JRPP was approved on 16 February 2017 for the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above. There is a total of 202 apartments approved within the development. A total GFA of 22,403sqm (FSR of 2.49:1) was approved and a total height of 53.6 metres (RL 75.6m) to the plant rooms was approved. The proposal included tree removal and landscaping across the site.



Figure 4. Approved Site Analysis Plan



Figure 5. Approved Western Elevation



Figure 6. Approved Eastern Elevation



Figure 7. Approved Northern Elevation



Figure 8. Approved Southern Elevation

- 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 5 East. This was approved on 23 November 2017. The change allowed the site area of Urban Block 5E to be amended from 9,011sqm to 9,196sqm.
- DA-16/143/03- Section 4.55(2) Application to modify Development Consent No. 16/143 to amend the approved residential flat building development to introduce rooftop terraces/gardens to the top and podium level apartments, increase in rooftop plant room sizes and internal configuration of a number of units at UB5E



Figure 2. Location of UB5E within the overall site



Figure 3. Aerial Map of the subject urban block (UB5E)

DESCRIPTION OF PROPOSED MODIFICATIONS

The proposed development in its amended form seeks consent for the following:

- Modifications to align the development with the adjoining UB4 development including an adjustment to the finished floor ground levels by reducing level by 500mm externally at the northern setback and the reconfiguration of the internal layout of the basement parking areas to allow for shared car parking of the UB4 while maintaining the approved number of car parking of UB5E.
- Minor changes to units and levels are as follows:
 - Adjustment of balcony at B-204, D-406, B-101, C-310 and C-311. No change in the size of balcony;
 - External wall revised of the core of Building A;
 - External wall of a bedroom to Units B-406, C-204, C-G04, C-103, D-103 and C-301 has been revised;
 - The angle of the external wall has been revised for Units B-304, B-406, B-301 and B-307;
 - Minor layout change to units D-304, D-305, D-401, D-404 and D405 to address structural changes;
 - Glass extension and atrium changes to the lobby of Building B;
 - Additional storage within the basement car parking level.

It is noted that a number of the proposed changes that have been highlighted in a red bubble that relate to a change to the external finishes and materials in response to structural requirements have been approved as part of DA-16/143/03 which approved rooftop terraces and minor changes to the internal reconfiguration and layout of the units and external façade of the buildings. Therefore an assessment of the below items will not be discussed in great detail:

- Internal and external changes involving minor adjustments to walls and windows to meet structural and fire engineering requirements and to generally improve the functionality and amenity of the development. The specific changes are as follows:
 - Adjustment of balcony at D-504. No change in the size of balcony;
 - Terrace has been removed and replaced with private terraces on top of Level 4;
 - External wall revised of the core of Building A;
 - External wall of a bedroom to Unit B-504 has been revised to glass;
 - The angle of the external wall has been revised for Unit B-506;
 - Minor layout change to units D-502 and D-503 to address structural changes;
 - The balustrade on the rooftop of Level 5 is to remain to provide safety for the approved rooftop terraces of DA-16/143/03;
 - The brick courtyard fence, fence gate and installation of glass on top of the fence along the ground floor of the eastern, northern and western elevation;
 - External wall and structure of Unit A-205 and A-101 has been adjusted;
 - Changes in window sizes on the ground floor to reflect structural drawings.

ASSESSMENT OF PROPOSED MODIFICATIONS

An assessment of the modifications is as follows:

Modification No. 1 – Relocation of car parking within the car parking levels

UB5E and UB4 was approved with a shared basement between the two developments with a portion of it running under the private road that separates the two urban blocks. As part of DA-16/143 which approved the development at UB5E, a total of 343 car parking spaces was

approved on the site. This was spread between the basement car parking level, ground floor, Level 1 and Level 2. As part of DA-2017/1022 which approved the development at UB4, the proposal sought to have car parking provided within the basement car parking level with a portion of the car parking to fall within the building footprint of UB5E. The development approved a total of 319 car parking spaces however as part of that proposal, a number of the spaces that were allocated to UB5E were eradicated by the UB4 car spaces. It was requested that the subject application be submitted to Council to relocate the approved spaces elsewhere within the UB5E built form. The subject application has relocated the UB5E car parking spaces that were lost within the basement car parking to Ground to 2.

The below table is the car parking breakdown based on the rates under the Stage 1 consent that is under assessment within DA-2017/1022/02 which requires an additional three car parking spaces to accommodate a unit mix change in the UB4 development.

Parking Requirement									
	Rate	APPROVED				PROPOSED			
		UB4		UB5E		UB4		UB5E	
		Units	Parking	Units	Parking	Units	Parking	Units	Parking
1 bed	1	39	39	42	42	33	33	42	42
2 bed	1.5	82	123	95	143	88	132	95	143
3 bed	2	46	92	65	130	46	92	65	130
visitor	0.1	167	17	202	20	167	17	202	20
childcare			32		0		32		0
car share			1		1		1		1
TOTAL REQUIRED			304		336		307		336
<i>Difference</i>							<i>3</i>		<i>0</i>
Available			319		343		319		343
<i>Balance</i>			<i>15</i>		<i>7</i>		<i>12</i>		<i>7</i>

As demonstrated within the table and within the plans, the car parking as approved for both buildings can be accommodated within the development. The car parking levels within UB5E contain the following breakdown on the Ground Level to Level 2:

Basement Level: 32 car parking spaces

Ground Level: 96 car parking spaces

Level 1: 109 car parking spaces

Level 2: 106 car parking spaces

The plans and table demonstrate that there were additional spaces that were approved as part of the DAs for each urban block. These spaces will continue to be allocated for residential units.

The car parking redistribution is acceptable in this instance and supported.

Modification No. 2 – Change in ground levels to achieve consistency with the approved UB4 development

The proposed modification involves change in the ground levels external to the building to align with the levels at UB4 and the landscaped area between the two urban blocks. The current site is located on the south-western corner of the site with Bunnerong Road located on the eastern side of the site. The development was approved based on the Stage 1 consent ground level which is lower than the road level at Bunnerong Road. There is a slope down from Bunnerong Road to the site. As part of the original consent, the applicant had provided a retaining wall along the eastern and southern elevations of the building. The proposal seeks to slightly amend the natural ground level to provide better amenity to the ground floor residences. Additionally, the proposal seeks to amend the northern natural ground level to align with the ground levels approved at UB4. The below figures show the differences with the levels for UB5E as approved and as proposed in the sections:

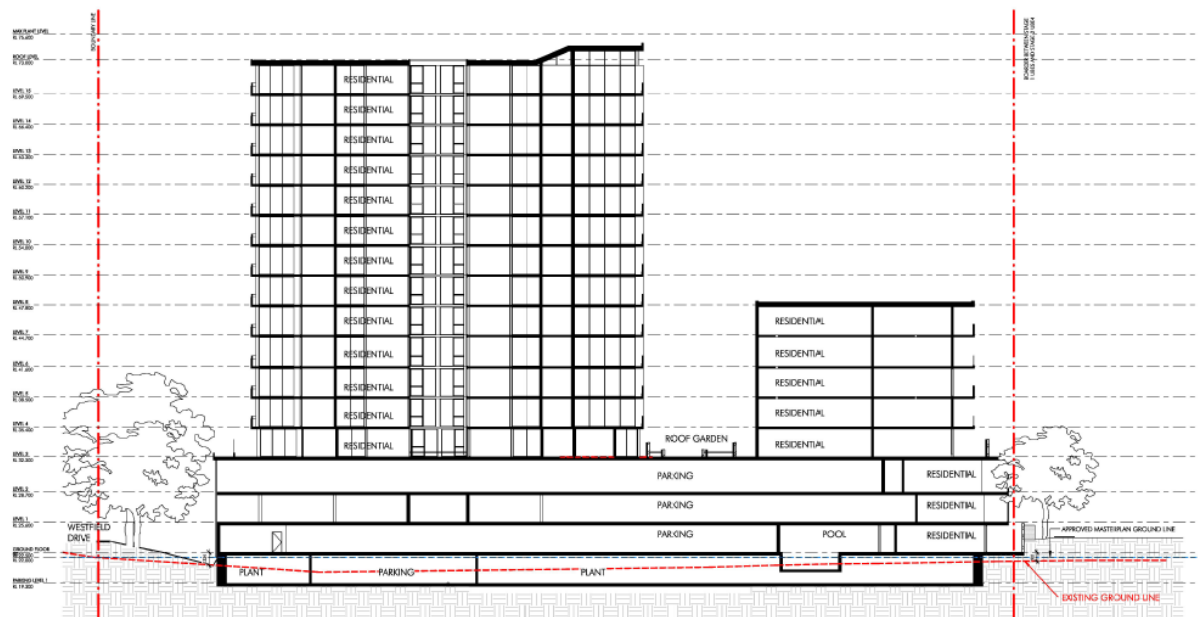


Figure 9. Approved level change shown on section

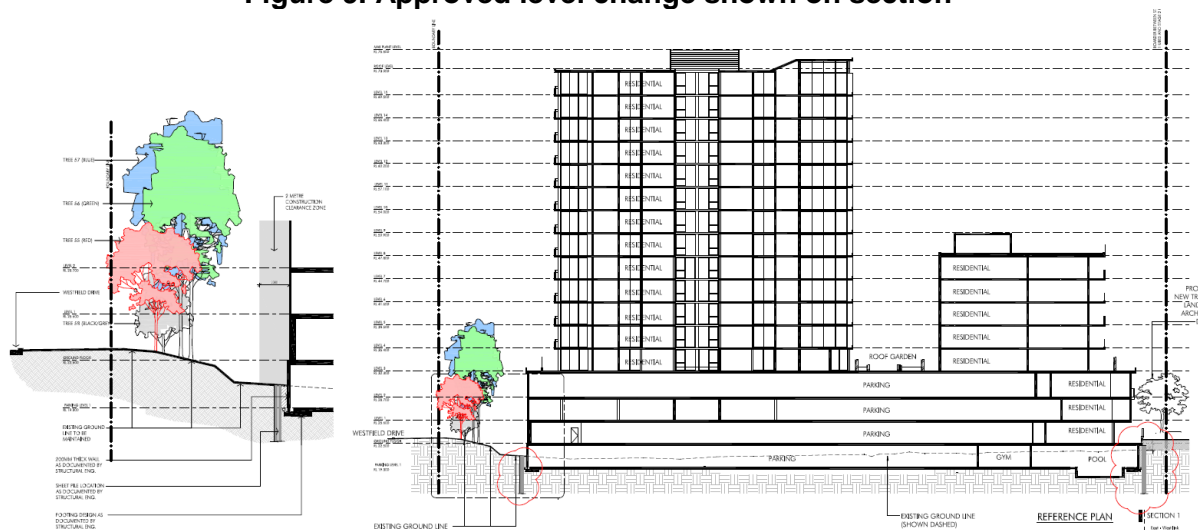


Figure 10. Proposed level change shown on section

The proposed level change is acceptable and supported as part of this application.

Modification 3 – Minor amendments to units

The proposal will amend a number of the units to address structural changes with the construction of the development. The changes as listed below are acceptable as there are no substantial changes to the unit size and balcony sizes and the lobby areas.

- Adjustment of balcony at B-204, D-406, B-101, C-310 and C-311. No change in the size of balcony;
- External wall revised of the core of Building A;
- External wall of a bedroom to Units B-406, C-204, C-G04, C-103, D-103 and C-301 has been revised;
- The angle of the external wall has been revised for Units B-304, B-406, B-301 and B-307;
- Minor layout change to units D-304, D-305, D-401, D-404 and D405 to address structural changes;
- Glass extension and atrium changes to the lobby of Building B;
- Additional storage within the basement car parking level.

The proposed changes will not add additional bulk to the development and is retained within the building envelope and does not depart from the approved Stage 1 consent. The proposed modifications are acceptable and supported.

Modification 4 – Modification 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. 89

The condition is to be modified as below to reflect the correct car parking number breakdown for each development.

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

- a) Minimum 315 ~~319~~ residential spaces*
- b) 20 ~~21~~ visitor spaces*
- c) 1 car share space within the car park”*

Condition No. 112

This condition will be modified to reflect the subject application.

SECTION 4.55(1A) CONSIDERATIONS (previously Section 96(1A))

Section 4.55(1A) 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 proposed modification is of minimal environmental impact, and***

The Section 4.55(1A) modification application relates to amendments to the approved development by adjusting the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements, and as such, the modifications will result in substantially the same development as approved under DA-16/143 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

- b) ***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(1A) modification application relates to minor modifications to the car parking, floor levels and the external materials of the buildings, therefore the modification application is substantially the same development to which consent was originally granted.

- 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 29 November to 13 December 2017.

- 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 no submissions received during the public notification period.

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. The proposed modifications do not alter the conditions approved within the Stage 1 consent. Discussion regarding the car parking is discussed in Modification No. 1 assessment above.

SECTION 4.15 CONSIDERATIONS (previously section 79c)

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

S.4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered as follows:

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

The proposed changes do not alter the provisions and requirements under the ADG. The unit sizes, POS, solar and cross ventilation, building separation and setbacks continue to comply with the Stage 1 consent. There are no substantial changes to the application to warrant an assessment under the principles of SEPP 65 and the controls within the ADG. 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 provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	N/A	The site is zoned B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed modifications are permissible within the zone.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	N/A	There is no change proposed to the approved height of the buildings.
What is the proposed FSR?	N/A	There is no change to the approved FSR of the buildings.
Is the land affected by road widening?	N/A	The subject site is not identified as being affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils (ASS) 6.2 – Earthworks	Yes	The conclusions within DA-16/143 have not changed.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.3 – Stormwater management 6.8 - Airspace operations 6.9 – Development in areas subject to aircraft noise 6.16 – Design excellence		

The proposed modifications will be consistent with the objectives of the BBLEP 2013 with regard to development in the B4 zone.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

S.4.15(1)(a)(iii) - Provisions of any Development Control Plan

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. The proposed modifications will not impact significantly upon the visible external appearance of the development when viewed from the public domain areas. The modifications to the external façade and front courtyard fence are acceptable when considering material choice and location. There is no assessment against the BBDCP 2013 as the proposed modifications relate to Conditions that have been applied within the Stage 1 consent.

As the proposal complies with the car parking rate required under the Stage 1 consent and continues to have appropriate vehicular access into and within the car parking levels, the amended proposal is acceptable.

S.4.15(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.4.15(1)(b) - Likely Impacts of Development

The proposed modifications relate only to amendments to the approved development by adjusting the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements 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-16/143.

S.4.15(1)(c) - Suitability of the site

The suitability of the site was addressed in the original approval of DA-16/143.

S.4.15(1)(d) - Public Submissions

No objections were received.

S.4.15(1)(e) - Public interest

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

CONCLUSION

The Section 4.55(1A) Application seeks to modify Development Consent No. 16/143 which approved the demolition and construction of a mixed use development. The modifications include amendments to the approved development by adjusting the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements and 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: 16/143/02

SCHEDULE OF CONSENT 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 G F- Cover page- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 21 November 2017 Received 19 February 2018
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-002 Rev B- Building Articulation Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-100 Rev E G- Parking Level	Nettleton Tribe	Dated 21 December 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017
DA-101 Rev E G- Ground Floor Plan	Nettleton Tribe	Dated 21 December 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017
DA-102 Rev E F- Level 1 Plan	Nettleton Tribe	Dated 21 December 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017

Plans	Author	Dated / Received by Council
DA-103 Rev E G- Level 2 Plan- S96 roof terraces	Nettleton Tribe	Dated 21 December 2016 Received 4 January 2017 Dated 21 November 2017 Received 19 February 2018
DA-104 Rev C E- Level 3 Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 13 November 2017; Received 15 November 2017
DA-105 Rev C E- Level 4 Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 13 November 2017; Received 15 November 2017
DA-106 Rev G D- Level 5 Plan- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 21 November 2017 Received 19 February 2018
DA-107 Rev G F- Level 6-7 Plan- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-108 Rev G G- Level 8-14- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-109 Rev A D- Level 15 Plan- S96 penthouse and roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-110 Rev B- Roof Terrace Plan- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018
DA-111 Rev F- Roof Plan- S96 roof terraces	Nettleton Tribe	Dated 6 February 2018 Received 3 April 2018
DA-201 Rev D J- North Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-202 Rev D J- South Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-203 Rev D J- East Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018
DA-204 Rev D J- West Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018 (no change to the materials approved on 4 January 2017 in

Plans	Author	Dated / Received by Council
		relation to the ground floor entrance into Building B)
DA-301 Rev D C- Amended DA- Rooftop terraces- Sections 01	Nettleton Tribe	Dated 30 January 2017 Received 31 January 2017 Dated 29 March 2018 Received 3 April 2018
DA-301 Rev H – Sections 01	Nettleton Tribe	Dated 20 June 2017; Received 6 July 2017
DA-302 Rev B F- Sections 02	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017
DA-430 Rev D G- GFA Area Plans- S96 roof terraces	Nettleton Tribe	Dated 6 January 2017 Received 7 January 2016 Dated 21 November 2017 Received 19 February 2018
DA-501 Rev A- Ventilation Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-506 Rev A- East and West Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-507 Rev A- North Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-602 Rev A- Solar Point Perspective Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-603 Rev A- Solar Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-604 Rev A- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-609 Rev B- External Finishes	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-801 Rev B- Survey Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1001 Rev A- Deep Soil Calculation	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1101 Rev A- Privacy and Screening	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
L-000-CS Rev D- Cover sheet, drawing register and legend	Urbis	Dated 21 December 2016 Received 4 January 2017
L-500-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-501-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-502- PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-503-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017

Plans	Author	Dated / Received by Council
L-504-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-505-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-506-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-507-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-508-PL Rev B- Level 5 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-509-PL Rev A- Planting Schedule	Urbis	Dated 14 December 2016 Received 4 January 2017
L01- Rev B- Level 5 Private Terrace Landscape Plans	Urbis	Dated 13 February 2018 Received 19 February 2018
L02- Rev B-Typical Details and Plant Schedule	Urbis	Dated 13 February 2018 Received 19 February 2018
L-SK01 Rev B- Tree Retention Study (including shoring and piling)	Urbis	Dated 23 January 2017 Received 25 January 2017
L-SK01 Rev B- Tree Retention Study (basement level)	Urbis	Dated 23 January 2017 Received 23 January 2017

(DA-16/143/03) (**DA-16/143/02**)

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-011 Rev 2	Wall to Wall	Dated 8 August 2016; Received 17 August 2016
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: 610.13932-R1	SLR	Dated 15 July 2016; Received 17 August 2016
Architectural Design Statement	Nettleton Tribe	Dated 2 November 2016; Received 9 November 2016
ADG Compliance Table Ref: 4574	Nettleton Tribe	Dated 15 July 2015; Received 17 August 2016
Aeronautical Impact Assessment Ref: J0469 V1.0	The Ambidji Group Pty Ltd	Dated 8 August 2016; Received 17 August 2016
Arboricultural Assessment Report	TALC (Tree and Landscape Consultants)	Dated 31 January 2017; Received 1 February 2017
Thermal Comfort and BASIX Assessment Ref: 9941 Rev A C	Efficient Living	Dated 22 July 2016; Received 17 August 2016

Reference Document(s)	Author	Dated / Received by Council
		Dated 26 September 2017 Received 19 February 2018
Building Code of Australia Compliance Assessment Report Ref: 1423.88 Rev 00	AED Group	Dated July 2016; Received 17 August 2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated April 2016; Received 17 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 9 August 2016 Received 17 August 2016
Geotechnical Investigation Report Ref: GEOTLCOV24928AB-AF	Coffey Geotechnics Pty Ltd	Dated 8 August 2014; Received 17 August 2016
Landscape Report Ref: ND1501	Urbis	Dated 21 December 2016 Received 4 January 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 11 July 2016; Received 17 August 2016
Updated Remediation Action Plan Ref: 71631.12	Douglas Partners	Dated September 2013; Received 17 August 2016
Proposed Remediation Action Plan Amendment – Revision 1 Ref: 85009 Rev 1	Douglas Partners	Dated 2 September 2015; Received 17 August 2016
Site Audit Report and Site Audit Statement Ref: 6019040414_SAR_JC_NSW05	AECOM	Dated 31 March 2014; Received 17 August 2016
Reflectivity and Glare Assessment Ref: 610.13932-R6	SLR	Dated 14 July 2016; Received 17 August 2016
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 17 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 11 August 2016; Received 17 August 2016
Stormwater Report Ref: 13-155-5400 Rev 01	At&I	Dated July 2016; Received 17 August 2016
Stage 2 Traffic and Transport Report Ref: 237575	ARUP	Dated 19 July 2016; Received 17 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 4 August 2016; Received 17 August 2016
Qualitative Wind Assessment Ref: 610.13932.R5 L02-v0.1 5E S.96	SLR	Dated 14 July 2016; Received 17 August 2016

Reference Document(s)	Author	Dated / Received by Council
		Dated 12 February 2018 Received 19 February 2018
Response Matrix and Cover letter to additional information issues	Meriton Property Services Pty Ltd	Received 9 November 2016 and 4 January 2017
Clause 4.6 variation to vary height development standard	Merton Property Services Pty Ltd	Dated 7 December 2016; Received 7 December 2016
Solar Perspective diagrams approved at Stage 1	-	Dated 16 December 2014; Received 4 January 2017
Solar Access Assessment- Stage 1 consent	SLR	Dated 7 December 2014; Received 4 January 2017
Statement of Environmental Effects Section 96 Application	Meriton Property Services Pty Ltd	Dated 13 February 2018; Received 19 February 2018
SEPP 65 and ADG Design Verification Statement- Rooftop terraces	Nettleton Tribe	Dated 11 April 2018; Received 11 April 2018
SEPP 65 and ADG Design Verification Statement- S.96 application	Nettleton Tribe	Dated 10 May 2018; Received 10 May 2018

(DA-16/143/03) (**DA-16/143/02**)

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

- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
- a) Note:
- Relevant BASIX Certificate means:
- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

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

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

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

- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
 - a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - b) Ausgrid Network Standards
 - c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of 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 The proponent must ensure obstacle lighting is maintained in serviceable condition and any outage immediately reported to SACL.

- 16 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.
- 17 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 the **NSW Roads and Maritime Services (RMS)**:

- 18 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.
- 19 All demolition and construction vehicles are to be contained wholly within the site as a construction zone and will not be permitted on Bunnerong Road.
- 20 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.
- 21 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124
Telephone 88492114 Fax 88492766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owners 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.

- 22 A Construction Traffic Management 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.

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

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

23 Stormwater

Sydney Water requires the removal of Sydney Water stormwater assets within the development site and the construction of a new chamber over Sydney Water's stormwater culvert at Westfield Drive. Sydney Water would not be prepared to take ownership of any drainage works within the development site. Detailed requirements will be provided in the *Asset Creation Process*, as part of the Section 73 application phase.

For further information regarding stormwater requirements for this development application, please contact Jeya Jeyadevan of Land and Waterways on 02 8849 6118 or email jeya.jeyadevan@sydneywater.com.au.

24 Water

- a) The existing water mains along the eastern boundary of this site are the 375mm and 250mm, cross connected by a 100mm main in Bunnerong Road.
- b) The existing network will have sufficient capacity to provide water supply to the development area by connecting to the existing 250mm main in Bunnerong Road, with a new cross connection between both 250mm and 375mm mains. This point is shown overleaf.
- c) Water reticulation within the site need to be extended from the connection point in Bunnerong Road and to be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).
- d) Detailed drinking water requirements will be assessed at the Section 73 application phase.

25 Wastewater

- a) The proposed development will be serviced by the 375mm main intersecting the development site.
- b) Detailed wastewater requirements will be provided at the Section 73 application phase.

26 Sydney Water E-Planning

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

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

- 27 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.
- 28 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.
- 29 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.
- 30 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.
- 31 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
 - 32 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.
 - 33 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.
 - 34 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.
 - 35 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.
 - 36 In order to ensure that the trees listed in the arborist report in Condition 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:
 - a) Engage an Arborist to undertake any necessary tree root pruning and canopy pruning to trees to be retained.
 - b) Trees required 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 Arborist Report/Landscape Plan.
 - c) Prior to commencing any works the trees shall be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until all construction is complete and not altered without the consent of Council's Tree Officer.
 - d) The TPZ is to be mulched with leaf mulch to a depth of 100mm and a temporary automatic drip irrigation system installed for the entire construction delivery twice weekly deep watering. Drippers to be installed at 300mm intervals to the entire root zone of all trees.
 - e) If there is insufficient space to erect fencing in a particular area during construction, and as approved by Council, wrap the trunk with hessian or

similar to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings with strapping or wire (not nails).

- f) Before any works commence on site, the Applicant is required to contact Council for an inspection of the TPZ's. Council approval is required prior commencement of any work.
- g) All Construction Certificate plans, specifications and CMP shall show the trees required to be retained and the TPZ.

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

- 37 Prior to the issue of the relevant Construction Certificate, construction plans are to show for all two and three bedroom apartments the floor surface of the entry, kitchen floor and internal storage areas to be of readily maintainable and water-resistant material (not carpet).
- 38 Prior to the issue of the relevant Construction Certificate, construction plans are to show all two and three bedroom apartments to include a fixed study desk or study nook where a separate study room has not been provided.
- 39 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.
- 40 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.
- 41 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

a)	Development Control	\$12,900.00
b)	Damage Deposit	\$314,700.00 (See below)
c)	Section 94 Contributions	\$2,714,611.95 (See below)
d)	Long Service Levy	See below
- 42 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$2,714,611.95 in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

a)	Community Facilities	\$466,913.255
b)	Recreation Facilities	\$2,022,385.90
c)	Transport Management	\$190,022.836

d) Administration \$35,289.955

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.

- 43 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.
- 44 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.
- 45 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.
- 46 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.

47 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.

48 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.

- 49 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 2890.2 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.
- 50 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 19 July 2016, 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.
- 51 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.
- 52 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.

- 53 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.

- 54 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.

55 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.

56 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.

57 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.

58 Prior to the issue of the relevant Construction Certificate, the electrical kiosk and fire booster assembly (and similar utilities) must be located in an unobtrusive location

away from vehicle and pedestrian entrances to the property and is to comply with Ausgrid and the Fire Brigade Requirements..

- 59 Prior to the issue of the relevant Construction Certificate, an independent review by an appropriately qualified person demonstrating consistency of the development with the Crime Prevention Through Environmental Design (CPTED) principles and strategies to be submitted to the Principal Certifying Authority.
- 60 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.
- 61 Prior to the issue of any Construction Certificate, a correctly scaled Tree Retention Plan shall be submitted to and approved by the Bayside Council's Landscape Architect, which clearly indicates the 13 trees to be retained in the Westfield Drive setback and references the Arborist report. These trees are:
- a) 27 to 29 – 3 x 17 metre high *E. microcorys*
 - b) 30 – 18m high *E. punctata*
 - c) 47 and 50 – 2 x 15 metre high *E.botryoides*
 - d) 51 and 52 – 2 x 17 metre high *E. microcorys*
 - e) 54 to 58 – 5 x 16m high *E. microcorys*
- 62 Prior to the issue of any Construction Certificate, the Applicant shall provide a Tree Impact Assessment and Management Plan for approval by Council's Tree Management Officer and is required to address the following as a minimum:
- a) Demonstrate how the proposal complies with AS4970-2009 – Protection of Trees on Development Sites for trees to be retained and AS4373-2007 - Pruning of Amenity Trees in respect to canopy pruning;
 - b) Description of measures to ameliorate potential impacts to trees to be retained. This is to include measures to ameliorate potential impacts that the proposed building works and piling/shoring Clearance Line may have on the trees to be retained in the Westfield Drive setback and evidence that the trees can be retained without detrimental impact;
 - c) Address how the trees are to be managed during construction to negate any impacts to the trees;
 - d) Recommendations for remedial or other works to the trees during or post construction including watering regime, fertilising etc;
 - e) Supporting evidence such as photographs.
- 63 Prior to the issue of any Construction Certificate, the detailed sections through the Westfield Drive setback are to be revised to delete the 1-1.3 metre increase in soil

levels throughout which is not supportive of tree retention. The natural ground line/soil levels must be maintained throughout the setback. Revised sections 1 and 2 are required to indicate this and the landscape plan, construction management plan and any other detailed plan updated accordingly. The sections are to be submitted to and approved by the Bayside Council's Landscape Architect.

64 The landscape areas shown on the plans by Urbis, Issue D, shall be the subject of detailed construction level documentation to be submitted to and approved by the Bayside Council's Landscape Architect prior to the issue of the relevant Construction Certificate. The plans shall address the following:

- a) Thirteen (13) existing significant canopy trees in the Westfield Drive setback shall be retained and protected. These trees are as follows:
 - 27 to 29 – 3 x 17 metre high *E. microcorys*
 - 30 – 18m high *E. punctata*
 - 47 and 50 – 2 x 15 metre high *E. botryoides*
 - 51 and 52 – 2 x 17 metre high *E. microcorys*
 - 54 to 58 – 5 x 16m high *E. microcorys*
- b) The above trees shall be clearly transposed to the landscape plan and numbered to correspond with the Arborist report.
- c) Existing ground levels are to be maintained in the Westfield Drive setback. Levels shall not be altered.
- d) The landscape plan shall indicate all proposed utility lines within the setbacks to ensure there is no conflict with retained trees or proposed trees. If a proposed utility line conflicts with an existing tree the utility will be required to be relocated.
- e) A planting/landscape design that includes not only tree retention but new significant, large canopy tree plantings on all frontages of the site, and in particular the Bunnerong Roadsetback and through to the Westfield Drive setback. There shall be a variety of tree heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80-90%) being evergreen species. Species should be shade tolerant where appropriate. All trees must be of an appropriate scale to complement and ameliorate the built form and massing and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Bunnerong Road setback and soften buildings as a component of the streetscape and public domain.
- f) Replacement large canopy trees are required in the Bunnerong Roadsetback, minimum pot size 1000 litre. Ex-ground stock may be required. *E. punctata* is not to be specified.
- g) Shrubs of varying height shall be used throughout all setbacks including at the base of buildings to visually ground buildings and screen edges and facades. Lawn shall be minimized in favour of extensive mass planted areas using shrubs of varying heights and shade tolerant species as suitable. Feature/specimen architectural type planting is favoured and plants suitable to the residential setting and the visually enhance the Bunnerong Road building setback as a significant component of the streetscape and public domain.
- h) A planting plan to depict all plant locations, groupings and centres/spacings. There is to be a dense, layered planting of trees and shrubs of varying height and feature in all landscaped areas.

- i) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape hardworks/materials such as retaining walls and paving as well as maintenance periods. Sectional construction details.
- j) Details for all fencing, retaining walls or structures visible within the public domain of all frontages – sectional details and materials. NOTE : the use of retaining walls and pavements in the Bunnerong Road setback shall be minimized to allow ample lateral space for root establishment or large trees without confinement by barriers. Details of other landscape elements such as furniture and pedestrian amenity/security lighting within street setbacks.
- k) All setbacks are to be under common ownership to allow survival and maintenance of the landscape scheme long term. Private terraces are outside the landscape setbacks.
- l) All setbacks are to be automatically irrigated.

Landscaping shall be installed in accordance with the Council approved landscape plan only, prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained at all times in accordance with the final Council approved landscape documentation, the conditions of consent and Council's Landscape Technical Guidelines at all times.

- 65 Prior to the issue of the relevant Construction Certificate, a public domain improvements plan shall be submitted for approval by Bayside Council's Landscape Architect for Bunnerong Road and Westfield Drive, inclusive of the landscaped island at the base of the Westfield exit ramp. The plan shall also include the internal roads public domain details to the west and north of the site. The plan shall include but not be limited to street tree planting (in accordance with the STMP), footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards and bike racks and ground level shrub landscaping. The plan shall be in accordance with any Council public domain detail. specification or requirement. NOTE : Minimum pot size for street trees is 400 litre. Civil drawings shall include levels and detailed footpath construction sections.
- 66 The Applicant is to submit payment for a Tree Preservation Bond of \$170,000.00 to ensure protection of the trees listed in the arborist report in Condition No. 1 above from damage during construction. The duration of the Bond shall be for a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of retained trees by Council. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time during construction, then all or part thereof of the bond shall be forfeited.
- 67 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 \$40,000.00, 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 \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 68 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.
- 69 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.
- 70 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).

- 71 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.
- 72 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.
- 73 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.
- 74 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.
- 75 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.

76 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.

77 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.

78 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.

- 79 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.
- 80 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.
- 81 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.
- 82 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.
- 83 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.
- 84 Results of the monitoring of relevant field parameters pertaining to conditions of this consent such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 85 An experienced Landscape Contractor shall be engaged to undertake the landscape installation and shall be provided with a copy of both the final approved landscape drawing and conditions of approval to satisfactorily construct the landscape to Council requirement.
- 86 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, including setbacks, installed

by a qualified landscape contractor. 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.

87 In order to ensure that the trees listed in the arborist report in Condition No. 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:

- a) All TPZ's are a "No-Go" zone. There shall be no access, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, 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.
- b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- c) Comply with all recommendations of the Tree Management Plan to be submitted as a condition of approval and any other Council requirement.
- d) Excavation within the TPZ and within 3 metres outward of the canopy dripline of any tree to be retained shall be carried out manually using hand tools to minimise root damage or disturbance.
- e) Tree roots 35mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection.
- f) 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 to be retained. There shall be no canopy or root 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.
- g) Masonry boundary fencing/walls or built structures shall not be located within the setback. If unavoidable they are to be to Council approval and be of piered or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 35mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (after Council inspection and advice), the pier will need to be relocated and the root bridged.
- h) There shall be no pavements or change in levels in the Westfield Drive setback.
- i) There shall be **no trenching for new subsurface utilities** or the location of new overhead services within the primary root zone or canopy of any of the trees to be retained in the Westfield Drive setback. Any utilities close proximity to trees must accommodate tree roots without damage or pruning.
- j) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at any time during or at the completion of construction.

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.

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

- 88 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.
- 89 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) **Minimum 315 ~~319~~** residential spaces
 - b) **20 ~~21~~** visitors spaces
 - c) 1 car share space within the car park.
- (DA-16/143/02)**
- 90 Prior to the issue of the relevant Occupation Certificate, at least 41 bicycle spaces are to be provided in the car park.
- 91 Any damage not shown in the photographic survey submitted to Council as per the submitted report in Condition No. 45 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 the damage deposit.
- 92 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 93 Prior to the issue of 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,
 - c) On Bunnerong Road, adjacent to development, demolish existing Stormwater Inlet Pit and construct new Stormwater Inlet Pit with a 2.4metre Lintel and a Steel Galvanised Grate, as per Council's Infrastructure specifications, and
 - d) 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.

- 94 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.
- 95 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.
- 96 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.
- 97 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.
- 98 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant/Contractor 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 the Occupation Certificate. The contractor shall be engaged weekly for a minimum period of 52 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.
- 99 The Applicant is to submit payment of a New Street Tree Maintenance Bond of \$25,000.00. The duration of the Bond shall be limited to a period of 12 months after final Council approval of planting of the new street trees. 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.
- New street trees shall be sourced from a reputable supplier that grows to NATSPEC/Australian Standard and located and installed in accordance with the Council approved public domain plan. Two hold point inspections by Council's Tree Officer is required:

- a) prior planting trees to ensure plant stock is suitable and
- b) post planting prior to the maintenance and bond period commencing.

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

- a) 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.
- b) 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.
- c) 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.

101 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

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

102 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

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

103 The use of studies as bedrooms is prohibited.

- 104 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.
- 105 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 12 month defects period after final Council approval of planting. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual fertilising, mulch replenishment every 3 months minimum and weekly weed removal around the base but does not include trimming or pruning the trees under any circumstances.
- 106 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.
- 107 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.
- 108 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.
- 109 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.
- 110 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.
- 111 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.

- 112 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/143 dated as 17 August 2016 and as further modified by DA-16/143/03 dated 22 December 2017 **and as further modified by DA-16/143/02 dated 6 July 2017** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-16/143/03) **(DA-16/143/02)**