

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	2018SCL049 and 2018SCL050
DA Number	DA-14/96/02 and DA-14/96/07
Local Government Area	Bayside Council
Proposed Development	<p>DA-14/96/02- 130-150 Bunnerong Road Eastgardens</p> <p>Section 4.56 Application to modify Development Consent No. 14/96. Modifications include reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height and modifications to conditions.</p> <p>DA-14/96/07- 130-150 Bunnerong Road Eastgardens</p> <p>Section 4.56 Application to modify Development Consent No. 14/96 which approved a Stage 1 masterplan for the site to modify the approved unit mix, unit sizes and private open space relating to Urban Blocks 3 and 5C and amend the setback requirements for Urban Block 3.</p>
Street Address	130-150 Bunnerong Road Eastgardens
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	<p>DA-14/96/02- Two (2) submissions</p> <p>DA-14/96/07- One (1) submission</p>
Regional Development Criteria (Schedule 4A of the Act)	Section 4.56 Applications to modify a consent determined by the Land and Environment Court through the Section 34 conciliation process
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 ● Gateway Determination- Planning Proposal for BATA 2 ● Approved Stage 1 Plans – PTW Architects
Report by	Angela Lazaridis – Senior Development Assessment Officer

RECOMMENDATION

It is RECOMMENDED that the Sydney Eastern City Planning Panel resolve pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. 14/96 at 130-150 Bunnerong Road Eastgardens, as indicated within the updated Schedule of Conditions.

The reasons of approval are as follows:

- The proposed modifications will not have any additional material impact;
- The proposed modification does not alter the approved Stage 1 overall building height and FSR; and
- The proposed modification achieves consistency with the minimum unit and private open space requirements of the Apartment Design Guide.

EXECUTIVE SUMMARY

DA-14/96/02- 130-150 Bunnerong Road Eastgardens

Section 4.56 Application to modify Development Consent No. 14/96 with modifications relating to the reduction in the ground floor retail component, deletion of the civic retail square and extension of the five storey podium, additional residential units, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height and modifications to the conditions at 130-150 Bunnerong Road, Eastgardens, was submitted to Council on 30 November 2016.

The application was placed on public exhibition and was advertised under the *Environmental Planning and Assessment Regulation* for a fourteen (14) day period from 21 December 2016 to 11 January 2017. Two objections were received with one being from Randwick Council.

The proposal involves the deletion of the retail/supermarket space from the site. The masterplan consent approved retail/supermarket up to a maximum of 5,000sqm gross floor

area. The applicant has stated that the feasibility of the retail is not ideal as the site is located directly next to Westfield Eastgardens Shopping Centre which contains three supermarkets that can cater to the residents of the site and to surrounding sites. Additionally, the developer seeks to provide a minimum 5,000sqm retail precinct within the secondary site located outside the subject masterplan area (BATA 2). This has been approved as part of a gateway determination with conditions to amend the planning proposal to provide a minimum of 5,000sqm of commercial area within the site. The remaining retail area that is located on the northern boundary of the ground floor of UB5C, measuring a minimum of 1,000sqm, will act as a secondary retail outlet area that will cater for small scale retail i.e. cafes, small convenience stores. Council is supportive of the deletion of the supermarket in this case.

The applicant originally proposed to delete the civic open space that was located along the north-western side of UB5C. Deletion of the open space was not supported and Council advised the applicant to find a suitable location elsewhere within the site. The applicant has located the 1,000sqm along the northern side of UB5C which will be directly adjacent to the retail strip proposed within the urban block. This is an appropriate location for the civic area as it provides an appropriate transition between indoor and outdoor area.

The application proposes to delete two of the four childcare centres that were originally proposed by the applicant as part of the masterplan. The applicant has stated that there is no demand for this service within the area and therefore has proposed for their deletion. Council have not received additional information relating to the deletion of the child care centres other than discussions with Council's Community Services department who are responsible for Council owned child care centres. There is no demand for additional childcare centres within this area. The remaining two childcare centres will accommodate 90 children each and are located within Urban Block UB4 and UB5W.

Other proposed modifications relate to lowering the podium height, adding another residential level to UB5C, having additional residential units sleeved with retail and car parking behind and to the north and extending the building envelope of UB5C to the north and west of the site to align with the established building envelope at UB5W.

The applicant requested that the Condition Nos. 1, 12, 18, 20, 22, 24, 25, 26, 27, 30(a), 39, 40, 41, 42, 44 and 55 be amended. These conditions which primarily relate to updating the conditions which reflect the amended plans subject of this application. In addition to the above conditions, Council has recommended amendments to Condition Nos. 15, 19, 21, 29, 34 and 71, which were omitted by the applicant, updating the conditions to reflect the current plans and amend the conditions that related to the podium building height within the height table and updating the indicative car parking spaces and unit numbers/mix within the consent.

On 8 March 2017, the applicant submitted additional information demonstrating that the proposed modifications will not increase the amount of indicative car parking across the site but will reduce it to comply with the car parking rates of the residential and commercial/child care uses. This integrates the car parking requirement changes within DA-14/96/07. There is no net increase in the amount of car parking generated under this application. Additionally, the applicant seeks to replace the deleted commercial/retail space and replace it with an additional 6 indicative units at UB2 and 37 indicative units at UB5C. Additional units are proposed within DA-14/96/07. The total gross floor area and FSR across the entire masterplan and for UB2 and UB5C does not increase but remains as approved.

DA-14/96/07- 130-150 Bunnerong Road Eastgardens

Section 4.56 Application to modify Development Consent No. 14/96 with modifications relating to the approved unit mix, unit sizes and private open space requirements approved within the

Stage 1 consent relating to Urban Blocks 3 and 5C and amend the setback requirements for Urban Block 3 and modification of conditions at 130-150 Bunnerong Road, Eastgardens was submitted to Council on 22 March 2018.

The application was placed on public exhibition and was advertised under the *Environmental Planning and Assessment Regulation* for a fourteen (14) day period from 30 April to 14 May 2018. One objection was received from Randwick Council. This has been discussed in greater detail in the report below.

The modification to the northern setback of UB3 is proposed to rectify a discrepancy in the approved plans. The building envelope of this urban block demonstrates a 4 metre setback however on Dwg No. A006, the setback dimension demonstrates that there is a 6 metre setback. As the building envelope does not modify and is consistent with the northern setback at UB4, UB5W, UB5E and UB5C, the proposed modification is supported.

In regard to the unit size and private open space size, the Stage 1 consent is proposed to be modified to demonstrate compliance with the unit and POS sizes adopted within the Apartment Design Guide. The Stage 1 consent was approved prior to the changes to SEPP 65 and the adoption of the Design Guide therefore proposed larger unit sizes. This proposed change will streamline the units within UB3 and UB5C to match the Apartment Design Guide.

Additionally the proposal seeks to amend the unit mix that was originally approved under Stage 1 consent as 20% one bedroom units, 50% two bedroom units and 30% three bedroom units. The proposal seeks to reduce the number of one bedroom units, increase the number of two bedroom units and decrease the number of three bedroom units within UB3. The proposal seeks to increase the number of one bedroom units, increase the number of two bedroom units and decrease the number of three bedroom units within UB5C. This demonstrates that the applicant is seeking to steer away from the larger three bedroom units and provide more affordable one and two bedroom units. The proposed modification is supported and is discussed in greater detail in the report below.

A number of the changes particularly relating to car parking and indicative unit numbers overlap within each application therefore an assessment has been carried out together on these issues.

It is key to note that the applicant has submitted two development applications for Stage 2 development of the buildings of UB3 and UB5C. The subject modifications in these applications will impact on these subject applications as the development applications have designed the buildings based on the recommendations made in this report.

The Section 4.56 Applications have been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and are recommended for approval.

SITE DESCRIPTION

The overall Stage 1 Master plan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north, and Westfield Drive to the south. The north eastern portion of this block is the consolidated British American Tobacco Australia (BATA) operations which does not form part of the subject site. The site is made up of one allotment legally described as Lot 2 in DP 1187426, with a total site area of 103,547sqm.

The site is irregular in shape with frontages to Bunnerong Road, Heffron Road, Banks Avenue and Westfield Drive of 194.21m, 107.22m, 419.85m and 342.34m respectively. The site also has two internal boundaries of 237.75m and 238.20m with the remaining BATA site.

The southern portion of the site has been cleared of all structures and construction works have been completed on the roads and stormwater works approved under the Stage 2 DA's No.14/159 and 15/104. Construction has commenced on UB5W which is located on the south-western portion of the site. In the north-western portion of the site, a large warehouse building from the former BATA operations remains.

A variety of development is located in the vicinity of the site. To the north is Pagewood consisting primarily of low density residential development. To the east is Maroubra which is also primarily low density residential development. To the immediate south of the site is Westfield Eastgardens which is a large regional shopping centre. To the immediate west is the Bonnie Doon Golf Course.

The site is generally flat however it is slightly elevated and retained by a wall along Banks Avenue in the north-west (up to 2m), retained by a lower 450-600mm wall in the south to Westfield Drive and is cut below the level of Bunnerong Road in the south-east by up to 5m.

In terms of vegetation, landscaping beds including medium and large sized mature trees form the perimeter of the site along the Bunnerong Road, Westfield Drive, Banks Avenue, and Heffron Road frontages. Internally, the most significant vegetation is an avenue of large Lemon Scented Gum trees running north-south in the southern half of the site.

External vehicular access to the site is provided via an existing road that provides access to the BATA facility from Bunnerong Road. External vehicular access is also available from Banks Avenue and Westfield Drive.



Figure 1. Locality map of the subject site



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

Approved Development

Stage 1 – Masterplan (DA-14/96)

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

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

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

The key details of the approved Masterplan are as follows:

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

The VPA has been entered into and currently the applicant seeks an amendment to it. It is noted that Part 9D of the BBDCP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Eastgardens, and guided the Stage 1 consent. The Stage 1 consent includes conceptual details of the proposed buildings which have been altered from the provisions of Part 9D.

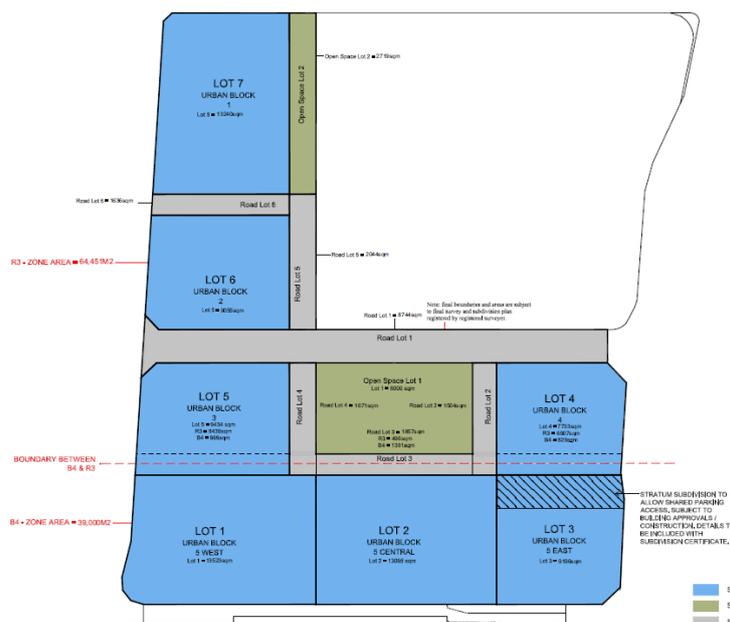


Figure 3. Approved Master plan concept subdivision plan DA-14/96



Figure 4. Approved Building Envelope Plan- DA-14/96

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

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

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

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

Stage 2 Development Applications

Stage 2 – East-West Boulevard and realignment of Sydney Water Stormwater Culvert (DA-14/159)

On 15 July 2014, Council received a Stage 2 Development Application (DA-14/159) which originally was for the construction of the entire road network and civil works associated with the Stage 1 DA. Over subsequent amendments, the proposed development was reduced to only include the kerb-to-kerb construction of East-West Boulevard and the realignment of the existing Sydney Water stormwater channel.

The application was determined by Council on 4 March 2015 by way of refusal. The reasons for refusal were as follows:

- The proposed development is not appropriate in the absence of an approved Master plan;
- It is not in the public interest to approve an aspect of a Master plan proposal when all other parameters are in dispute;
- A commitment to an aspect of the Master plan as a fixed point does not allow for the orderly and economic development of land.

On 9 March 2015, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's refusal of the application. The application was considered in conjunction with the ongoing Section 34 conferences for the Stage 1 DA. Council and the applicant reached a Section 34 agreement and on 7 August 2015 the development consent was issued in conjunction with the Stage 1 (Master plan) consent.



Figure 5. Approved Site Plan DA-14/159

Stage 2 – Subdivision of the site and construction of the road network (excluding East-West Blvd and the private access ways) and associated civil works (DA-15/104)

On 26 June 2015, Council received a Stage 2 Development Application (DA-15/104) for the construction of the road network (excluding the approved East-West Blvd) and associated civil works. The application was subsequently amended to also include the subdivision of the site in accordance with the Stage 1 Master plan and the private access roads were excluded from the proposal. The CIV for the works was \$2,707,356 and therefore Council was the consent authority.

The proposal was generally consistent with the Stage 1 consent DA-14/96 and was approved on 8 January 2016. Multiple modifications have been approved previously relating to construction of the internal roads with one of the modification including the internal private roads within the development. The most recent modification to the development application which relates to a minor boundary adjustment was approved on 4 December 2017.

Stage 2 - Integrated Development Application for the construction of a mixed use development incorporating 487 apartments and a childcare centre within a building consisting of a 5 storey podium including 847 car spaces sleeved with apartments and 2 x 16 storey and 2 x 20 storey towers above.

On 16 February 2016, Council received a Stage 2 Development Application (DA-16/18) which proposed the construction of a mixed use development incorporating 487 apartments and a childcare centre within the building consisting of a 5 storey podium including 847 car parking spaces sleeved behind the apartments and 2 x 16 storey and 2 x 20 storey towers above. The CIV for the works was \$116,742,078 and therefore was referred to the former Sydney East Joint Regional Planning Panel. On 9 June 2016, the development application was approved subject to conditions of consent amended at the Panel Meeting. Construction of this development has been completed and occupation has been carried out.

Stage 2 - Integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments, and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above

On 17 August 2016, Council received a Stage 2 Development Application (DA-16/143) which proposed 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. The CIV for the works was \$69,616,383.00 and therefore was referred to the Sydney Central Planning Panel. On 16 February 2017, the development application was approved subject to conditions of consent amended at the Panel Meeting. Construction is underway for this urban block.

Stage 2 – Integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys

On 13 February 2017, Council received a Stage 2 Development Application (DA-2017/1022) which proposed the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. On 5 October 2017, the development application was approved subject to conditions of consent amended at the Panel meeting. Construction of this development has been completed and occupation has been carried out.

Stage 2 – Integrated Development Application for the construction of two residential apartment buildings up to 16 storeys (maximum building height of RL76m) comprising of 368 units with three basement levels

On 27 November 2017, Council received a Stage 2 Development Application (DA-2017/1224) which proposes the construction of two residential apartment buildings up to 16 storeys with a total of three basement levels. The development application is currently under assessment and will be determined by the Sydney Eastern City Planning Panel.

Stage 2 – Integrated Development Application for the construction of a mixed use development of six (6) residential towers with the tallest tower having a maximum building height of 21 storeys (RL 90.5m), ground floor retail tenancies, associated landscaping and site works. The development proposes a total of 515 apartment

On 11 January 2018, Council received a Stage 2 Development Application (DA-2018/1003) which proposes the construction of a mixed use development for the construction of six residential towers, ground floor retail tenancies and associated landscaping and site works.

The development application is currently under assessment and will be determined by the Sydney Eastern City Planning Panel.

Stage 2 - Embellishment of the public domain across the site. Works include the construction of two public parks, and embellishing the approved road network with landscaping, street furniture, lighting and paving

On 3 May 2016, Council received a Stage 2 Development Application (DA-16/65) which proposes the embellishment of the public domain across the site. The development application is currently under assessment and will be determined by the Bayside Planning Panel.

DESCRIPTION OF PROPOSED MODIFICATIONS

DA-14/96/02- 130-1580 Bunnerong Road Eastgardens

The Section 4.56 Application seeks consent to modify the Stage 1 approved plan layout of UB5C, removal of two childcare centres, removal of retail/supermarket space, relocation of the civic open space, addition of another residential storey within UB5C and reduce the number of car parking to correlate with the loss of retail and addition of residential units.

A summary of the proposed modification, in its amended form, is as follows:

UB5C

- Reduction in the ground floor retail component from 5,000sqm to a single strip of retail facing Civic Avenue (Central Park) and replacement with residential apartments and car parking in a revised podium level;
- Modification of the approved indicative number of car parking spaces approved on the site;
- Relocation of the Civic Retail Square (1,000sqm) and extension of the five storey podium towards the northern and western boundaries, consistent with the UB5W building;
- Overall podium height reduced whilst retaining the same number of levels (5 storeys). The 6 metre floor to floor height has been retained for the retail strip along the northern boundary, however the floor to floor height for the remaining area of the ground and first floor levels has been reduced to 3 metres;
- Provision of 'sleeved' residential uses within the eastern and western facades at ground level (residential with car parking located behind after conversion of space from deleted supermarket);
- Provision of an additional residential level within the 6 tower forms in response to the reduced podium height. The proposed tower forms range in height from 13 storeys to 21 storeys, however the overall maximum height of the development remains unchanged (RL 89.9m). The indicative number of additional units on the site is 37 units;
- The building envelopes of the northern tower forms have been amended to improve solar access to the communal open space above the podium and the towers to the south;
- Deletion of the child care centre.

UB2

- Deletion of the child care centre at ground level and replace with six residential units;
- Decrease car parking due to deletion of child care centre and increase in residential units.

DA-14/96/07- 130-150 Bunnerong Road Eastgardens

The Section 4.56 Application seeks consent to modify the Stage 1 Consent as follows:

- A reduced setback of 4 metres to the northern elevation for UB3 to address a drafting error between the dimensions and the building envelope;
- An increase in the maximum proportion of one bedroom units permitted to 30% within the UB5C development and 19% within the UB3 development, and a reduction in the minimum proportion of three bed units to 15% within UB5C and to 16% within UB3; and
- Adoption of minimum apartment and balcony sizes that are more consistent with the requirements of SEPP 65 and the Apartment Design Guide. Subsequent changes to the indicative number of car parking spaces is proposed.

Overall Masterplan

- The additional residential uses within UB5C and UB2 and the approved number of units within the approved development applications demonstrates that the indicative maximum number of residential units for the Stage 1 proposal is decreased from 2,223 to 2,221 units (decrease in 2 units);
- The changes to the indicative number of units due to the changes in the unit mix and sizes and the approved development numbers will reduce the indicative number of car parking spaces for the Stage 1 proposal from 3,933 to 3,713 car spaces (decrease in 220 spaces).

Modification of a number of conditions of Development Consent No. 14/96

The following conditions are proposed to be modified under DA-14/96/02:

- Amend Condition No. 1 which relates to the drawings and documents approved with the Masterplan;
- Amend Condition No. 12 which relates to the maximum GFA and FSR for each Urban Block;
- Amend Condition No. 15 which relates to the building height table established for the masterplan;
- Amend Condition No. 18 which relates to the separation distances and the building envelopes;
- Amend Condition No. 19 which relates to the height of the podium of UB5C;

- Amend Condition No. 20 which relates to the floor to floor heights for retail and commercial uses;
- Amend Condition No. 21 which relates to the street wall height;
- Amend Condition No. 22 which relates to building elements contained within the building envelope;
- Amend Condition No. 24 & 25 which relates to the maximum protrusion of 500mm of building elements;
- Amend Condition No. 26 which relates to the podium and building setback envelope;
- Amend Condition No. 27 which relates to the corridor lengths within the residential apartments;
- Amend Condition No. 29 which relates to the indicative car parking numbers for across the site;
- Amend Condition No. 30(a) which relates to the above ground car parking structures within UB5C;
- Amend Condition No. 39 which relates to the active street frontage to Civic Square;
- Amend Condition No. 40 which relates to the size of the Civic Square;
- Amend Condition No. 41 which relates to the road network within the site;
- Amend Condition No. 42 which relates to the public park shown as Central Park;
- Amend Condition No. 44 which relates to the open space adjoining UB1;
- Amend Condition No. 55 which relates to the staging of the Construction Certificate for each stage; and
- Amend Condition No. 71 which relates to the subject modification application.

The following conditions are proposed to be modified under DA-14/96/07:

- Condition No. 33 which relates to unit and private open space sizes;
- Condition No. 34 which related to the unit mix;

ASSESSMENT OF PROPOSED MODIFICATIONS

Modification No. 1: Reduction in the ground floor retail/supermarket component to a single strip of retail facing Civic Avenue and replacement with residential apartments and car parking in a revised podium level

The proposed modification will delete the 5,000sqm supermarket from the ground floor of UB5C and replace with a retail strip fronting Civic Avenue. Drawing No. A008- Ground Floor

Plan Use dated 9 July 2018 (Figure 7) demonstrates that the retail component extends along Civic Avenue for a length of approximately 100 metres and has an estimated minimum depth of 6 metres.

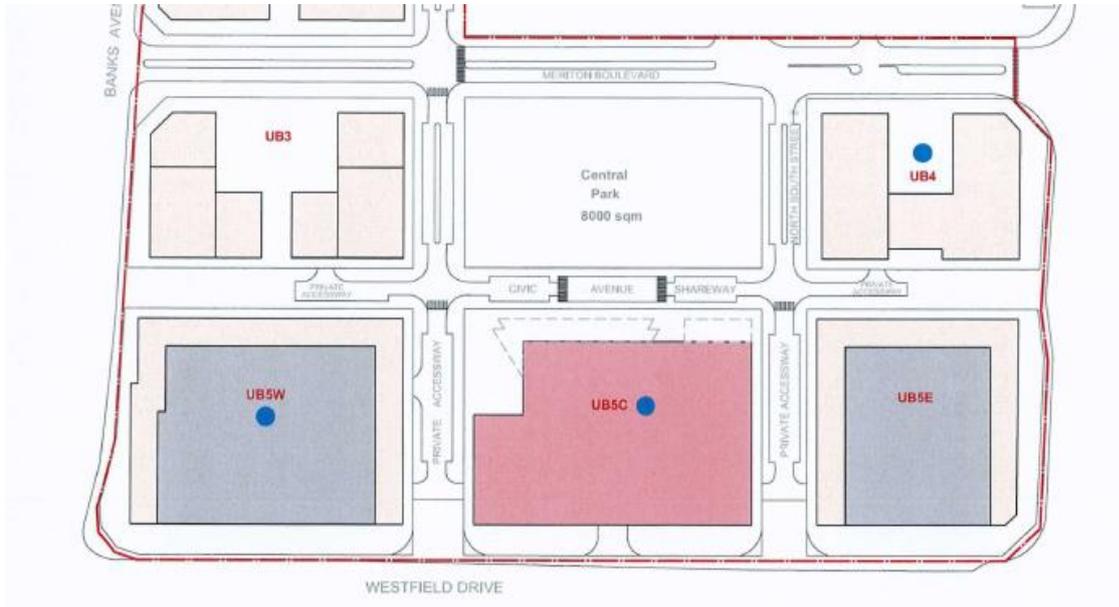


Figure 6. Approved masterplan showing 5,000sqm supermarket/retail space

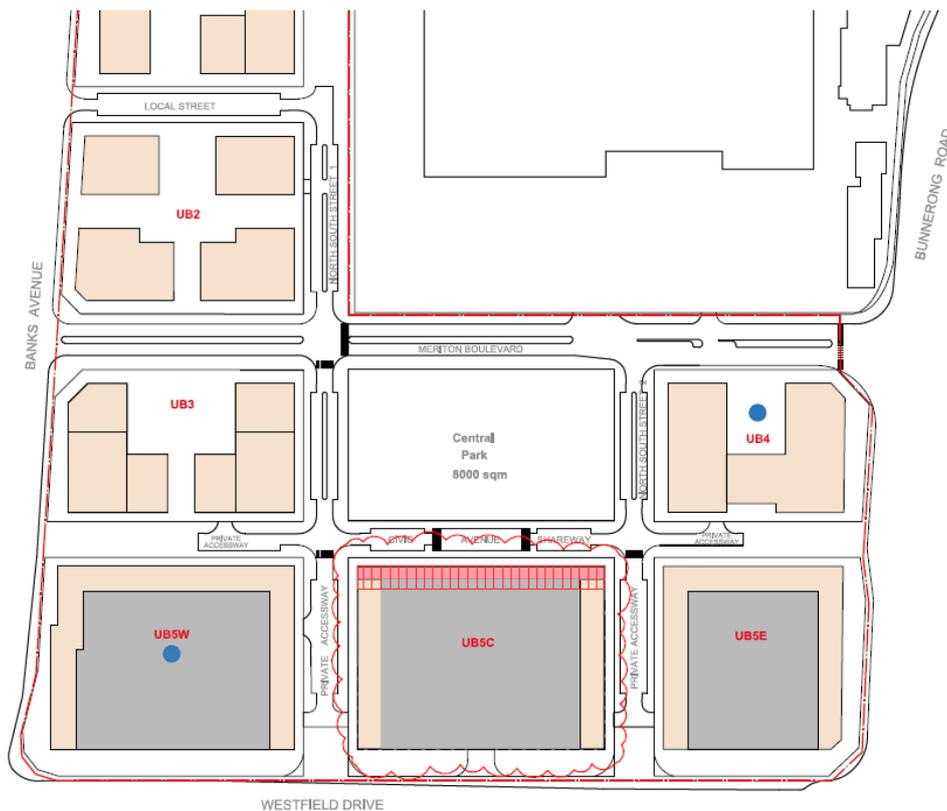


Figure 7. Proposed modification to Supermarket/retail area

The applicant has provided the following justification in removing the supermarket from the site:

“Our client has undertaken a review of the feasibility and functionality of the approved scheme and determined that there is limited market demand to support a small-scale supermarket in this location, particularly given the site’s abuttal to Westfield Eastgardens Shopping Centre. The neighbouring shopping centre contains three supermarkets (Aldi, Coles and Woolworths) together with other speciality shops, which are readily accessible to the proposed development and will adequately cater to the retail needs of future residents.”

Additionally, the applicant provided greater justification in regards to the size, depth and back of house requirements:

“The amount of retail gross floor area currently being shown is in the vicinity of 500sqm. The estimated depth is 6 metres. Both these figures are fluid until Stage 2 DA drawings are completed. From our experience, the depths and therefore the retail gross floor area will more than likely increase due to tenant requirements. Back-of-house detail for the retail uses are always subject to the Stage 2 Development Applications/Design Competitions, and not a masterplan due to ongoing changes. Servicing the retail shops by SRV/MRV vehicles will take place from Westfield Drive due to the reduction in retail floor space.”

Concurrently with the subject applications, the applicant has submitted a development application for UB5C to Council for assessment which demonstrates a dedicated retail strip measuring greater than 1,000sqm in gross floor area and located adjacent to the newly positioned civic open space area. This application is currently under assessment and will be determined by the Sydney Eastern City Planning Panel.

The site along the northern side of the site (BATA 2) has undergone the gateway determination process which was approved on 12 December 2017. The determination stipulated that the planning proposal was to be updated to provide a minimum of 5,000sqm of commercial floor space as an additional permitted use as well as update the number of jobs to reflect the provision for an additional 5,000sqm of commercial space. Discussion between the owner and Council have revealed that the possibility of having a retail precinct within BATA 2 that is greater than 5,000sqm in area is envisaged for the site.

Westfield Eastgardens is located less than 50 metres away from the site and is separated by Westfield Drive which is a private road owned by Westfield. The shopping centre is accessed from Wentworth Avenue, Banks Avenue or Bunnerong Road. Additionally, the masterplan was approved for the site to provide a maximum of up to 5,000sqm not a minimum therefore the masterplan allows flexibility in the amount of retail provided on site.

Due to the proximity of the shopping centre to the site and the existing services that are provided by the Westfield Shopping Centre to the surrounding sites and residents, the deletion of the supermarket component is acceptable. Should there be any changes to the indicative size and orientation of the retail component, a new Section 4.56 application is to be submitted.

The removal of the retail space will allow for an additional 37 units within UB5C and 62 car spaces ancillary to the residential uses. At this stage, the number of units and car spaces is indicative. The removal of the supermarket/childcare will reduce the approved indicative GFA by 5,100sqm. It is anticipated by the applicant that the approved GFA/FSR will not change and the proposed units are to meet the approved GFA of 50,306sqm for UB5C. The layout of UB5C is proposed to be modified so that residential units are located along the western and eastern side of the revised ground floor plan, and the podium level is proposed to be modified as discussed in Modification No. 4. The car parking will be sleeved behind the residential uses and the retail space. As there is no change to the approved GFA, this is accepted.

Modification No. 2: Reduction in the number of commercial car parking spaces and increase in the number of car parking spaces within UB5C and UB2

This modification will group together the amendments to the car parking spaces on both UB5C and UB2. The table below demonstrates the changes between the existing/approved indicative car spaces and the proposed indicative car spaces. Depending on the size of the retail space within UB5C, calculation has been provided for up to 5,000sqm retail space however it is anticipated that the car parking rate will reflect a retail area of between 1,000sqm to 2,000sqm. Any employment car parking rate is not conditioned within the consent, purely the residential is specified.

	Existing/Approved Masterplan	Proposed modification
<p>UB5C</p> <p>Indicative requirements</p> <p><u>Residential uses:</u></p> <p>1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space</p> <p><u>Retail/supermarket:</u></p> <p>1/25sqm for retail/supermarket use</p> <p><u>Child care centres:</u></p> <p>1 space/5 children- staff car parking spaces 1 space/20 children- pick up/drop off spaces 1 space/2 employees</p>	<p><u>Uses:</u></p> <p>453 residential units 1 child care centre 2,500sqm retail space 2,500sqm supermarket space</p> <p><u>Car parking:</u></p> <p>747 residential car spaces 31 child care car spaces 100 retail car spaces 100 supermarket car space</p> <p>Total car spaces: 978</p> <p>(Based on the car parking rate and unit mix stipulated within Stage 1 consent)</p> <p>(However the Stage 1 consent cover page states an indicative 893 car spaces)</p>	<p><u>Uses:</u></p> <p>515 residential units 0 child care centres Up to 5,000sqm retail space 0sqm supermarket space</p> <p><u>Car parking:</u></p> <p>786 residential car spaces 0 child care car spaces Up to 200 retail car spaces 0 supermarket car spaces</p> <p>Total car spaces: Up to 986</p> <p>(car parking for the residential component is based on proposed unit mix subject to DA-14/96/07)</p>
<p>UB2</p> <p>Indicative requirements</p> <p><u>Residential uses:</u></p> <p>1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space</p>	<p><u>Uses:</u></p> <p>286 residential units 1 childcare centre with 91 children</p> <p><u>Car parking:</u></p> <p>472 residential car spaces 31 child care car spaces</p> <p>Total car spaces: 503</p>	<p><u>Uses:</u></p> <p>292 residential units 0 child care centre</p> <p><u>Car parking:</u></p> <p>482 residential care spaces 0 child care car spaces</p> <p>Total car spaces: 482</p>

<u>Retail/supermarket:</u> 1/25sqm for retail/supermarket use <u>Child care centres:</u> 1 space/5 children- staff car parking spaces 1 space/20 children- pick up/drop off spaces 1 space/2 employees	(However the Stage 1 consent cover page states an indicative 493 car spaces)	
Total (UB5C and UB2)	1,481 car parking spaces required (1,386 parking spaces approved based on the consent)	1,468 car parking spaces

While the other urban blocks have not been included within the modification, Council has calculated the approved changes relating to number of units and car parking. As part of the assessment of the remaining urban blocks, it was noted that the indicative car parking number relating to the Stage 1 units is incorrect for all the urban blocks. Therefore the indicative car parking number should be modified as follows:

	Existing/Approved Masterplan	Proposed modification
UB1 Indicative requirements <u>Residential uses:</u> 1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space	<u>Uses:</u> 190 residential units <u>Car parking:</u> 314 residential car spaces required Conditioned: 334 car spaces (Based on unit mix of 38 x 1 bed, 95 x 2 bed, 57 x 3 bed and 19 visitor car parking spaces)	<u>Uses:</u> 190 residential units <u>Car parking:</u> 314 residential car spaces required
UB3 Indicative requirements	<u>Uses:</u> 370 residential units	<u>Uses:</u> 368 residential units

<p><u>Residential uses:</u></p> <p>1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space</p>	<p><u>Car parking:</u></p> <p>611 residential car spaces</p> <p>Conditioned: 631 car spaces</p> <p>(Based on unit mix of 74 x 1 bed, 278 x 2 bed, 111 x 3 bed and 37 visitor car parking spaces)</p>	<p><u>Car parking:</u></p> <p>405 residential car spaces</p> <p>(car parking for the residential component is based on proposed unit mix subject to DA-14/96/07)</p>
<p>UB4 (approved DA-2017/1022)</p> <p>Indicative requirements</p> <p><u>Residential uses:</u></p> <p>1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space</p> <p><u>Child care centres:</u></p> <p>1 space/5 children- staff car parking spaces 1 space/20 children- pick up/drop off spaces 1 space/2 employees</p>	<p><u>Uses:</u></p> <p>182 residential uses</p> <p>Childcare centre with 91 children</p> <p><u>Car parking:</u></p> <p>300 residential car spaces 31 childcare centre spaces</p> <p>Total: 331 car spaces</p> <p>Conditioned: 320 car spaces</p>	<p><u>Uses:</u></p> <p>167 residential units</p> <p><u>Car Parking</u></p> <p>284 residential car spaces 35 child care centre spaces</p> <p>Total spaces approved: 319 car spaces</p>
<p>UB5W (approved DA-16/18)</p> <p>Indicative requirements</p> <p><u>Residential uses:</u></p> <p>1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space</p> <p><u>Child care centres:</u></p>	<p><u>Uses:</u></p> <p>517 residential uses</p> <p>Childcare centre with 91 children</p> <p><u>Car parking:</u></p> <p>853 residential car spaces 31 childcare centre spaces</p> <p>Total: 884 car spaces</p> <p>Conditioned: 873 car spaces</p>	<p><u>Uses:</u></p> <p>487 residential units</p> <p><u>Car Parking</u></p> <p>813 residential car spaces 32 child care centre spaces</p> <p>Total spaces approved: 845 car spaces</p>

1 space/5 children- staff car parking spaces 1 space/20 children- pick up/drop off spaces 1 space/2 employees		
UB5E (approved DA-16/143) Indicative requirements <u>Residential uses:</u> 1 car space/1 bedroom units 1.5 car space/2 bedroom units 2 car space/3 bedroom units 1/10 residential unit for visitor parking space	<u>Uses:</u> 224 residential uses <u>Car parking:</u> 370 residential car spaces Conditioned: 389 car spaces	<u>Uses:</u> 202 residential units <u>Car parking:</u> 340 residential car spaces
Car share: 22 spaces	22 spaces	22 Spaces
Total Spaces:	4,032 car spaces required (3933 car spaces conditioned without car share spaces)	3,713 spaces

Based on the car parking rate and unit mix approved originally in the Stage 1 consent, the approved indicative number of car parking spaces should have been 4,032 spaces and not 3,933 spaces (including the car share spaces). Calculation of the approved development applications for UB5W (DA-16/18), UB5E (DA-16/143) and UB4 (DA-2017/1022) and the proposed unit mix in the subject application at UB3 and UB1 as well as the proposed modifications subject to this application for UB2 and UB5C, demonstrate that the developments should have a indicative car parking number of approximately 3,713 car spaces. Therefore the Stage 1 consent will be modified to reflect the car parking number of 3,713 spaces. This is a reduction in the total approved number (3,933 spaces) by 220 car spaces or the more accurate number of 4,032 by 319 car spaces.

The car parking rates are not proposed to be modified as part of this proposal. The reduction of car parking is commensurate to the uses proposed within this application. Therefore on the basis of the above, the modification is supported.

Modification No. 3: Deletion of the Civic Retail Square (1,000sqm) and extension of the five storey podium towards the northern and western boundaries

This modification proposes to delete the civic retail square that is located directly adjacent to the supermarket on the ground floor (Figure 8) and is positioned along the north-western corner of UB5C.

The applicant has stated that *'the civic retail square was initially proposed in conjunction with the small scale supermarket at ground level. As a result of the deletion of the supermarket and the orientation of retail tenancies to address the key public domain interface along Central Park, the provision of a square in this location has become redundant.'* While it is acknowledged that the location of the civic open space is not ideal now that the supermarket and retail space are to be deleted, the deletion of the open space is not supported.

Discussions between the applicant and Council have led to the applicant providing an alternate location for the open space to be relocated along the northern section of the site at UB5C, directly adjacent to the proposed retail strip. This is an appropriate location to accommodate the civic open space area between Civic Avenue, the retail area and the central park as it will allow for an extension to the retail strip which is anticipated to be made up of small cafes and shops. The civic open space will allow for outdoor dining which will make the area livelier and vibrant. The relocation of the civic open space to this area is supported.



Figure 8. Approved masterplan open space and public domain plan

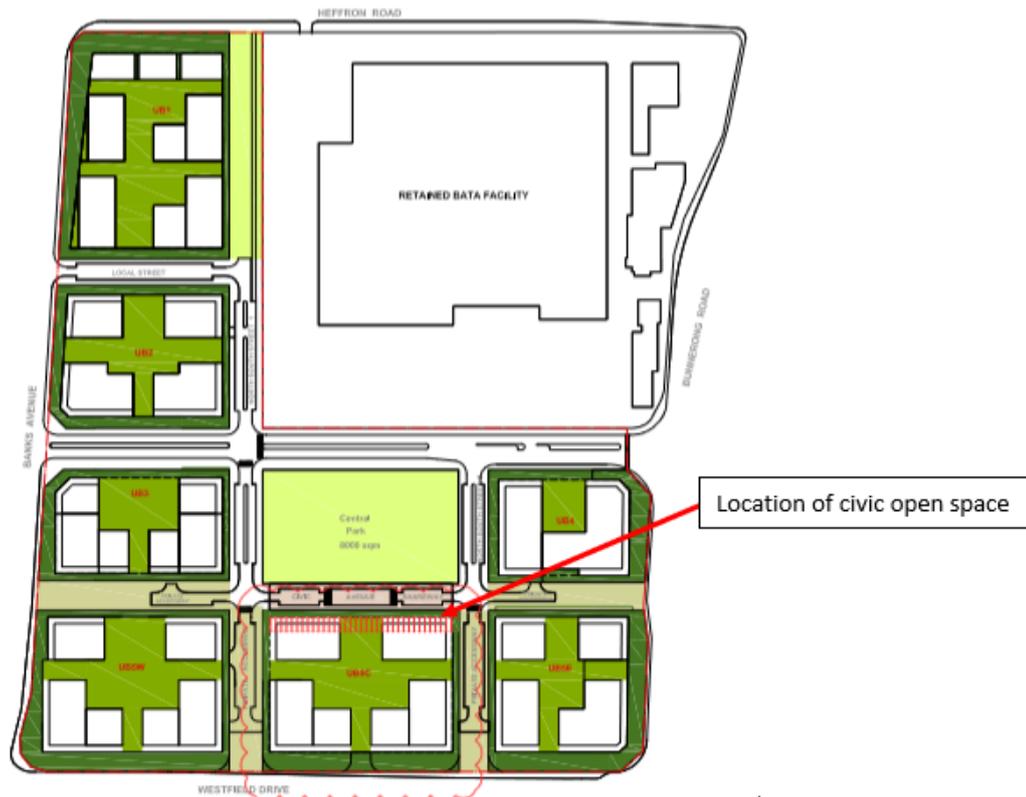


Figure 9. Proposed masterplan open space and public domain plan

By removing the civic open space from its approved location, the applicant proposes to extend the five storey podium to the northern and western boundary to be similar to the building and site layout at UB5W which is to the west of the block in question. The proposed retail space on the ground floor will also extend to the outer edges of the building envelope. As demonstrated in the figures below, the proposed modification shows that the northern and western elevations are proposed to be aligned to match with the setbacks established at UB5W whereas the approved envelope shows that the ground and first floors of UB5C were setback behind the upper podium levels. The proposal will result in a building separation with UB5W of 27.8 metres between the podium which is consistent with the southern building separation distance along the south of both buildings.

The approved setback of the north-eastern tower of UB5C from the western boundary is approximately 11.1 metres. Due to the orientation of the building envelope, the development will reduce open space by 239sqm from 20,728sqm to 20,490sqm. There is no significant impact, other than the loss of public open space, in re-orientating the building envelope. This has been demonstrated through revised solar analysis which shows that the degree of overshadowing will not significantly reduce the amount of sunlight to the southern towers at UB5C. As the proposal has addressed the relocation of the civic open space, and the proposed re-design of UB5C is consistent with the building envelope approved at UB5W, the proposed modifications are supported.

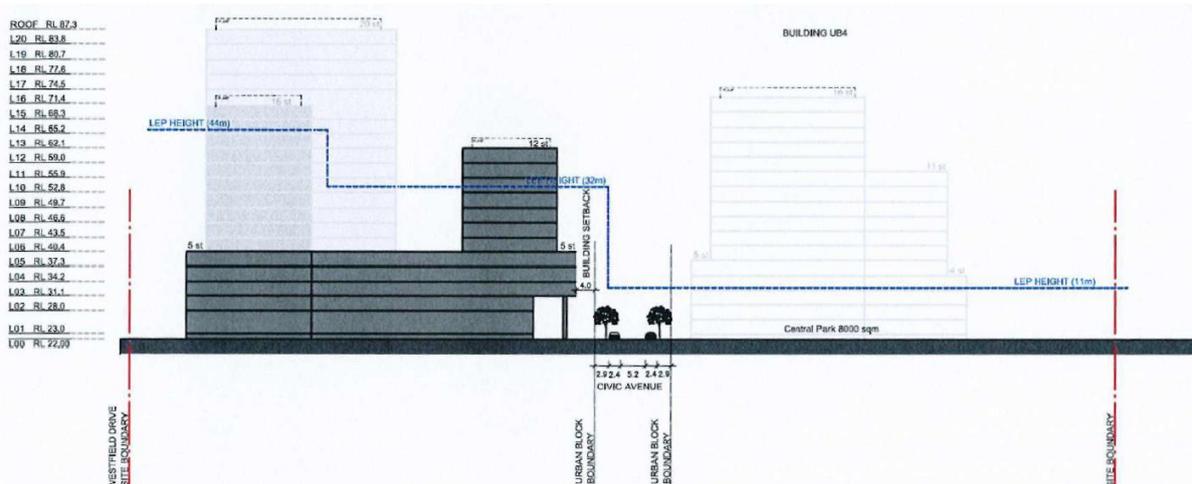


Figure 10. Approved indicative eastern elevation of UB5C

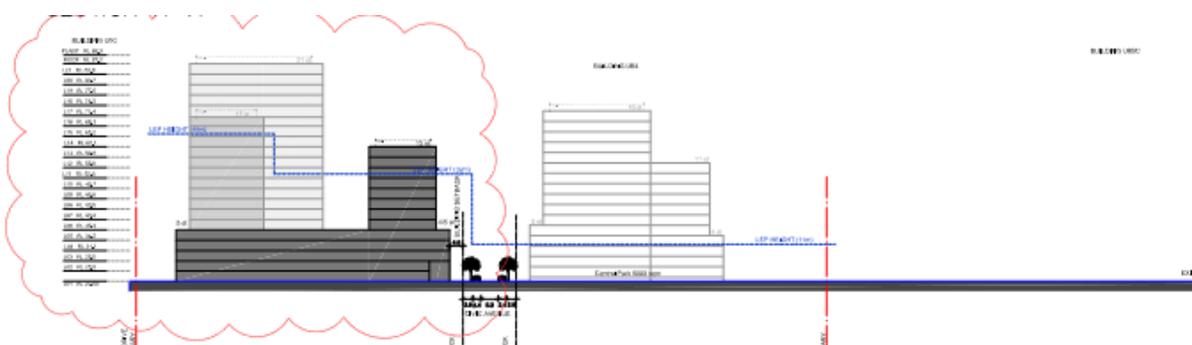


Figure 11. Proposed indicative eastern elevation of UB5C

Modification No. 4: Reduction in the podium height

The modification relates to reducing the height of the podium level due to a change in the floor to floor height at ground level and the inclusion of an additional residential level at the first floor. The proposed first floor level also accommodates the car parking level that was approved at Level 5, which is removed by the reduction in the podium level. The approved building envelope has a floor to floor height at ground level of 6 metres and all levels above have a floor to floor level of 3.1 metres. The proposal will retain the 6 metre floor to floor level for the retail strip. However the residential units located along the western and eastern side of the ground and first floors will have a finished floor to floor level of 3 metres. Council’s Building Surveyor has stated that a 3 metre floor to floor level is acceptable in this case as it will encompass a 200mm slab and 300mm for services above the non-habitable spaces, a total of 500mm. This will allow for a minimum 2.5 metre floor to ceiling heights which is compliant with the BCA however is not compliant with the minimum floor to ceiling height of 2.7 metres for habitable areas under the ADG. Any future development applications are to consider this to allow for compliance with the 2.7 metre minimum floor to ceiling height of the habitable areas.

The floor to floor levels of the above storeys will not be impacted by the proposed modification. By imposing an additional level within the podium, the applicant does not seek to increase the number of levels at the podium. Therefore the 5 storey podium envelope is to be retained. The approved 5th level will be setback from the northern podium by 4 metres to align with the levels above and will consist entirely of residential use as the car parking component has been shifted down to within the lower podium levels. The approved maximum podium height was RL 40.4m. The proposed maximum podium height is RL 37.3m. Both the approved and the proposed building sections are provided below in Figures 12 and 13. The overall building

height of the northern towers at UB5C has not been modified and will continue to comply with the minimum height of RL 62.5m and the plant room height of RL 65.1m. The two southern towers are compliant with the approved maximum building height of RL 89.9m. As there is no significant impact from the modification, the proposal is supported.

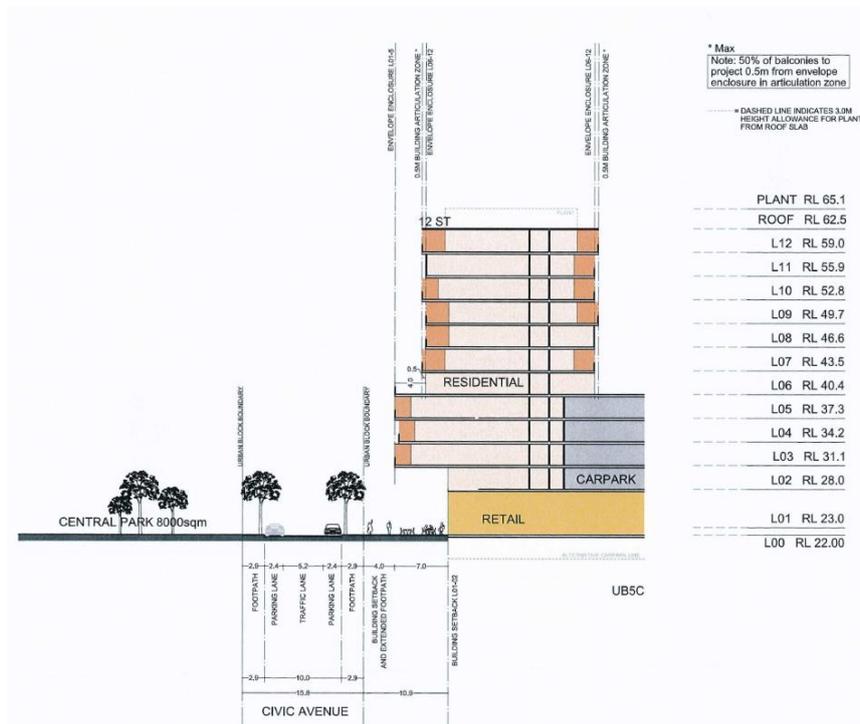


Figure 12. Approved masterplan of the section at UB5C

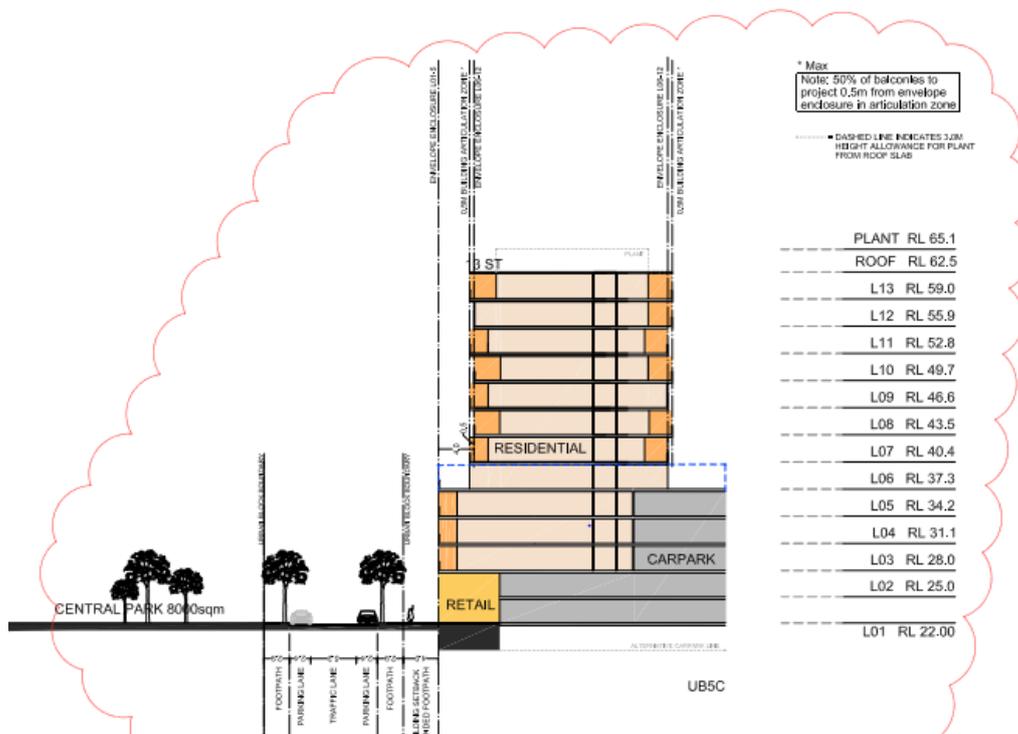


Figure 13. Proposed Section for UB5C

Modification No. 5: Provision of ‘sleeved’ residential uses within the eastern and western facades of the ground and first floor level

The removal of the supermarket on the ground floor allows for alternate uses behind the retail strip. The applicant has proposed to provide residential units along the western and eastern sides of the ground and first floor with car parking behind. The proposal will have indicative additional 37 units within these two levels in UB5C. The units will predominantly have a single frontage facing the private roads that are connected to North-South Street 1 or North-South Street 2 at UB5C. It is considered that these units will be consistent with the building envelope established for the other urban blocks on the site. As this is a masterplan and not a stage 2 development application, it is not possible to provide an assessment on compliance with the planning controls. The proposal has accommodated for car parking spaces for the residential uses proposing 62 indicative car spaces for the additional 37 units. While there is an increase in 37 units as part of this subject application, the modifications that are proposed as part of DA-14/96/07 result in additional units due to the proposed unit mix and size modifications. UB5C has demonstrated that a total of 515 indicative units will be accommodated on the site therefore the plans and the conditions will be amended to reflect this. This is an overall increase of 62 units within UB5C. Car parking and the floor to floor levels have been discussed in the report above. The table below demonstrates the approved and proposed masterplan indicative number of residential units for UB5C and UB2.

Table: Approved and proposed indicative residential unit numbers

	Approved Masterplan	Proposed modifications
UB5C	453	515
UB2	286	292
Indicative number of total residential units on site	2,223	2,221 (when including the approved number of units within UB5W, UB5E, UB4) and the proposed unit number of UB3 and UB1.

As the overall FSR and height of the development has not been altered, and the ground and first floor provide less residential units than the other three levels within the podium above, the additional residential uses is supported and it is permitted as there is no active street frontage requirement under the BBLEP 2013.

Modification No. 6: Provision of an additional level within the 6 tower forms in response to the reduced podium height

As stated above in Modification No. 4, the applicant is proposing to amend the masterplan so that the podium level height is reduced while maintaining five levels within the envelope. The additional level will push the building envelope to have 13 storeys to 21 storeys. This is an amendment from the approved 12 storey northern towers, 16 storey central rear towers and 20 storey southern towers. As discussed above, the additional storey, residential uses and car parking associated with the units are considered acceptable and the modification is supported as there will be no change to the overall FSR of 3.84:1 and height of RL 89.9m approved under the Masterplan.

Modification No. 7: Deletion of the two child care centres from within UB5C and UB2

The modification proposes to delete two out of the four child care centres approved on the site. The child care centres that are proposed for removal are within UB5C and UB2. The remaining two child care centres are located within UB4 and UB5W. Each child care centre

was approved with an indicative number of 91 children and 31 car spaces ancillary to the child care centres. Therefore, the removal of the childcare centres will result in a reduction in GFA of 600sqm and 31 car spaces in each of UB5C and UB2. The GFA originally encompassing the child care centres will be replaced by residential uses (6 additional units in UB2 and 37 additional units in UB5C as well as the car parking spaces ancillary to the units).

Council had requested data and information to justify the removal of the child care centres. The Applicant advised Council of the following:

“At the time of preparing the masterplan over two years ago, we had identified 4 child care centres for the entire site. Since that time, market conditions have changed and we are now only seeking two child care centres. In this regard, the proposed child care centre in UB5C is too close to the approved child care centre in UB5W. Therefore, the UB5C child care centre has been deleted. This child care centre in UB4 remains. The child care centre in UB2 is being deleted.”

Further to this Council was advised by the applicant, on 6 March 2017, that the basis for the child care centre demand is that of the offering of leases or expression of interests to purchase the child care centres. The Applicant has advised that they have not received any expression for leasing or purchasing for additional child care centres. As there has not been any study or feasibility report provided with the modification, Council Community Services department was consulted to determine whether there is a demand for child care centres within the Pagewood Area. It was stated that at Pagewood and Eastgardens there is currently only 1 long day care centre that caters for 6 months to 5 years old.

There are several child care centres in the surrounding areas but mostly either a 2 – 5 years old or 3 – 5 years old. Council operates and manages a family day care service and this currently has 3 Educators. At the time of the masterplan, there was no requirement by Council to provide four child care centres on the site and the applicant has stated that the number of child care centres were put forward by them and not Council. Within Council’s DCP, there is no requirement for child care centres. Replacing the two child care centres with residential uses is acceptable as the use is permissible within the zone. Based on the above, the deletion of the two child care centres is acceptable.

Modification No. 8: Reduced setback from 6 metres to 4 metres along the northern elevation of UB3

The application proposes to amend the approved concept building setback for UB3 from 6 metres to 4 metres along the northern elevation.

The applicant has provided the following reasoning for the reduction in the building setback:

“The proposal involves an amendment to the setback requirement for UB3. A minimum 6 metres is currently identified on the approved plans but the actual distance shown is only 4 metres. The change is sought to address this drafting error, correcting the text on the relevant plans to correctly state 4 metres.”

The below figures demonstrate the approved and proposed setbacks for UB3. As shown, the only difference proposed is a change in the dimension distance. There is no change to the building envelope as the original Stage 1 approved plans did have discrepancies between the plans when assessing the dimensions to the envelope. When measured by Council’s assessing officer, it was evident that there was a discrepancy in the calculations provided on the plans. Notwithstanding, the 4 metre setback is consistent with the setbacks that have been approved at UB4, UB5W, UB5E and to be adopted as part of UB5C. In regards to the

landscaped and open space area approved as part of Dwg. A009, there is to be no change as the plan demonstrates a building envelope with a 4 metre setback.

To achieve continuity with the street frontage dimensions along the east-west boulevard (Tingwell Boulevard), it is recommended that the dimensions are modified on Dwg. No. A007 and A015 related to UB3 from 6 metres to 4 metres.

There is no separate condition within the consent which relates to specific setbacks along the internal walls. The only setbacks included within the consent relating to setbacks fronting onto the external street network (i.e. Bunnerong Road, Banks Avenue and Westfield Drive). These setbacks are not proposed to be modified as part of this application.

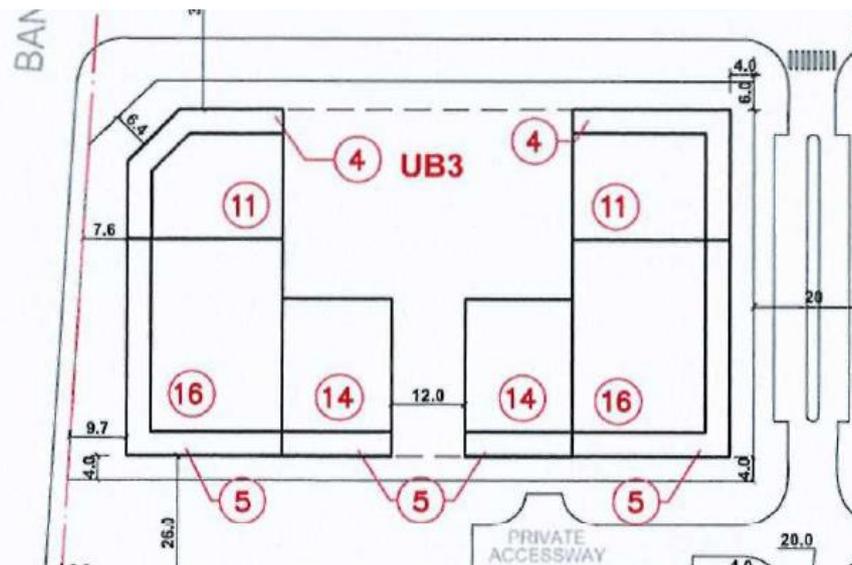


Figure 14. Approved Northern setback of UB3

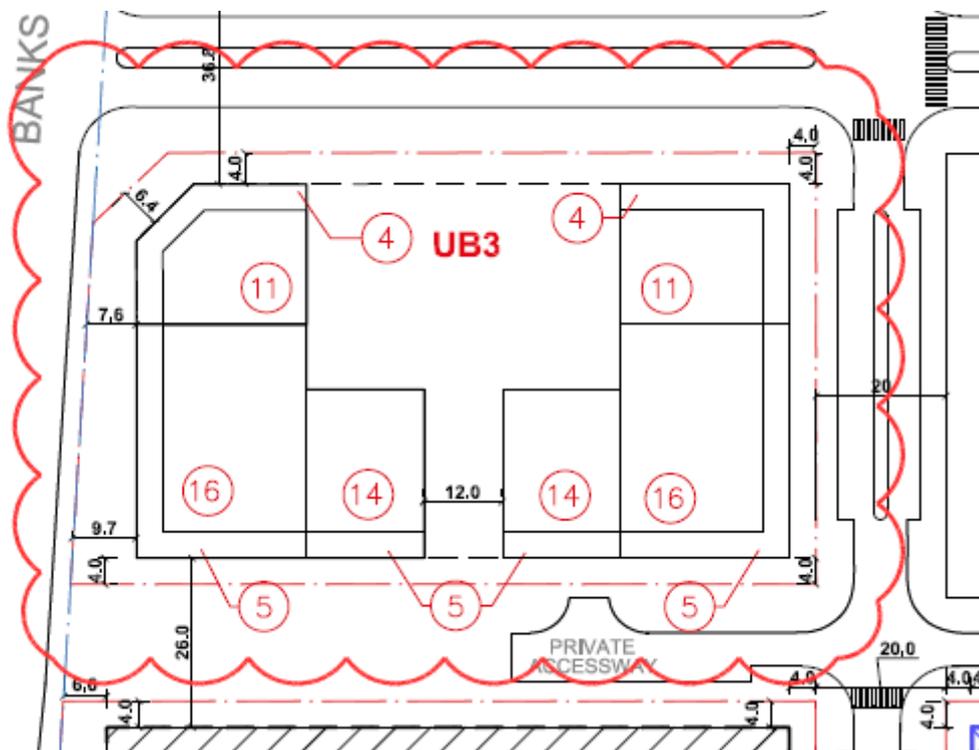


Figure 15. Proposed Northern setback of UB3

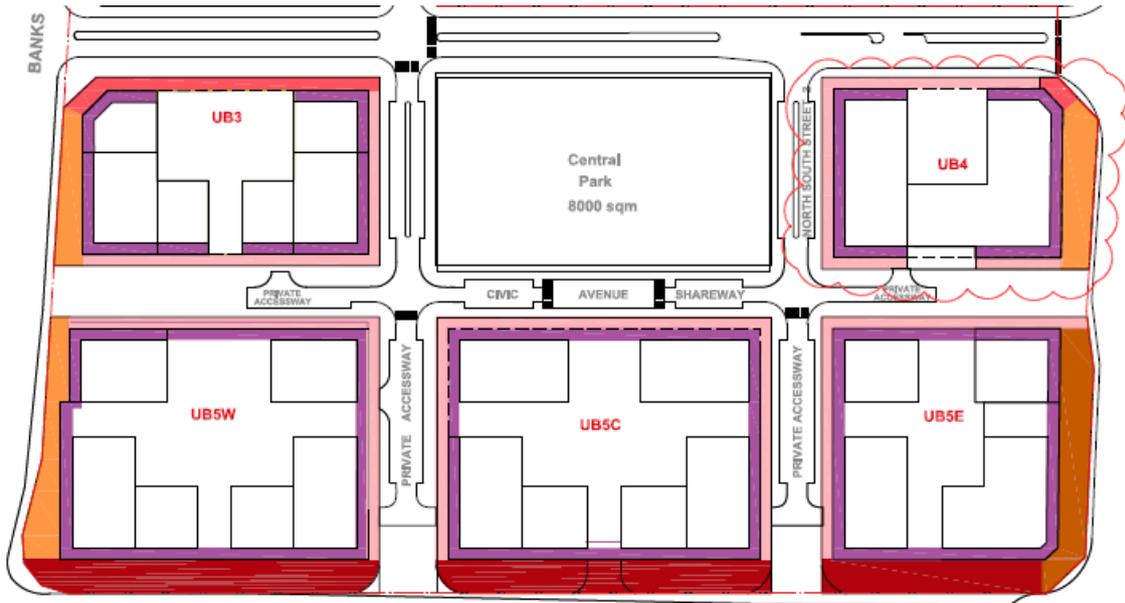


Figure 16: Approved Setback hierarchy showing 4 metres (pink), 6-12 metres (orange), 6 metres (light red), 8 metres (brown) and 12 metres (dark red)

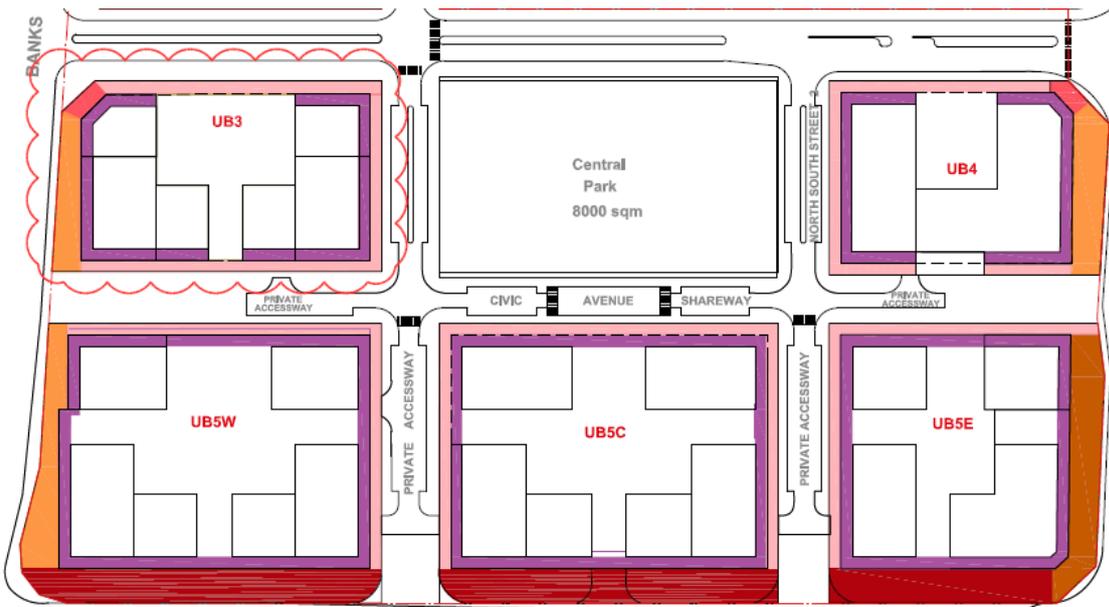


Figure 17: Proposed Setback hierarchy showing 4 metres (pink), 6-12 metres (orange), 6 metres (light red), 8 metres (brown) and 12 metres (dark red)

Modification No. 9: An increase in the maximum proportion of one bedroom units permitted to 30% within the UB5C development and 19% within the UB3 development, and a reduction in the minimum proportion of three bed units to 15% within UB5C and to 16% within UB3

The applicant provided the following justification to vary the approved unit mix of the Stage 1 consent:

“The proposal does not seek to alter the maximum number of dwellings that may be constructed within UB3 or UB5C (883 units). Nor does the proposal seek to amend the required parking rates specified by the Stage 1 consent. The approved building footprint and envelope will remain unchanged. A modification to DA to allow internal design changes to accommodate smaller units and a changed unit mix will be prepared following approval of the proposed modification to the Stage 1 consent (the subject of this application). The revised unit mix for UB3 and UB5C will be as follows:

UNIT TYPE	MASTERPLAN MIX %	PROPOSED UB3 MIX %	DIFFERENCE %	PROPOSED UB5C MIX %	DIFFERENCE %
1 Bed	20	19.3	-0.7	30	+10
2 Bed	50	64.4	+14.4	55	-5
3 Bed	30	16.3	-13.7	15	-15

As demonstrated in the table above, it is proposed that UB3 will have a greater number of two bedroom units, a slight reduction in the number of one bedroom units and a reduction in the number of three bedroom units. UB5C will have a greater number of one bedroom units, a slight increase in the number of two bedroom units and a decrease in the number of three bedroom units.

As the proposal seeks to reflect the apartment design guide, Part 4K- Apartment mix has been considered in the assessment of the unit mix proposed. This section requires a percentage of apartments with different number of bedrooms to be provided to cater for different household types. The proposed unit mix is appropriate when taking into consideration the distance to public transport along Bunnerong Road and the transport connection at Westfield Eastgardens, surrounding employment opportunities presented and the demand for social and affordable housing. The proposal seeks to remove the larger three bedroom units which were originally approved with a minimum unit size of 124sqm as demand for larger units has not been demonstrated.

It is also key to note that while the Stage 1 consent prevails over Part 9D of the Botany Bay DCP 2013, Part 9D.4.3.5 and Part 9D.5.3.5 relates to Dwelling Size and Mix. Control C6 of Part 9D.4.3.5 and Control C3 of Part 9D.5.3.5 states that the combined total number of one-bedroom dwellings shall not exceed 35% of the total number of dwellings within any single site area. The proposed unit mix is less than what was originally anticipated within the DCP and in the site. Therefore the unit mix amendment is supported.

Modification No. 10: Adoption of the minimum apartment and balcony sizes to reflect the requirements of SEPP 65 and the Apartment Design Guide

The applicant provided the following justification to vary the approved unit sizes and private open space of the Stage 1 consent:

“The modification will allow for smaller unit sizes (internal and external areas) than are currently permitted under the Stage 1 consent to be constructed, specifically within UB3 and UB5C.”

The following unit sizes are proposed to be modified:

UNIT TYPE	COUNCIL UNIT SIZE		PROPOSED UNIT SIZE	
	INTERNAL	EXTERNAL	INTERNAL	EXTERNAL
1 Bed	85sqm	12sqm	50sqm	8sqm
2 Bed	85sqm	12sqm	75sqm	10sqm
3 Bed	110sqm	15sqm	95sqm	12sqm

As demonstrated in the table above, the one bedroom units seek to be reduced in internal size by 15sqm, the two bedroom units will be reduced in size by 10sqm and the three bedroom units will be reduced in size by 15sqm. The above table does not demonstrate the approved three bedroom units of 124sqm however these are proposed to be deleted from the proposal due to their large size. The private open space for all one, two and three bedroom units will be modified to reflect the minimum private open space provisions of the Apartment Design Guide. The proposal as incorporated the secondary bathroom requirement of 5sqm in the two and three bedroom units, therefore the proposal is consistent with the ADG provisions relating to unit sizes.

The original Stage 1 consent was approved at a time where the former City of Botany Bay Council contained larger unit sizes measuring between 75sqm for a one bedroom unit, 100sqm for a two bedroom unit and 130sqm for a 3 bedroom unit. The Stage 1 consent was negotiated to provide smaller units to the provisions that were applicable at that time. However changes within SEPP 65 and the adoption of the ADG after the Stage 1 consent has been approved demonstrate that there is a need to adopt with the current provisions that regulate high density development within NSW. The modifications to Stage 1 now reflect this. Therefore to achieve consistency with the provisions of the ADG, the proposed modification is supported.

Modifications to conditions

The conditions, as listed in the description section above, are proposed to be modified as provided within the amended Stage 1 consent conditions attached to this document.

Statutory Considerations

SECTION 4.56 CONSIDERATIONS (previously Section 96AA)

In considering the Section 4.56 Application, the matters listed in Section 4.56 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

(a) Substantially the same development

The Section 4.56 modification applications relate to the reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, sleeved residential uses, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height, changes to unit mix, size and private open space, modification of the northern setback of UB3 and modifications to the conditions to reflect the proposed changes to the masterplan. The proposed modifications are suitable in the context of the site and the locality and do not result in any radical change from the development already approved and the proposal is considered to remain as substantially the same development as originally approved.

(b) Notified in accordance with the Regulations or the Development Control Plan.

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the modifications were notified as follows:

- DA-14/96/02- was notified to surrounding property owners for a for a fourteen (14) day period from 21 December 2016 to 11 January 2017. Two objections were received with one being from Randwick Council.
- DA-14/96/07- was notified to surrounding property owners for a fourteen (14) day period from 30 April to 14 May 2018. One objection was received from Randwick Council.

(c) Notification

All previous objectors to the parent development application (DA-14/96) have been notified of the proposals in addition to a radius of dwellings surrounding the site.

(d) Submissions

The following issues were raised in DA-14/96/02 and have been addressed as follows:

- *The scale of the project is too large and the area is already congested with traffic and limited parking*

Comment: The scale of the development was approved when the masterplan was approved. The overall FSR and height of the development will not increase therefore the bulk will not be increased, other than increasing the envelope at UB5C to the north and western side of the site. The proposal will slightly modify the amount of approved indicative car parking across the site. This has been discussed in the report above therefore there is unlikely to be increased impact generated from the site.

- *Neighbouring properties surrounding the site have been severely impacted by vibrations and noise*

Comment: Concerns are raised relating to damage from works on the site. The objector has proposed that the developer should be placing a bond with the council so neighbours can claim for damages of their properties. The subject application is for the masterplan and no physical works are approved as part of the masterplan. Works would be subject to separate development applications in which vibration from construction will be considered and conditioned accordingly.

- *Inconsistencies with the land use proposed*

Comment: Concerns were raised that the proposed modifications has a significant departure from the land use distribution approved under the Masterplan. The objection states that the deletion of the retail/commercial uses and its replacement with non-retail/non-commercial uses represents a major departure from and inconsistency with the State Government's Greater Sydney Commission Draft Central District Plan which identifies the Eastgardens area as a District Centre with a significant role to play in the establishment of the Plan's objective for a Productive City.

Additionally concerns were raised in regards to the deletion of the two child care centres which detract from the Draft Central District Plan's objective to create a Liveable City that responds to the future population needs for services, particularly child care and schools. The Central District Plan does address the need for services such as child care centres and commercial in the Eastgardens area. The site does address this requirement by providing two child care centres on the site. There are a number of small scale child care centres in the surrounding areas with one located within the Westfield Eastgardens Shopping Centre which is directly adjacent to the site. It is also anticipated that there will be child care centres proposed in the north-east site that is outside of the masterplan and will be considered when a Stage 1 masterplan is submitted to Council for this site.

In regards to the loss of commercial on the site, this has been discussed in detail in the report above and is accepted due to its location with the Shopping Centre to the south and the requirement for BATA 2 to provide a minimum of 5,00sqm commercial space within the site as part of the planning proposal.

- *Modifications to the public domain*

Comment: Concerns were raised in regards to the deletion of the civic open space from UB5C. Specifically that the deletion of the space will result in a significant quantum and functional loss in open space for the overall development that is not proposed to be replaced. Randwick Council has suggested that consideration should be given to either retaining the approved Civic Retail Square as a plaza for UB5C with a terminating vista to the proposed shopping strip on Civic Avenue or its replacement with a similar sized open space in another strategic location within the overall masterplan site. As stated above, Council does not support the deletion of the open space which the applicant has now amended to have it located along the northern part of the site at UB5C.

- *Amenity impacts*

Comment: The objection has raised concerns relating to overshadowing impacts on properties along the eastern side of Bunnerong Road and the lack of information that has been provided in regards to overshadowing and overlooking from balconies and living rooms. The proposed modifications relate to the masterplan which demonstrates conceptual building envelopes. Any stage 2 development application will address overlooking and overshadowing. This has been demonstrated by the developer who has provided shadow diagrams showing the conceptual building envelopes and their impact onto the surrounding urban blocks and streets.

- *Traffic, transport and parking*

Comment: Concerns were raised relating to the increase in the number of indicative car parking spaces across the site. The masterplan was approved with an indicative minimum number of car parking of 3,693 residential car spaces and 324 commercial car parking spaces based on a GFA of 5,000sqm shopping centre and 4 x 600sqm child care centres. The car parking rates have been discussed in greater detail in the report above. As there is no significant increase in car parking as part of this modification, the application does not require feedback from RMS or from Council's traffic engineer as the impact from the masterplan has not been significantly altered. This has addressed the objection relating to greater traffic generation in the area.

- *Public domain and open space works*

Comments: Concerns were raised in regards to the staging of development on the site in particular relating to public domain works and the road network. Development applications relating to the road network have been approved while the development application for the public domain and works is currently under assessment and will be determined imminently.

The following issues were raised in DA-14/96/07 and have been addressed as follows:

- *Amendments to Stage 1 masterplan consent*

Comment: Concern is raised regarding to the number of Section 4.56 Applications that are being lodged to amend the Stage 1 consent. Additionally concern is raised that the applicant has submitted Stage 2 development applications for UB3 and UB5C currently adopting the sought changes to the masterplan currently proposed under these modifications. Council agrees that the current applications will need to be determined prior to the determination of any subsequent development applications for Stage 2 to reflect approved changes and not proposed changes. Any change as part of this proposal or recommendation in any determination will need to be carried out on the subsequent Stage 2 development applications.

- *Building creep proposed from the changes to the northern setback of UB3*

Comment: The objector has raised concerns that the applicant has not provided appropriate justification for the reduction in the setback particularly as the reduced setback will produce greater FSR. The proposal does not seek to alter the FSR of the development that was approved. As discussed above, the building envelope already reflects a 4 metre setback on all the plans however it is the dimension that is provided that demonstrates 6 metres therefore the dimension is a drafting error. The bulk and scale of the development should not be significantly impacted by this modification.

- *Significant departure from the approved unit mix*

Comments: Concerns were raised relating to the proposed unit mix as the trend in unit mix will continue for the remaining lots to be developed within the BATA site which could have a negative flow on impact onto the surrounding infrastructure and services. The proposed unit mix is reflective of the current market and what was originally anticipated by Council for the area under Part 9D of the BBDCP. The unit mix change will only be limited to UB3 and UB5C. Any consideration of unit mix for BATA 2 is subject to any future Stage 1 consent or DCP for that portion of the site.

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 applications are to modify the Stage 1 consent and are modified as discussed above in the report.

SECTION 4.15 CONSIDERATIONS (previously Section 79C)

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

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

Botany Bay Local Environmental Plan 2013

The subject site is zoned R3 Medium Density Residential and B4 Mixed Use zone. Urban Blocks 5C, 5E and 5W are located within the B4 Mixed Use zone while the remaining blocks 1, 2, 3 and 4 are located within the R3 Medium Density Residential zone. The north-eastern corner of the site that falls outside of the masterplan and contains the BATA operations is zoned IN1 General Industrial zone. The proposed modifications to the masterplan continue to be compliant with the zone objectives under the BBLEP 2013 with UB5C and UB5W retaining a portion for commercial uses. As the proposal seeks modifications to an approved masterplan, consideration has been given to Clause 4.3 and Clause 4.4 of the BBLEP 2013 which relates to height and FSR as these controls are the most relevant to this application.

Clause 4.3- Height of Building of the BBLEP 2013

The masterplan had established maximum heights for each urban block which were broken down to maximum podium height, maximum building height and maximum plant room heights. The application proposes to modify the height of the podium level of UB5C by reducing the height from RL 40.4m to RL 37.3m. The table below has been adopted from Condition No. 15(a) of the masterplan consent and demonstrates the approved masterplan heights across the whole site in addition to the proposed modifications to UB5C podium height:

Table 1: Approved height for the masterplan site with proposed modifications highlighted in red

<u>Block No.</u>	<u>Tower No.</u>	<u>Maximum Podium Height</u>	<u>Maximum Building Height</u>	<u>Maximum Plant Room Height</u>
Urban Block 1	A1,A2,A3,A4,A5	N/A	7.6m (RL29.6) plus Attic ^a	N/A
	B1, C1	N/A	13.8m (RL35.8)	16.4m (RL38.4)
	B2, C2	N/A	20.0m (RL42.0)	22.6m (RL44.6)
Urban Block 2	A1, A2	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B2, C2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
Urban Block 3	A1, A2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
	B1, B2	13.8m (RL35.8)	44.8m (RL66.8)	47.4m (RL69.4)

	A3, A4	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)
Urban Block 5W	A1, A2, A4,A5	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
	A3, A6	16.9m (RL38.9)	63.4m (RL85.4)	66.0m (RL88.0)
Urban Block 5C	B1, B2b	18.8m (RL40.8) 15.3m (RL37.3)	40.5m (RL62.5)	43.1m (RL65.1)
	B4, B5	18.8m (RL40.8) 15.3m (RL37.3)	52.9m (RL74.9)	55.5m (RL77.5)
	B3, B6	18.8m (RL40.8) 15.3m (RL37.3)	65.3m (RL87.3)	67.9m (RL89.9)
Urban Block 5E	B2, B3	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	B1	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B4	10.7m (RL32.7)	51.0m (RL73.0)	53.6m (RL75.6)

The proposal does not result in an increase in the height of the development therefore the objectives and the standards for the development continue to comply under the BBLEP 2013 and are supported.

Clause 4.4- Floor Space Ratio of the BBLEP 2013

The table below demonstrates the approved GFA and FSR for the masterplan and the proposed modifications as part of this application. This table has been adopted from Condition No. 12 of the masterplan consent. The overall GFA and FSR of UB5C and UB2 have not been altered however the distribution of commercial and residential GFA has been modified. The table also reflects the approved/proposed number of units for UB5W, UB5E, UB4 and UB3:

Table 2: Approved GFA/FSR for the masterplan site with proposed modifications highlighted in red

2013 LEP Zone	Proposed Lot ^a	Urban Block ^b	Site Area sq m ^c	GFA sq m ^d	FSR ^e	Indicative Unit Nos.
B4	1	UB5 West	43,507	51,712	3.83	517

			13,523		3.82	487
B4	2	UB5 Central	13,095	45,306	3.84	453
			13,095	5,000^f 50,306	3.84	515
B4	3	UB5 East	9,011	22,412	2.49	224
			9,196		2.43	202
B4	part lot 4	part UB4	826	18,225	2.30	182
R3	part lot 4	part UB4	7,089		2.36	167
B4	part lot 5	part UB3	999	37,011	3.92	370
R3	part lot 5	part UB3	8,435		3.92	368
R3	6	UB2	9,021	28,603	3.17	286
			9,055		3.16	292
R3	7	UB1	13,302	19,018	1.43	
			13,240		1.44	190
Sub Total			75,285 75,276	227,287	N/A	2223 2221
B4	part road lot 3	part Civic Avenue	1361			
R3	part Road lot 3	part Civic Avenue	1096			
			1,857			
R3	road lot 4		1359			
			1,671			
R3	road lot 2		1224			
			1,504			
R3	road lot 1	East West Boulevard	8778			
			8,744			
R3	road lot 5		2023			
			2,044			
R3	road lot 6		1596			
			1,636			
R3	Open Space lot 2	Linear Park	2703			
			2,719			
R3	Central Park	Central Park	8000			
			28140			
sub total			28,175			
TOTAL			103,451	227,287	N/A	2223 2221

As there is no change proposed to the approved FSR for each urban block, the development is consistent with the controls set within the masterplan and with the BBLEP 2013.

Botany Bay Development Control Plan 2013

Part 9D – 130-150 Bunnerong Road

The Section 4.56 Application (DA-14/96/02) complies to the same extent with respect to the provisions of Part 9D of the BBDCP 2013 however more so with the masterplan which has established the set controls and parameters for the site.

Within Part 9D.2.1- Land Use, the DCP requires a commercial/retail precinct with civic plaza to be provided on the site and to have a gross floor area up to 5,000sqm. This has been translated to the masterplan. As discussed in the report above, the reduction in retail space and deletion of the supermarket is acceptable considering the sites close proximity to Westfield Eastgardens Shopping Centre, the provision of a minimum of 5,000sqm retail precinct to be provided in BATA 2 and the retention of a minimum 1,000sqm retail space.

Part 9D.2.4- Public Domain and Open Spaces provides discussion relating to the civic square located along the north-western side of UB5C. The deletion of the civic open space is not supported however its proposed location along the northern boundary of UB5C is supported.

The proposed modifications will continue to comply with the desired future character for Urban Block 5 as provided in Part 9D.3.6 of the BBDCP 2013. UB5C will continue to provide retail uses along the northern ground floor elevation with an approximate area of minimum 1,000sqm. The objectives of the zone remain consistent. The objectives of Part 9D.3.6 are as follows:

- O1 To provide an active street frontage to the street level fronting Civic Avenue;*
- O2 To promote passive surveillance of key public open spaces;*
- O3 To ensure visual interest in the built form through the use of balconies, terraces and rooftop gardens*

The modifications to the masterplan will continue to provide an active street frontage to the street level fronting Civic Avenue. The masterplan will be amended so that UB5C will be extended to the northern and western boundaries to align with the setbacks at UB5W. This will increase the amount of retail across the northern boundary from the edges of the building envelope. The building envelope for UB5C and the surrounding urban blocks will continue to provide passive surveillance to key public open spaces which include the central park, retail spaces and the civic open space which has been relocated to the northern side of UB5C. Additionally, all urban blocks will undergo or have undergone design competitions and separate development applications demonstrating visual interest in the built form through the use of balconies and terraces.

The modified proposal is generally consistent with the DCP controls with the exception of the 5,000sqm retail/supermarket space and civic square. These issues have been addressed above in the body of the report and are acceptable.

In regard to DA-14/96/07, the proposal seeks to change the unit sizes, unit mix, private open space sizes and northern setback of UB3. The DCP and the Stage 1 consent provides larger unit sizes and private open space requirements therefore the modifications will change the anticipated sizes of the units to reflect the standard unit sizes adopted across the metropolitan area. This is the same with the private open space requirements. Part 9D of the BBDCP 2013 was adopted in 2013 therefore there has been many changes in legislation and policy which have been made since that time however have not been reflected within this DCP.

- (b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.**

The proposed modifications include the reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, sleeved residential uses, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height, modifications to the unit mix, size and private open space and the northern setback of UB3 and modifications to conditions and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. All proposed modifications have been dealt with accordingly and addressed in the report above.

(c) The suitability of the site for development.

The proposed modifications do not alter previous conclusions regarding site suitability.

(d) Any submission made in accordance with the Act or Regulations.

Two submissions were received as part of DA-14/96/02 and one submission was received as part of DA-14/96/07. Issues raised within the submissions are discussed in detail above.

(e) The public interest.

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

CONCLUSION

The Section 4.56 Application (DA-14/96/02) seeking to modify Development Consent No. 14/96 of the masterplan approved at the former BATA site relating to modifications to the reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height and modifications to conditions and the Section 4.56 Application (DA-14/96/07) seeking to modify Development Consent No. 14/96 to modify the approved Stage 1 consent to alter the unit mix, unit sizes, private open space, and northern setback of UB3 at 130-150 Bunnerong Road, Eastgardens, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposed reduction of the retail space and deletion of the supermarket is supported due to the retention of the shopping strip along UB5C, the provision of a minimum of 5,000sqm provided within the planning proposal at BATA 2 and its proximity to Westfield Eastgardens Shopping Centre and the existing services that are provided by the Westfield Shopping Centre to the subject site, surrounding sites and residents. The deletion of the civic open space is not supported and has been amended to be relocated along the northern setback of UB5C.

Council supports the extension of the building envelope of UB5C towards the northern and western boundary to align with the setbacks established in UB5W which is to the west of the development. As the entire ground floor is not to be used for retail other than a retail strip fronting the northern boundary on the ground floor, the addition of another level to form a 3 metre floor to floor height for the ground and first floor levels for residential and car parking uses is accepted as it complies with the minimum ceiling heights for residential as provided within the BCA. As the applicant wishes to retain the 5 storey podium, the addition of the new

level within the existing envelope will reduce the podium height level established within the controls from RL 40.8 to RL 37.3. This is supported by Council even though the development will increase by an entire storey across all 6 buildings within UB5C. As there is no increase to the maximum overall height for the development, the additional storey is acceptable.

The deletion of the two child care centres is supported in this instance as an assessment of the area and surrounding area demonstrates that there is no significant demand for excessive child care centres at this time. The retention of the two child care centres will accommodate for the subject site as part of the masterplan and is acceptable.

The modifications to the unit and private open space sizes reflect the provisions of the ADG which are prevalent for all high density development in the metropolitan areas therefore the Stage 1 consent reflects this recent change in policy. The unit mix is supported to allow for a greater flexibility in one and two bedroom units which are more affordable than the three bedroom units. In regard to the northern setback of UB3, Council is satisfied that there is a discrepancy in the plans and that the building envelope was originally approved with a 4 metre setback.

The modifications put forward for amendment by the applicant in addition to a number of other conditions that relate to the current proposal, have been amended accordingly within the conditions of consent. The modifications predominantly relate to the wording of the conditions being updated to reflect the amended plans in addition to modifying the total indicative car parking numbers and residential units.

Therefore, both Section 4.56 Applications are recommended for approval subject to the conditions (as amended) in the attached Schedule of Consent Conditions.

RECOMMENDATION

It is RECOMMENDED that the Sydney Eastern City Planning Panel resolve pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. 14/96 at 130-150 Bunnerong Road Eastgardens, as follows:

- Amend Condition No. 1 which relates to the drawings and documents approved with the Masterplan;
- Amend Condition No. 12 which relates to the maximum GFA and FSR for each Urban Block;
- Amend Condition No. 15 which relates to the building height table established for the masterplan;
- Amend Condition No. 18 which relates to the separation distances and the building envelopes;
- Amend Condition No. 19 which relates to the height of the podium of UB5C;
- Amend Condition No. 20 which relates to the floor to floor heights for retail and commercial uses;
- Amend Condition No. 21 which relates to the street wall height;
- Amend Condition No. 22 which relates to building elements contained within the building envelope;

- Amend Condition No. 24 & 25 which relates to the maximum protrusion of 500mm of building elements;
- Amend Condition No. 26 which relates to the podium and building setback envelope;
- Amend Condition No. 27 which relates to the corridor lengths within the residential apartments;
- Amend Condition No. 29 which relates to the indicative car parking numbers for across the site;
- Amend Condition No. 30(a) which relates to the above ground car parking structures within UB5C;
- Amend Condition No. 39 which relates to the active street frontage to Civic Square;
- Amend Condition No. 40 which relates to the size of the Civic Square;
- Amend Condition No. 41 which relates to the road network within the site;
- Amend Condition No. 42 which relates to the public park shown as Central Park;
- Amend Condition No. 44 which relates to the open space adjoining UB1;
- Amend Condition No. 55 which relates to the staging of the Construction Certificate for each stage; and
- Amend Condition No. 71 which relates to the subject modification application.

The following conditions are proposed to be modified under DA-14/96/07:

- Amend Condition No. 1 to reflect the updated plans;
- Amend Condition No. 33 which relates to unit and private open space sizes; and
- Amend Condition No. 34 which related to the unit mix.

Premises: 130-150 Bunnerong Road, Eastgardens DA No: 14/96/02 and DA-14/96/07

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

Section 80(3) and 83 of the Environmental Planning and Assessment Act, 1979

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

Table 1

Drawing No.	Author	Dated
<i>Dwg No. A001 - Cover Sheet/Schedule</i>	-	<i>Dated 6 July 2018; Received 9 July 2018</i>
<i>Dwg No. A003 – Master Plan</i>		<i>Dated 6 July 2018; Received 9 July 2018</i>
<i>Dwg No. A005 – Building Heights Plan</i>		<i>Dated 22 February 2018; Received 9 July 2018</i>
<i>Dwg No. A006 – Building Envelope Detail</i>		<i>Dated 22 February 2018; Received 9 July 2018</i>
<i>Dwg No. A007 – Building Separation Plan/ADG</i>		<i>Dated 9 July 2018; Received 9 July 2018</i>
<i>Dwg No. A008 – Ground Floor Plan –Use</i>		<i>Dated 9 July 2018; Received 9 July 2018</i>
<i>Dwg No. A009 –Open Space and Public Domain Plan</i>		<i>Dated 11 November 2017; Received 9 July 2018</i>
<i>Dwg No. A010 – Indicative Apartment Layout on Master Plan</i>		<i>Dated 28 October 2016; Received 9 July 2018</i>
<i>Dwg No. A012– Typical Road Plan – Accessibility & Parking</i>		<i>Dated 28 October 2016; Received 9 July 2018</i>
<i>Dwg No. A015 – Setback Hierarchy</i>		<i>Dated 22 February 2018; Received 9 July 2018</i>
<i>Dwg No. A100 – Site Elevations</i>		<i>Dated 22 February 2018; Received 9 July 2018</i>
<i>Dwg No. A101 – Site Elevations</i>		<i>Dated 28 October 2016; Received 9 July 2018</i>
<i>Dwg No. A102 – Site Sections</i>		<i>Dated 22 February 2018; Received 9 July 2018</i>
<i>Dwg No. A204 – Block Elevations- UB5C</i>		<i>Dated 19 December 2017; Received 9 July 2018</i>
<i>Dwg No. A300 – Sections- Streetscape 1 & Building Articulation</i>		<i>Dated 24 March 2017; Received 24 March 2017</i>

Drawing No.	Author	Dated
<i>Dwg No. A301 – Sections- Streetscape 2 & Building Articulation</i>		<i>Dated 28 October 2016; Received 9 July 2018</i>
<i>Dwg No. A302 – Sections- Streetscape 3 & Building Articulation</i>		<i>Dated 24 March 2017; Received 24 March 2017</i>
<i>Dwg No. A303 – Sections- Streetscape 4 & Building Articulation</i>		<i>Dated 9 July 2018; Received 9 July 2018</i>
<i>Dwg No. A306 – Sections- Streetscape 7 & Building Articulation</i>		<i>Dated 28 October 2016; Received 9 July 2018</i>
<i>Dwg No. A104 – Sun Shadow Diagram</i>		<i>28 October 2016</i>
<i>Dwg No. A402 – 3D Views</i>		-
Dwg No. A014 – Subdivision Concept Plan	PTW Architects	Dated 21 November 2017; Received 21 November 2017
<i>Dwg No. A001 – Cover Sheet/Schedule</i> <i>Dwg No. A006 – Building Envelope Detail</i> <i>Dwg No. A007 – Building Separation Plan/SEPP 65</i> <i>Dwg No. A009 – Open Space and Public Domain Plan</i> <i>Dwg No. A014 – Subdivision Concept Plan</i> <i>Dwg No. A015 – Setback Hierarchy</i>	PTW Architects	29 April 2015
Dwg No. A002 – Site Analysis Dwg No. A004 – Staging Plan <i>Dwg No. A008 – Ground Floor Plan – Use</i> <i>Dwg No. A010 – Indicative Apartment Layout on Master Plan</i> Dwg No. A011 – Existing Tree Plan <i>Dwg No. A012 – Typical Road Plan – Accessibility & Parking</i> Dwg No. A013 – Road Hierarchy <i>Dwg No. A100 – Site Elevations</i>	PTW Architects	14 April 2015

Drawing No.	Author	Dated
<p>Dwg No. A101 – Site Elevations</p> <p>Dwg No. A102 – Site Sections</p> <p>Dwg No. A104 – Sun Shadow Diagram</p> <p>Dwg No. A200 – Block Elevations- UB1</p> <p>Dwg No. A201 – Block Elevations- UB2</p> <p>Dwg No. A202 – Block Elevations- UB3</p> <p>Dwg No. A203 – Block Elevations- UB4</p> <p>Dwg No. A205 – Block Elevations- UB5W</p> <p>Dwg No. A206 – Block Elevations- UB5E</p> <p>Dwg No. A402 – 3D Views</p>		
Dwg No. A204 – Block Elevations- UB5C	PTW Architects	3 August 2015
Dwg No. A003 – Master Plan	PTW Architects	28 April 2015
<p>Dwg No. A005 – Building Height Plan</p> <p>Dwg No. A016 – Indicative UB5W Apartment Sleeve Layout</p> <p>Dwg No. A300 – Sections- Streetscape 1 & Building Articulation</p> <p>Dwg No. A301 – Sections- Streetscape 2 & Building Articulation</p> <p>Dwg No. A302 – Sections- Streetscape 3 & Building Articulation</p> <p>Dwg No. A304 – Sections- Streetscape 5 & Building Articulation</p> <p>Dwg No. A305 – Sections- Streetscape 6 & Building Articulation</p> <p>Dwg No. A306 – Sections- Streetscape 7 & Building Articulation</p> <p>Dwg No. A307 – Sections- Streetscape 8 & Building Articulation</p>	PTW Architects	21 April 2015
<p>Dwg No. A400 – Tower Podium Articulation Examples and Sample Applications</p> <p>Dwg No. A401 – Typical Apartment Layout</p>	PTW Architects	5 May 2015

Drawing No.	Author	Dated
Public Domain Strategy Issue 4 May 2015	Arcadia Landscape Architecture	May 2015
Reference Document(s)	Author	Dated
Traffic Impact Assessment / Modelling Section 34 Conference Report	ARUP	5 May 2015
Proposed Residential Redevelopment & Requirements of SEPP 55- CES Ref: CES130805-MG AA	Consulting Earth Sciences	10 April 2014
Civil Stormwater Concept Report	AT&L	14 July 2014
Solar Access Assessment	SLR Consulting Australia Pty Ltd	6 March 2015
Market Assessment of Apartment Mix at BATA Site, Pagewood	Hill PDA	July 2014
Acid Sulfate Soils	Consulting Earth Sciences	8 April 2014
Aeronautical Impact Assessment Revised Final Report v5.0	The Ambidji Group Pty Ltd	16 July 2014
Design Verification Statement (SEPP 65)	LFA (Pacific) Pty Ltd	18 July 2014

(DA-14/96/04) (DA-14/96/03) (**DA-14/96/02**)(**DA-14/96/07**)

2. This concept approval does not grant consent for any demolition, remediation, excavation or building works. This concept approval is limited to approval for the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum gross floor area, uses, maximum floor space ratio, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers and minimum car parking provisions.
3. Section 94 Contributions are required to be paid in accordance with the Council's Section 94 Contributions Plan current as at the time of lodgement of future development applications for building works, or as stated in the Plan.
4. Karimbla Properties (No 39) Pty Limited (Karimbla) must enter into a Planning Agreement with the Council, being an agreement made in accordance with the provisions of section 93F of the *Environmental Planning and Assessment Act 1979*, and by way of the said Planning Agreement, Karimbla must provide the following public works and dedications at no cost to the Council and at the time required by Condition 11, without any off set against the aforementioned section 94 contributions:

- a) embellish and dedicate at no cost to the Council of 8000 sq m of land on the site for the purpose of a public park / public recreational space being land of land identified on the approved plans as "Central Park.
 - b) construct and dedicate for the use as a public road and at no cost to the Council that part of the site identified on the approved plans as:
 - a) "East West Boulevard" proposed Road Lot 1.
 - b) Local Street Road, proposed Road Lot 6;
 - c) Road, proposed Road Lot 4;
 - d) Civic Avenue, Road proposed Road Lot 3;
 - e) North South Street 1, proposed Lot 5;
 - f) North South Street 2, proposed Lot 2.
 - c) undertake at no cost to the Council the design and construction of works inclusive of traffic lights and any other necessary traffic control devices and signals so as to upgrade the intersection of:
 - i) Banks Avenue and Heffron Road, including relocation of the current pedestrian crossing;
 - ii) Bunnerong Road, Heffron Road and Maroubra Road;
 - iii) Banks Avenue/East West Boulevard; and East West Boulevard and Bunnerong Road (traffic lights not required for these intersections).
 - d) Make a monetary contribution to Council to upgrade the intersection of Page Street and Wentworth Avenue.
5. This consent must be read in conjunction with the aforementioned Planning Agreement entered into by Karimbla and Council.
 6. This Consent relates to land in Lot 2 DP 1187426, as such, building works must not encroach on to adjoining lands or other public places apart from approvals granted for the following works beyond the site boundary as outlined condition 4(c) above.
 7. Separate Stage 2 and future development consent shall be sought for demolition of any structures and any civil and built development. Remediation of the site will be Category 2 under SEPP 55, and development consent is not required, but remediation will need to be completed prior to the for any building in the relevant Stage.
 8. All development applications relating to construction of apartment buildings shall be subject to a further design review process by Council. The applicant shall meet all costs involved in the design review of subsequent development applications, through a design competition process as outlined in **Appendix A**.
 9. **Restrictive covenant**
 - a) Within one month of the date of this consent, and prior to the lodgement of the first development application for Stage 2 of the site for buildings (excluding the DA 14/159 for construction of East-West Boulevard and realignment of Sydney Water culvert), and prior to the lodgement of any section 96 application to modify this consent, whichever occurs first, a restrictive covenant is to be registered on title

that burdens the development site land and is enforceable by Council (Council to be the prescribed authority imposing the covenant) in accordance with section 88E of the Conveyancing Act 1919.

b) The terms of the covenant shall be as follows:

"without limiting any rights available under the Environmental Planning and Assessment Act 1979, any future development on the land must not be undertaken, without the approval of the Council, that would result in:

- i) *an exceedance in the GFA and FSR for any building on the land from the maximum allowable density as set out at Condition 12 Table 4 "GFA and FSR", other than for a tolerance for construction variations to a maximum of
 - 1000 square metres GFA/corresponding FSR per Urban Block for Urban Blocks UB5 West and UB5 Central,
 - 500 square metres GFA/corresponding FSR per Urban Block for Urban Block 3,
 - 200 square metres GFA/corresponding FSR per Urban Block for Urban Blocks 5 East, 4, 2 and 1,*
- ii) *an exceedance in the height for any building on the land from the maximum allowable building heights as set out at Condition 15 Table 5 "Building Height, other than tolerance for construction variations to a maximum of 2 metres for all Urban Blocks,*
- iii) *a car parking rate that is less than the minimum allowable parking rates as set out at Condition 29 Table 6 "Car Parking",*
- iv) *units sizes smaller than the minimum allowable apartment sizes as set out at Condition 33 Table 7 "Unit Sizes",*
- v) *unit mix that is different from the allowable unit mix as set out at Condition 34 Table 8 "Unit Mix", other than for a tolerance of +/- 1.5% in the specified proportion of unit size,*

in the development consent DA2014/96 (as amended from time to time)."

- c) Future Stage 2 development applications will also have a covenant in the above terms placed on any future development consent for those applications.
- d) The purpose of this covenant is to ensure that all future owners of the land, who might not otherwise be aware, are on notice that Council has already given concessions resulting in the development being in excess of the relevant controls relating to GFA, FSR, building height, unit sizes and there has been agreement on unit mix.
- e) The covenant is to run with the land. The covenant is to be placed on the title at no cost to the Council.
- f) This restriction shall cease to exist and the Council will consent to the removal of this restriction from the title of each respective urban block following the issue of the final occupation certificate for the subject urban block and the covenant is not required to be transferred onto lots within any future strata plans. .

Note: Condition 9 does not permit the variance of GFA, FSR from the maximum stated in Table 4; or variance from the maximum Building Height from the maximum stated in Table 5; or variance for Unit Mix as stated in Table 8. Any variation within the terms of the covenant must be justified via a clause 4.6 variation and agreed to by the consent authority. This condition only varies the wording of the covenant condition to allow for future variations due to construction requirements, within the terms of the

covenant. All variations will still need to be assessed on merit. Council will not unreasonably withhold agreement to modify the covenant for more substantive changes following merit based assessment.

STAGING AND TIMING OF WORKS

10. The staging of the subsequent development applications for subdivision, buildings and associated works shall be in the numeric sequence shown in the Staging Plan No.A004 dated 14 April 2015 and in accordance with Table 2. Notwithstanding, there is nothing prohibiting the Development Applications from being combined across adjoining Urban Blocks or the order of lodgement altered where adequate access and infrastructure (refer to Table 2) can be provided for that urban block or if the Developer intends to bring forward the delivery of public infrastructure. In this regard, the upgrade of Heffron Road, Maroubra Road and Bunnerong Road intersection; the signalised upgrade of intersection Banks Avenue and Heffron Road intersection; Banks Avenue/East West Boulevard intersection; and East West Boulevard and Bunnerong Road intersection; and the payment of a monetary contribution to Council for the upgrade of Page Street and Wentworth Avenue, as required by the Planning Agreement must always occur prior to the final occupation certificate for Urban Block 5E ~~the first residential Stage 2 Development Application~~. This condition does not prevent an Occupation Certificate being issued prior to the completion of the public infrastructure for the project where it can be demonstrated to Council that the delivery of this infrastructure has been delayed for reasons outside the control of the Developer (DA-14/96/06).

Table 2

Work	Stage	Requirements for works/Urban Blocks	Timing of Construction	Timing of Dedication to Council
Subdivision and works including but not limited to the provision of the stormwater infrastructure and development of the internal road network excluding the private access ways for each Urban Blocks, including the creation of any easements	2(A)	Separate DA for land subdivision to be lodged concurrently with the application for the development of UB5W.	Subdivision certificates to be obtained on completion of subdivision works relevant to each block.	Dedication of land to Council upon completion of works related to each Urban Block to Council's satisfaction prior to the release of the relevant Occupation Certificate.
Civil works and servicing for the development on each Urban Block	2A(2) 2A(3) 2A(4) 2B 2C	To be shown in the DA for each block.	Completed prior to occupation certificate for the Urban Block as relevant	N/A, except if covenants required for stormwater reasons

	2D 2E			
North-south access way and pedestrian links for UB5W	2A(2)	With DA for buildings on UB5W	Prior to any Occupation Certificate for final building in UB5W	N/A
North – south pedestrian link and access way to UB5C	2A(3)	With DA for buildings on UB5c	Prior to any OC for final building in UB 5C	N/A
East west pedestrian link and access way for UB 4	2B	With DA for buildings on UB4	Prior to any OC for final building in UB4	N/A
East west pedestrian link and access way for UB3	2C	With DA for buildings on UB3	Prior to any OC for final building in UB3	N/A

11. The staging of the provision of public roads, open space, intersection upgrades referred to in this consent and works referred in the Planning Agreement between Karimbla and Council dated 7 August 2015 shall be in accordance with Table 3. A final Occupation Certificate for UB5E can be issued prior to the completion of the required public infrastructure for the project where it can be demonstrated to Council that:

- i) Delays to the delivery of these works have arisen, which are outside the controls of the developer such as delays by Government Agencies (i.e. RMS for traffic signals);
- ii) Existing infrastructure is available to support the additional development to which the final Occupation Certificate of UB5E relates.

~~Council in applying the provisions of the Table will make allowances for any delays where it is demonstrated that delays are not caused by the Developer, such as delays by Government Agencies (i.e. RMS for traffic signals) so that occupation is not upheld for matters outside the Developers control.~~

(DA-14/96/06)

Table 3

Work	Stage	Requirements for works/Urban Blocks	Timing of Completion	Timing of dedication
Construction of East-West Boulevard (Lot 1) and Sydney Water infrastructure relocation; including as conditions	2A(1)	DA14/159 approved via section 34 Agreement 7 August 2015	Prior to any OC for UB5C for construction of East-West Boulevard (Lot 1) and Sydney	Prior to OC of final building for UB5C.

intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.			Water infrastructure relocation; including as conditions intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.	
Local Street Road Lot 6	2E	With DA for buildings on UB1 or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB1	Prior to OC of final building for UB1
Local Street Road Lot 5 North South Street 1	2D	With DA for buildings on UB2 or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB2	Prior to OC of final building for UB2
Local Street Road Lot 4 North South Street 1	2A(2)	With DA for UB5W or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
Local Street Road Lot 2 North South Street 2	2A(3)	With DA for UB5C or separate DA for remainder of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
Local Street Road Lot 3 Civic Avenue	2A(3)	With DA for UB5C or separate DA for remainder	Prior to OC for UB5W	Prior to OC of final building for UB5C

		of roads excluding those in DA14/159.		
Central Park (8,000 sq metres)	Stage 2A(2) (design) 2A(3) (delivery)	With DA for buildings on UB5W.	Prior to any OC for UB5C	Prior to any OC of final building for UB5C
Open Space Lot 2	Stage 2E	With DA for buildings on UB1.	Prior to any OC of UB1	Prior to any OC of final building for UB1
Upgrade of Heffron Road, Maroubra Road and Bunnerong Road intersection	2A(2)	To be commenced with the lodgement of DA for buildings on UB5W	Completed prior to final any OC for UB5W UB5E	N/A
Signalised upgrade of intersection Banks Avenue and Heffron Road	2A(2)	To be commenced with the lodgement of DA for buildings on UB5W	Completed prior to any final OC for UB5W UB5E	N/A

(DA-14/96/06)

GFA AND FSR

12. Future development must be not inconsistent with the maximum GFA and FSR for each Urban Block and Proposed Lot as shown in Table 4:

Table 4

2013 LEP Zone	Proposed Lot ^a	Urban Block ^b	Site Area sq m ^c	GFA sq m ^d	FSR ^e	Indicative Unit Nos.
B4	1	UB5 West	13,507 13,523	51,712	3.83 3.82	517 487
B4	2	UB5 Central	13,095	45,306	3.84	453
			13,095	5,000^f 50,306	3.84	515
B4	3	UB5 East	9,011 9,196	22,412	2.49 2.43	224 202
B4	part lot 4	part UB4	826			
R3	part lot 4	part UB4	7,089 7,733	18,225	2.30 2.36	182 167
B4	part lot 5	part UB3	999	37,011	3.92	370

R3	part lot 5	part UB3	8,435 9,434		3.92	368
R3	6	UB2	9,021 9,055	28,603	3.17 3.16	286 292
R3	7	UB1	13,302 13,240	19,018	1.43 1.44	190
Sub Total			75,285 75,276	227,287	N/A	2223 2221
B4	part road lot 3	part Civic Avenue	1364			
R3	part Road lot 3	part Civic Avenue	4096 1,857			
R3	road lot 4		1359 1,671			
R3	road lot 2		1224 1,504			
R3	road lot 1	East West Boulevard	8778 8,744			
R3	road lot 5		2023 2,044			
R3	road lot 6		1596 1,636			
R3	Open Space lot 2	Linear Park	2703 2,719			
R3	Central Park	Central Park	8000			
sub total			28140 28,175			
TOTAL			103,451	227,287	N/A	2223 2221

(DA-14/96/03) (DA-14/96/02)

Notes

- a. Proposed lots shown on Drawing No. A014 dated ~~29/4/15~~ 21/11/17
 - b. Urban Blocks shown on Drawing No. A004 dated 29/4/15
 - c. Site area shown on Plan of Subdivision of Lot 2 DP1187426 dated ~~28/4/15~~ Drawing No. A014 dated 21/11/17
 - d. GFA is Residential and Child Care Centres unless as noted, taken from Drawing No. A001 dated ~~29/4/15~~ **21/11/17 6/7/18**
 - e. FSR calculated from Table shown on Drawing No. A001 dated ~~29/4/15~~ **21/11/17 6/7/18** and Drawing No. A014 dated ~~29/4/15~~ 21/11/17.
 - f. Maximum 5000 sq m retail space
13. Where there is a difference between the maximum FSR specified in Table 4 and the approved building envelope for that Urban Block, the FSR shall be the lesser of the possible FSR within the envelope or that shown in Table 4.
 14. Where there is a difference between the GFA possible within the building envelope and the GFA nominated for the Urban Block in Table 4, the GFA shall be the lesser of that shown in Table 4 and that possible within the building envelope for the Urban Block.

BUILDING ENVELOPES AND HEIGHTS

15.

- a) The maximum approved building heights as depicted on DWG No.A005 Building Heights Plan prepared by PTW dated ~~14 April 2015~~ **22 February 2018**, as shown in Table 5. (DA-14/96/02)

Table 5

<u>Block No.</u>	<u>Tower No.</u>	<u>Maximum Podium Height</u>	<u>Maximum Building Height</u>	<u>Maximum Plant Room Height</u>
Urban Block 1	A1,A2,A3,A4,A5	N/A	7.6m (RL29.6) plus Attic ^a	N/A
	B1, C1	N/A	13.8m (RL35.8)	16.4m (RL38.4)
	B2, C2	N/A	20.0m (RL42.0)	22.6m (RL44.6)
Urban Block 2	A1, A2	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B2, C2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
Urban Block 3	A1, A2	13.8m (RL35.8)	35.5m (RL57.5)	38.1m (RL60.1)
	B1, B2	13.8m (RL35.8)	44.8m (RL66.8)	47.4m (RL69.4)
	A3, A4	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
Urban Block 4	A1	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	A2	16.9m (RL38.9)	26.2m (RL48.2)	28.8m (RL50.8)
Urban Block 5W	A1, A2, A4,A5	16.9m (RL38.9)	51.0m (RL73.0)	53.6m (RL75.6)
	A3, A6	16.9m (RL38.9)	63.4m (RL85.4)	66.0m (RL88.0)
Urban Block 5C	B1, B2b	18.8m (RL40.8)	40.5m (RL62.5)	43.1m (RL65.1)
		15.3m (RL37.3)		
	B4, B5	18.8m (RL40.8)	52.9m (RL74.9)	55.5m (RL77.5)
		15.3m (RL37.3)		
	B3, B6	18.8m (RL40.8)	65.3m (RL87.3)	67.9m (RL89.9)
		15.3m		

		(RL37.3)		
Urban Block 5E	B2, B3	16.9m (RL38.9)	20.0m (RL42.0)	22.6m (RL44.6)
	B1	10.7m (RL32.7)	26.2m (RL48.2)	28.8m (RL50.8)
	B4	10.7m (RL32.7)	51.0m (RL73.0)	53.6m (RL75.6)

Note a: Attic is as defined in Botany Bay LEP 2013 **(DA-14/96/02)**

16. The following applies to plant rooms for Stage 2 and future development:
 - a) All plant rooms are to be no more than 3 metres in height beyond the habitable building height specified in Condition 15 (Table 5) above.
 - b) All plant rooms shall be integrated into the roof form of the building and suitably architecturally screened.
 - c) No habitable areas shall be permitted above the maximum building heights shown in Condition No. 14 (Table 5) above.
17. The finished floor level of Ground floor apartments is to be no greater than 1 metre above the ground level existing, as shown on the Survey Plan No. 100936 Issue B prepared by Denny Linker & Co Consulting Surveyors dated 16 December 2010.
18. The separation distances shall be provided in accordance with DWG No.A006 Building Envelope Detail prepared by PTW dated ~~29 April 2015~~ **22 February 2018** and DWG No.A007 Building Separation Plan prepared by PTW dated ~~29 April 2015~~ **22 February 2018**. **(DA-14/96/02)**
19. The maximum height of the podiums must be in accordance with Drawing No.A005 dated ~~29/4/2015~~ **22/02/2018** and meet the following heights for each Urban Block as specified below: **(DA-14/96/02)**
 - a) Urban Block 1 shall have no podiums;
 - b) Urban Block 2- 3 storey podium for 8 storey towers and 4 storey podium for 11 storey component;
 - c) Urban Block 3- no more than 4 storey podium for 11 storey tower and a 5 storey podium for the 14 and 16 storey tower components;
 - d) Urban Block 5 East- 5 storey podium adjoining Bunnerong Road for 6 storey tower component, 3 storey podium under 8 storey and 16 storey component fronting the private access ways and a minimum floor to floor height of 3.6 metres on the ground floor;
 - e) Urban Block 4 - 5 storey podium adjoining Bunnerong Road for 6 and 8 storey tower components.
 - f) Urban Blocks 5 West and 5 Central – 5 storey podium for all tower components.
20. Floor to floor heights to be 6 metres for retail uses, minimum 3.6 metres for commercial uses and 3.1 metres for residential uses (other than attics which can be reduced to 2.4 metres, ~~and top floors which may be up to 3.5m~~ **and the ground and first floors of**

UB5C which can be reduced to 3.0 metres. The habitable areas of the residential uses are to comply with the minimum floor to ceiling requirement of 2.7 metres as required in the Apartment Design Guide (DA-14/96/02)

21. Street wall heights shall comply with Drawing No.A005 dated ~~29/4/2015~~ **22/2/2018** and be a maximum for each Urban Block as follows: **(DA-14/96/02)**
 - ~~a) Civic Square – 5 storeys to the east and south;~~ **(DA-14/96/02)**
 - b) Heffron Road – 2 storeys plus attic setback;
 - c) Banks Avenue – 2 storeys plus attic for UB1, 3-4 storeys for UB2, 4-5 for UB3 and UB5W with 5 storeys;
 - d) Bunnerong Road – 5 storeys;
 - e) Westfield Drive – 5 storeys for UB5C and UB5W and UB5E 3 storeys; and
 - f) Any form above the street wall height is to be setback as per Drawing No. A006.
22. All building elements including balconies, blades, louvers and screening elements must be contained within the building envelopes identified in Drawing No.A006 dated ~~29/4/2015~~ **22/02/18** unless permitted by conditions below. **(DA-14/96/02)**
23. A minimum 4 metre setback shall be provided for all tower components above a podium.
24. A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the **towers** shown in Drawing No.A006 dated ~~29 April 2015~~ **22 February 2018**. This is permitted for a maximum of **50%** of each façade. This should be balanced by facade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation. **(DA-14/96/02)**
25. A maximum protrusion of 500mm of balconies, blades, louvers and screening elements may protrude from the building envelope for the **podiums** shown in Drawing No.A007 dated ~~29/4/2015~~ **22/02/18**. This is permitted for a maximum of **20%** of each façade. This should be balanced by facade elements that setback from the envelope line as well, to ensure that the façade is not completely flush with building envelope and that there is substantial articulation. **(DA-14/96/02)**
26. Podium and building setback shall comply with DWG No.A015 Setback Hierarchy Plan prepared by PTW dated ~~29 April 2015~~ **22 February 2018** **(DA-14/96/02)**
 - a) Urban Block 1- minimum 12 metres to Heffron Road and 6-12 metres to Banks Avenue;
 - b) Urban Blocks 2- minimum 6 metres (Banks Avenue)
 - c) Urban Block 3 – minimum 6 metres- 12 metres (Banks Avenue)
 - d) Urban Block 5 West - minimum 6 metres- 12 metres (Banks Avenue)
 - e) Urban Block 4- minimum 6 metres- 12 metres (Bunnerong Road)
 - f) Urban Block 5 East - minimum 8 metres (Bunnerong Road)

- g) Urban Blocks 5 West, 5 Central and 5 East - minimum 12 metres (Westfield Drive).
27. The corridor lengths within residential apartments shall not be as shown on Drawing A010 dated ~~29 April 2015~~ **28 October 2016**, as the corridor lengths are excessive and serve too many units. A maximum number of 10 units are to be serviced by each lift core. **(DA-14/96/02)**
28. Every development application for Stage 2 and future stage buildings must provide the following:
- Precise design details of the facades including a detailed materials schedule and sample board that clearly identifies all external finishes and colours and glazing is required;
 - Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access Policy;
 - All ground floor apartments are to have individual entries on all frontages, to provide activation at the street level (except for the frontages to UB4 and UB5E to Bunnerong Road); and
 - The design of future development applications should incorporate full environmentally sustainable principles including: capture and re-use of storm water, natural cross ventilation, natural sun light, solar hot water and passive solar control in accordance with Part 9D.7 Botany Bay DCP 2013.

CAR PARKING

29. The approved car parking rates for residential uses shall be in accordance with Table 6:

Table 6

Use	Minimum number car spaces	Indicative minimum number of car spaces
Residential		
One bedroom	1	445 493
Two bedroom	1.5	1668 1847
Three bedroom	2	1336 996
Residential Visitor	1 per 10 units	222 221
Car Share Spaces	22 including min 10 in basements	22
Total residential		3,693 3,597
Other Uses	As per BBDCP 2013	

(DA-14/96/02)(DA-14/96/07)

- 30.

- a) The above ground car parking structures shall only be located on Urban Blocks UB5 East, UB5 West and UB5 Central and shall be sleeved with retail and/or residential development as shown on DWG No.A008 Ground Floor Plan Use prepared by PTW dated ~~29 April 2015~~ **11 November 2017. (DA-14/96/02)**
- b) The elevations to Westfield Drive shall be suitable screened as an integrated element of the building design and must be designed by the respective registered architect for the Urban Block. The screens are to include a variety of materials and colours and be included in the relevant design competition for the Urban Block/building. The car park screen concepts are to be submitted to Council as part of the relevant staged development applications and will form part of any approval for the Urban Block.
31. The basement parking levels within Urban Blocks 1, 2, 3 and 4 shall not protrude above the existing natural ground level by more than 1m.
32. In all future Stage 2 and future development applications for buildings, each basement and/or car parking structure shall be designed in accordance Part 3A Car Parking and Part 9D 6.5 of Botany Bay DCP 2013; including but not limited to the provision for 4.6 metre headroom and sufficient turning area for a garbage truck to be able to enter and leave the site in a forward direction.

DWELLING SIZES

33. The minimum dwelling sizes for the proposed development must comply with the Table 7 below. Unit size is calculated from the inside the enclosing wall of the dwelling but excluding wall thickness, vent, ducts, staircases and lift wells.

Table 7

Unit Type	Area	Size sq m
One bedroom	Internal^a	65 50sqm
	External	12 8sqm
Two bedroom	Internal^a	85 75sqm
	External	12 10sqm
Three bedroom	Internal^a	50% of units per urban block 124 50% of units per urban block 110 95sqm
	External	24 for 124 sq m units 15 for 110 sq m units 12sqm

(DA-14/96/07)

Note: a Internal area means the area inside the enclosing walls of a dwelling but excludes wall thickness, vents, ducts, staircases and lift wells.

UNIT MIX

34. The mix of units provided **within each Urban Block at UB5W, UB5E, UB4, UB2 and UB1** shall comply with **Table 8** below. No studio apartments are permitted. The development application for each individual future stage must comply with this mix.

Table 8

Unit Size^a	Proportion	Indicative Maximum Number of Units
Studios	N/A	0
One bedroom	Maximum 20%	445 280
Two Bedroom	50%	1112 760
Three + bedroom	Minimum 30%	666 374
TOTAL		2223 1414

Note a: Unit size is as defined in Table 7 (DA-14/96/02)

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

Unit Type	Proportion (UB5C)	Indicative maximum number of units	Proportion (UB3)	Indicative maximum number of units
Studios	N/A	0	N/A	0
One bedroom	19.3%	57	30%	154
Two bedroom	64.4%	188	55%	284
Three bedroom	16.3%	47	15%	77
Total		292		515

(DA-14/96/07)

35. The development in each Urban Block must comply with the following minimum number of adaptable housing units per building and shall be designed and constructed to comply with Adaptable Housing Class A:
- 0 – 9 units – Nil;
 - 0-30 units – 1 adaptable housing;
 - 31-50 units – 2 adaptable housing;
 - 51 plus – 2 units, plus an additional 1 unit for each 30 units.

SOLAR ACCESS AND BUILDING FORM

36. As generally referenced in Table 1 within the Solar Access Assessment prepared by SLR Consulting Australia Pty Ltd dated 6 March 2015, Stage 2 and future development applications must demonstrate that the following solar access requirements are achieved as a minimum:

- a) 70% of the living rooms and private open space of apartments within Urban Blocks UB1, UB2 and UB4 shall achieve a minimum 3 hours of direct solar access between 9am and 3pm in mid-winter;
 - b) 70% of the living rooms and private open space apartments within Urban Blocks UB3, UB5 East, UB5 West and UB5 Central shall achieve a minimum 2 hours of direct solar access between 9am and 3pm in mid-winter; and
 - c) All podium courtyard communal open space shall receive a minimum of 2 hours of direct solar access between 9am and 3pm in mid-winter to 30% of the area of the courtyard. *Note: Open space on the roof is not counted in this calculation.*
37. Building depths are to be a maximum of 18 metres glass line to glass line.
38. A minimum of one lift core shall be provided to every residential floor that services 10 units. Where the corridor is designed in an 'L' shape or provides access to more than 10 units the corridor must comply with the amenity requirements under SEPP 65 Residential Flat Design Code as in force at 9 June 2015.

PUBLIC DOMAIN

39. The active street frontage ***facing Civic Avenue to Civic Square*** is to occupy ***a minimum of 80% of the entire ground floor northern building frontage of UB5C. (DA-14/96/02)***
40. The Civic ***Retail Square Open Space*** identified in Urban Block ***UB5 Central UB1*** shall have a minimum area of 1,000sq metres. ***and the podium shall not extend into the Civic Retail Square open space. (DA-14/96/02)***
41. For the road network with the exception of the private access ways as shown on DWG No.A012 Typical Road Plan prepared by PTW dated ***29 April 2015 28 October 2016***. The applicant must, at no cost or expense to Council: ***(DA-14/96/02)***
- a) Embellish the road network with landscaping, seating, paving, undergrounding of power cables and suitable street lighting to a high decorative standard to the street boundaries of the site so to provide safety and illumination for residents of the development, with such street lighting meeting the relevant electricity authority requirements; and
 - b) dedicate the road network.
42. The public park shown as ***Central Park*** as shown on DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated ***29 April 2015 11 November 2017*** shall be: ***(DA-14/96/02)***
- a) a minimum of 8,000sq metres;
 - b) remediated in accordance with the recommendations of a Remedial Action Plan, prior to dedication to Council; and
 - c) embellished and dedicated to Council free of cost as part of the Stage 2 Development Application as per Condition 9.
43. A detailed landscape plan for the embellishment of ***Central Park*** is to be provided to Council for approval with the DA for Urban Block 5 West, Stage 2A2 and shall include:

- a) Detail of the playground area (dimensions, amount of play equipment, fencing, shade etc). The playground design, location and dimensions needs to reflect and comment on the projected demographics of the development. Incorporate natural elements and consider a variety of surface finishes (mulch, sand, rubber).
 - b) Other active recreational elements such as outdoor ping pong or outdoor fitness. This is the most visible and active park. The plans must show the dimensions for these spaces and treatment.
 - c) Enhanced pedestrian permeability with shared pathways to enable sufficient space for all abilities as well as cyclists and joggers, indicative layout and widths.
 - d) Relevant amenity area lighting to a suitable P rating under the Australian Standard and indicative layout. Include a hierarchy of lighting levels to enhance security, access and legibility.
 - e) Furniture such as seating, picnic settings, bins, water stations, bubbler, cycle racks, shade structures, arbors and decorative vertical elements their locations and dimensions.
 - f) Interesting use of materials referencing past uses and incorporate surrounding context.
 - g) Demonstrate a design that considers both shopper and resident socialisation and well as special events such as food festivals, markets, concerts, gatherings etc.
 - h) Incorporate WSUD and consider the use of water as an integral component in the landscape (water elements etc).
 - i) Demonstrate an integrated public art proposal to create an identity, reflect the local emerging identity, to recognise the past and to enrich the public domain and landscape fabric. This could include the monumental and temporal eg free standing artworks (sculpture etc), vertical elements eg arbors and hard landscape elements, lighting features, facades and walls, furniture. This may incorporate the use of colour.
 - j) Way finding/signage proposal.
 - k) Public toilets to be incorporated into the retail component of UB5C and Central Park as shown in public domain strategy prepared by Arcadia dated 1 May 2015.
44. The **Open Space Lot 2** adjoining UB1 as specified on DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated ~~29 April 2015~~ **11 November 2017** shall be: **(DA-14/96/02)**
- a) a minimum of 2,703 sq m;
 - b) remediated in accordance with the recommendation of a Remedial Action Plan prior to dedication;

- c) embellished in accordance with concept plan prepared by Arcadia dated 1 May 2015. A detailed landscape plan for its embellishment is to be provided to Council for approval with the DA for Stage 7 for development of UB1;
 - d) dedicated to Council free of cost as per Condition 9.
45. The landscape plan for **Open Space Lot 2** plan shall include:
- a) Suggestions for a community garden (to be maintained in the future by Council)
 - b) Pedestrian permeability and furniture
 - c) Opportunities for urban habitat and a more natural space
 - d) Incorporate WSUD in a more natural format
 - e) Enhanced pedestrian permeability with shared pathways to enable sufficient space for all abilities as well as cyclists and joggers, indicative layout and widths.
 - f) Linkages within and external to the site, interface treatments
 - g) Natural play areas
46. In addition to the specific requirements in Conditions 42 and 44, all proposed future open space areas are to include the following:
- a) Analyse the pattern of sun and shade created by buildings, use to influence park design
 - b) Ensure visual surveillance from streets and buildings
 - c) Provide for a variety of plant species
 - d) Provide lawn and shaded seating areas
 - e) Take advantage of deep soil areas to include large scale, canopy trees to ameliorate buildings, for shade, heat reduction and wind turbulence reduction
 - f) Use specimen trees to mark focal points, entries or other features of the open space
 - g) Incorporate a mixture of paving treatments and textures and in-situ concrete and/or stone walling
 - h) Consider terracing to enhance vertical height in the landscape
 - i) Provide for consistency and continuity of materials

- j) Provide photo montages depicting the scale of the park and its elements and landscaping in relation to pedestrian and open space users and the context (roads, buildings etc)
 - k) Provide a sample board of materials/pallettes.
47. All basements, piercing and above ground structures are not to impact on the existing root zones and canopies of trees to be retained. A detailed arborists report documenting trees to be retained and removed and indicating the above requirement is to be submitted with each development application.
48. A Right of Way shall be provided for public access via the east-west through site links identified between UB4 and UB5E and UB3 and UB5W providing pedestrian access from Bunnerong Road through to Banks Avenue. The Right of Way shall be provided as part of Stage 2 which includes this subdivision of the Urban Blocks and civil works.
49. A Right of Way for public access via the north-south through site links identified between UB5E and UB5C and UB5W providing pedestrian access from Westfield Drive through to Civic Avenue. The Right of Way shall be provided as part of Stage 2 which includes this subdivision of the Urban Blocks and civil works.
50. The public domain and Council footpath area along Banks Avenue, Heffron Road and Bunnerong Road for the frontage of the site shall be upgraded with new paving, landscaping, street lighting to a high decorative standard to the street boundaries, seating, installed by the applicant and at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate for each stage which has a corresponding street frontage.
- 51.
- a) Any existing above ground electricity and telecommunication cables in Banks Avenue, Heffron Road and Bunnerong Road adjoining the site to be located below ground, at the applicant's expense, by underground cables, together with the provision of appropriate-drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs, to the relevant Australian Standards and Codes of Practice.
 - b) The Ausgrid lighting poles along Banks St, Heffron Road and Bunnerong Road that are adjacent to the development, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Banks Ave and Heffron Road and V2 lighting requirements for Bunnerong Road and any other requirements as specified by Council, RMS and any other service provider.
 - c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - d) 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.

- e) 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.
52. In accordance with *Botany Bay Development Control Plan 2013* the concept approval and all subsequent stages shall comply with the following:
- a) All road construction and widening shall be carried out in accordance with the AUS-SPEC's standards (contact Council's Engineering Services if further information required);
 - b) All footpaths are to be provided with kerb ramps at intersections, to facilitate access for the less mobile and disabled;
 - c) All street furniture including, bins, bollards, seating and drinking fountains, are to be coordinated throughout the Precinct and to Council's City identity specification;
 - d) Street furniture should be located in a one-metre zone along the kerb line, that is, out of the main line of pedestrian traffic;
 - e) Street name signs as per Council's Graphics Standard Manual are to be located at all street intersections;
 - f) Detailed plans for the traffic control signage and line markings should be submitted to Council for approval. All traffic signage and line marking must conform to the Australian Road Rule 1999 and the NSW Road Transport (Safety and Traffic Management) Regulation 1999;
 - g) Street lighting is to be coordinated and standardised throughout the precinct, with appropriate pedestrian lighting provided on the pedestrian and cycle routes (contact Council's Engineering Services if further information is required);
 - h) Street lighting should be evenly spaced and meet the relevant requirements of AS/NZS1158 – Public Lighting Code; and
 - i) All existing and new aboveground power lines and cables are required to be located below ground.
53. The Street Landscape Principles and Plans to be submitted as part of Stage 2 shall be in accordance with the Public Domain Strategy prepared by Arcadia dated 1 May 2015.
54. A detailed schedule of finishes and materials demonstrating an overall high quality architectural concept must be submitted as part of each Stage 2 and future development application. Each building shall have a different character and identity and variations in architectural style is encouraged on larger urban blocks with multiple buildings. Rendered façades are not to dominate the façade of any building and large expanses of a single material are not acceptable. Facades are to include a predominance of high quality materials such as prefinished panels, zinc or other metallic cladding, stone cladding (not stone tiles), face brick.
55. Prior to the issue of the relevant Construction Certificate for each stage, the DWG No.A009 Open Space and Public Domain Plan prepared by PTW dated ~~29 April 2015~~ **11 November 2017**, shall be the subject of detailed landscape construction documentation (plans, details and specifications) to be submitted to and approved by Council with each subsequent development application. The landscape documentation

is to be prepared by a suitably qualified Landscape Architect, and in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to the following in accordance with the concept Public Domain Strategy prepared by Arcadia dated 1 May 2015: **(DA-14/96/02)**

- a) The clear delineation of all public domain areas as follows:
 - i. Public Central Park of 8,000sqm;
 - ii. Public Park at Heffron Road;
 - iii. The through site north-south pedestrian links through to Westfield Drive;
 - iv. The through site east-west pedestrian links from banks Avenue to Bunnerong Road.
- b) A site plan showing building envelopes, outline of the basement car parks, areas to be paved and areas to be landscaped.
- c) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas
- d) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- e) Specifications for soil and mulch finishes, root barriers, retaining wall construction and finishes, irrigation, edging and so on.
- f) For areas of paving provide a schedule of finishes – materials, edge treatments and sectional construction details. Permeable paving materials to be used and/or pavements graded to garden beds.
- g) Proposed fencing details, pergolas and the like – elevations, materials, finished and scaled dimensions.
- h) Water feature construction details, scaled dimensions, finishes and elevations.
- i) Sectional details for planter boxes over basement carpark- drainage, waterproofing, irrigation, planting substrate and so on. Planter boxes shall be of adequate dimensions (area and depth – min. 900mm) for growing medium – large trees.
- j) Details of other landscape elements such as seating and furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations where required.

- k) Show the location of underground stormwater/rainwater tanks, electrical kiosks and fire booster valves. Rainwater tanks not to be visible from streets or if underground, not to be located under landscape areas, other infiltration tanks. Fire booster valves and electrical kiosks to be incorporated into the building structure.
 - l) In communal open spaces provide lawn as well as planted areas, trees for shade and adequate seating.
 - m) Trees to be used extensively – in private courtyards, communal open spaces and setbacks. Trees must be of an appropriate scale to complement and scale with the buildings. Deep soil zones must include taller trees. Trees to be predominately native, evergreen species using selected deciduous (in limited locations) or open canopy evergreens for solar penetration.
 - n) A play area of adequate fitout and dimensions suited to the projected residential community, fitness area and BBQ area of adequate dimension and suitable location to promote usability and functionality and sited for good access and surveillance.
 - o) Medium canopy trees are required in all setbacks for boundary screening and streetscape amenity.
 - p) A 12 metre clear landscape setback to Heffron Road that will permit tree planting and is unimpeded by private patios or terraced landscaping. The setback is to be level with the street footpath.
56. This Stage 1 consent does not permit the removal of any trees on site or within the public domain surrounding the site. Any tree removal will be assessed as part of each subsequent development application and suitable replacement planting to Council satisfaction provided as compensation for any tree removal.

ENVIRONMENTAL DESIGN

- 57. Each development application for buildings must include and be designed in accordance with a Wind Assessment Report, addressing the maximum criteria specified in Section 9D 6.3 of Botany Bay DCP 2013.
- 58. Each development application for buildings must include and be designed in accordance with a Reflectivity Report, addressing the controls specified in Section 9D 6.4. of Botany Bay DCP 2013.
- 59. The Stage 2 and future development applications shall include a report addressing:
 - a) AS2021-2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction; and
 - b) Part 9D 6,9 of Botany Bay DCP 2013 with regards to the noise intrusion criteria in Table 13 (as shown applicable to each Urban Block) as well as noise from Westfields Eastgardens loading docks, from the sea port at Port Botany and Sydney Kingsford Smith airport and road noise from the classified road network that surrounds the site.
 - c) The reports must be prepared by a suitably qualified practicing professional Acoustical Consultant. A report must be prepared and submitted with each

development application and the building plans endorsed with the required acoustical measures.

60. Any new electrical substation/s and fire hydrants required to be provided, shall be identified in the future Stage 2 and subsequent development applications. These are to be integrated into the building/s and suitably screened. They must not be positioned in the street setback unless using existing facilities which must be screened. The location and treatment of these utilities shall be shown on the detailed landscape plan for each development stage.

ENGINEERING MATTERS

61.

- a) Every future stage 2 and later development application is to provide a report prepared by a qualified Geotechnical Engineer that models the consequences of the basement construction of the development will have on groundwater flow, flooding of the locality, building stability including buildings nearby to the development site and groundwater levels.
- b) If this modelling and investigation give rise to adverse consequences to any or all the nominated issues, the onus is upon the applicant to respond to and address the consequences in a manner that negates adverse impact on the neighbourhood. Such measure are to be detailed in the development applications.

62. East-West Boulevard between the BATA Heavy Vehicle access point and the Banks Avenue intersection shall have a (3) tonne and over load limit restriction signage. The heavy vehicle restriction excluded construction vehicles and garbage trucks associated with the subject site

- a) East-West Boulevard shall be dedicated to Council, at no cost or expense to Council, prior to the issue of any Occupation Certificate for the final building on Urban Block 5C.
- b) The first Stage 2 DA, being the DA for Urban Block 5C shall include the details of the public domain works for East West Boulevard. This shall include details to embellish the road reserve and the central median with landscaping, tree planting, seating, paving, cycle paths, undergrounding of power cables, and suitable street lighting.
- c) Every future Stage 2 and later development application shall include an Acid Sulfate Soil Management Plan including an assessment of the likely effects of building in acid sulfate soils and how these will be mitigated.
- d) In addition, monitoring plans detailing the timing and methods of acid sulfate soil monitoring during excavation (including, but not limited to monitoring of pH of soil and water) and trigger or action values shall be submitted to Council with each DA.
- e) Upon completion of the management of acid sulfate soils and potential acid sulfate soils, a validation report shall be submitted to Council detailing the volume of potential acid sulfate soils encountered, management strategies used, results of testing indicating the presence of potential acid sulfate soils and testing results indicating that neutralisation of potential acid sulfate soils was achieved.

63. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent.
64. All services (Utility, Council, etc) within the site's frontage to Heffron Road, Banks Avenue and Bunnerong Road (including footpath) shall be relocated/ adjusted to match the proposed/existing levels alignment, at the applicant's full costs.
65. The following DCP Requirements shall be implemented in the detail design phase of the Stage 2 and each future stage of development. These sections will need to be submitted to and approved by Council:
- a) 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, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.)
 - b) The plans shall incorporate but not be limited to the following:
 - i) The recommendations made under Section 3.2 of the Civil Development Application Report by AT&L dated July 2014,
 - ii) Minimum On-site Detention System (OSD) for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
 - 1 Urban Block 1, minimum OSD is 616m³,
 - 2 Urban Block 2, minimum OSD is 228m³,
 - 3 Urban Block 3, minimum OSD is 379m³,
 - 4 Urban Block 4, minimum OSD is 324m³,
 - 5 Urban Block 5East, minimum OSD is 506m³,
 - 6 Urban Block 5West, minimum OSD is 512m³, and
 - 7 Urban Block 5Central, minimum OSD is 404m³,
 - iii) Maximum permissible discharge for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
 - 1 Urban Block 1, maximum permissible discharge is 165L/s,
 - 2 Urban Block 2, maximum permissible discharge is 62L/s,
 - 3 Urban Block 3, maximum permissible discharge is 100L/s,
 - 4 Urban Block 4, maximum permissible discharge is 85L/s,
 - 5 Urban Block 5East, maximum permissible discharge is 135L/s,

- 6 Urban Block 5West, maximum permissible discharge is 138L/s, and
- 7 Urban Block 5Central, maximum permissible discharge is 110L/s,
- c) For each development, the On-Site Detention System (OSD) discharge outlet shall be connected to the new stormwater pit and pipe system on the new roads adjacent to each building,
 - d) For each development, if underground car parking is proposed and is affected by the water table, no pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
 - e) For each development, if underground car parking is proposed and is tanked, the pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - f) For each development, if underground car parking is proposed, the pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,
 - g) For each development, if underground car parking is proposed, all site specific environmental concerns will have to be addressed,
 - h) For each development, all stormwater runoff from each development shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council drainage system. As such, details of the pollution control device shall be shown on the stormwater management plans,
 - i) For each development, the rainwater tank(s) shall be constructed in a way enabling the overflow from the Rainwater tanks to drain to the on-site detention system,
 - j) For each development, the rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the OSD system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the OSD system is equivalent to 50% of the size of the rainwater tanks,
 - k) For each development, the water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
 - l) For each development, 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). Council’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” that was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.

66. The following requirements shall be implemented in the detail design phase of the development for Stage 2 and future stages. These sections will need to be submitted to and approved by Council:
- a) Detail pavement design for the construction of East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue,
 - b) Detail verges design including kerb & gutter, footpath and any swale / rain garden treatment for East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue. The footpath and kerb & gutter shall be designed in accordance with Council's Infrastructure Specifications,
 - c) All footpaths and kerb ramps adjacent to the development on Bunnerong Road, Heffron Road, Banks Ave within the subject site as it fronts Westfield Drive shall be reconstructed to Council's current infrastructure specifications,
 - d) Decommission all redundant driveway laybacks and reconstruct as kerb & gutter,
 - e) At the intersection of East West Boulevard and Banks Ave, design the road pavement to withstand the expected construction truck movements for this development. Extend the new pavement design full width 25m in each direction,
 - f) Detail Stormwater Management design for the proposed new roads and central park incorporating provisions made in the Civil development Application Report by AT&L, Sydney Water Case No. 124768 and the provisions made under section 5.1.5.6 of the Statement of Environmental Effects by Urbis, dated July 2014,
 - g) New lighting poles shall be constructed along East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue. The lighting requirement is P3 for all streets within the development with the exception of the following locations:
 - i) Shared path on Civic Ave shall be P2,
 - ii) Intersection of East West Boulevard and Bunnerong Road shall be V2, and
 - iii) Intersection of East West Boulevard and Banks Ave shall be V2.
 - h) As part of this development, the Ausgrid Power poles along Bunnerong Road, Heffron Road and Banks Ave, will need to be decommissioned and all above ground utilities shall be placed underground. New lighting poles shall be constructed along Bunnerong Road, Heffron Road and Banks Ave as per Ausgrid, RMS, Council and any other affected service provider,
 - i) The lighting requirements for Bunnerong Road shall be V2 and Heffron Road and Banks Ave shall a lighting level of V3, and
 - j) All roads where public access is not restricted shall be designed as public roads.
 - k) All works on RMS roads shall be carried in consultation and with approval of RMS.
67. Any existing easement(s), right of carriageway(s), right of footway(s) and lease(s) burdening the property, need to be addressed during the detail development application. Construction on or over any easement(s), right of carriageway(s), right of footway(s) and lease(s) without written approval/agreement of the beneficiary is strictly prohibited. The

extinguishing of any easement(s), right of carriageway(s), right of footway(s) and lease(s) must be done with the written approval/ agreement of the beneficiary and detailed within the relevant stages of development as specified within this consent. Prior to the issue of any Occupation Certificate for the relevant stages of development as specified within this consent, any proposed new easements shall be created in consultation with Council and the beneficiary.

SITE REMEDIATION

68. On the basis that remediation is Category 2, and is work that does not need development consent:
- a) Prior to the construction certificate for the relevant development for each Urban Block and including the public parks, a Site Audit Statement (Part B) is to be submitted that states that the land has been remediated in accordance with the remedial action plan (RAP) and suitable for the proposed residential and public park use. This shall also assess the site suitability for the more sensitive exposure setting of (NEPM 1999) HIL-E Parks, recreational open space and playing fields for the public park areas that are to be dedicated to council.
 - b) Remediation shall be completed by a suitably qualified and experienced environmental consultant in accordance with:
 - i) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - ii) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - iii) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
 - c) Any change to the status of the remediation will require the submission of a separate DA and RAP to Council in accordance with SEPP 55.
69. Future development stages will be integrated development and will require referral to relevant authorities and conditions will be imposed on subsequent development stages.
70. During construction, no construction vehicles are to use to use Westfield Drive to enter or exit the site, unless there is agreement by the owner of the road, Terrace Towers P/L. There shall be no access to Westfield Drive during the operation of the development including no access from the internal road network or residential parking facilities; other than access for commercial vehicles to access the loading facilities for the retail component in Urban Block 5C.
71. 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. 14(96) dated as 7 August 2015 and as further amended by DA-14/96/04 received 17 July 2017 and as further amended by DA-14/96/03 dated as 2 February 2017 and as further amended by DA-14/96/06 dated as 27 September 2017 **and as further amended by DA-14/96/02 dated 30 November 2016 and as further amended by DA-14/96/07 dated 22 March 2018** and that any alteration, variation, or extension to the use, for which approval has been given would require further approval from Council.

DESIGN COMPETITION PROCESS

Objectives of the Design Competition

- To achieve a diversity of architectural response;
- To achieve a high standard of architectural excellence; and
- To encourage flexibility within the planning outcome of the Stage 1 consent to allow for newer or unexpected solutions.

Design Competition Process

An invited architectural design competition is required for the buildings on each Urban Block. Each Urban Block must be subject of a design competition, however Urban Blocks UB5W and UB5C; UB5E and UB4; and UB3, UB2 and UB1 may each be grouped for the design competition.

The applicant is responsible for the running the design competition and the costs associated with the competition process from initiation and preparation of the brief, through to release of the Jury's decision.

The applicant will invite a minimum shortlist of three architectural/design firms to participate in the design competition and supply them with the competition brief, which has been previously endorsed by Council.

The Competition Brief

The design competition brief to include the following as a minimum requirement:

- Describe the competition process and the role of the applicant, the Council and the Jury;
- Include details of the relevant planning controls (LEP and DCP) and all of the conditions of the Stage 1 development consent. The Conditions of approval of the Stage 1 DA will need to be highlighted, particularly the Fixed Design Parameter Conditions being Condition 1 (Approved Drawings), Conditions 11, 12, 13 (GFA and FSR), Condition 14 (Building Envelopes and Height), Condition 29 (Car Parking), Condition 332 (Dwelling Size) Condition 34 (Unit Mix). All Conditions of the Stage 1 consent that inform the requirements of future development applications are to also form part of the Brief;
- Require the proposed GFA, FSR, unit sizes, unit mix, car parking provision, estimated project budget and construction costs to be provided;
- Indicate the level of documentation required for the submissions. The documentation should be sufficient to explain the design merits of the proposal and may include elevations, plans, montages and digital representations;
- Provide the terms of reference of the competition jury including the nomination of a Jury Chair;

- Make it clear that the competition is a public process and confirm that all entrants' names must be clearly visible on entries;
- State that the copyright of any entry to design competition remains with the originator of the work;
- State the fees to be paid to each of the entrants and, as appropriate, the awarding of any prizes, commissions or bonus to a successful entrant. The fees paid to entrants must be appropriately scaled to recompense entrants for the extent of work undertaken; and
- Allow a minimum period of 28 days for the preparation of submissions by entrants.
- The Council will assess the brief according to the above requirements and may require the brief be amended prior to its endorsement and issue to the entrants.

Design Competition Criteria

The following criteria apply to the design competition:

- A minimum of three competitive submissions are to be considered;
- The submissions are to be prepared by bone-fide independent architects or firms that can demonstrate experience in the design of high quality residential buildings.

Each submission will document:

- The contextual analysis and rationale for the design;
- Compliance with the competition brief, address the statutory planning requirements, and show full compliance with the approved Stage 1 consent and all of the Conditions of the Stage 1 DA, in particular the Fixed Design Parameter Conditions;
- How the design is an economically feasible development option; and
- The manner in which design excellence is achieved.
- Designs do not need to be documented to the level necessary for a full development application, but must contain enough detail and information such that they can readily form the basis of the detailed DA drawings.

The Competition Jury:

The competition Jury will comprise a minimum of three and not more than five members. At least one member will be a nominee of each of the following:

- The applicant;
- The Council; and
- A suitably qualified planner, urban designer or architect nominated by the Council who is not participating in the design entries.

Members of the Jury:

- Shall not have a pecuniary interest in the development proposal;
- Shall not be an owner, shareholder or manager associated with the applicant or the applicant's companies;
- Not be a staff member of Council who has a role in the development assessment process, or a councillor with an approval role.
- Members of the Jury should have relevant design expertise and experience.
- The Jury will convene for the review of the competition submissions as soon as possible following the close of the competition.
- If subsequent meetings are required for the Jury to complete its deliberations these should follow as early as possible.
- The competition jury will be convened by the Council, including the provision of administrative and secretarial services for the recording of the Jury proceedings and preparation of the Design Competition Report.
- The applicant will be responsible for reimbursing the Council for the secretarial services.
- The Jury's Decision and Design Competition Report
- The submissions will be graded by the Jury and its considerations and decision recorded in a Design Competition Report.

The Report will:

- Summarise the competition process incorporating a copy of the competition brief;
- Outline the assessment of the design merits of each of the entries;
- Present the Jury's decision, including the rationale for the choice of a nominated design and how this exhibits design excellence; and
- Outline any recommended design amendments that will need to be incorporated into the final design to be submitted for approval. The decision of the jury will not fetter the discretion of the Council or the consent authority in the assessment of or determination of any subsequent development application.

Post Competition Process

- To ensure that design quality continues from the development application stage through construction drawings and into physical completion of the building the competition jury will recommend a process to monitor design integrity.
- This will require the designer of the winning submission be nominated as the design architect.

- Certification that the design is substantially the same and retains the design excellence exhibited in the winning submission will be required at key project milestones, including lodgement of the DA, issue of the construction certificate and at completion of the project.

Request for Review

In the event that the:

- Jury does not reach a decision; or
- applicant is not satisfied with the nomination; or
- Council considers the project submitted for approval (or any subsequent modification application lodged) to be substantially different, or
- Council's officers will not recommend that consent be granted (if Council is not the consent authority) or will not grant consent (if Council is not the consent authority to the design nominated,

either the applicant or the Council may request that the Jury reconvene and make a recommendation as to what further competitive processes or requirements would be necessary to permit an alternative or revised design to ensure design excellence.

- The Jury shall make such recommendation as it sees fit within 28 days of such a request.
- The cost of such review shall be borne by the applicant.
