

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	PPSSEC-11
DA Number	DA-2014/10096/H
Local Government Area	Bayside Council
Proposed Development	Section 4.56 Application to modify the masterplan DA-2014/96 to permit amendments to the ground floor use, typical road plan, unit mix and parking rates (as amended)
Street Address	5 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 2 & 6 & 8 Studio Drive, 148 Bunnerong Road, 1 Finch Drive, and 120 Banks Avenue, Eastgardens (previously known as 130-150 Bunnerong Road, Eastgardens)
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Owner	Karimbla Properties (No. 39) Pty Ltd
Number of Submissions	Three (3) submissions
Regional Development Criteria (Schedule 4A of the Act)	Section 4.56 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	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; ○ Botany Bay Local Environmental Plan 2013. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii); <ul style="list-style-type: none"> ○ Nil • List any relevant development control plan: s4.15(1)(a)(iii); <ul style="list-style-type: none"> ○ Botany Bay Development Control Plan 2013. • List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iiia); <ul style="list-style-type: none"> ○ Nil • List any coastal zone management plan: s4.15(1)(a)(v) <ul style="list-style-type: none"> ○ Nil • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288

	○ Nil
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Statement of Environmental Effects
Report by	Angela Lazaridis – Senior Development Assessment Planner

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 to permit amendments to the ground floor use, typical road plan, unit mix and parking rates at 15 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 2 & 6 & 8 Studio Drive, 148 Bunnerong Road, 1 Finch Drive, and 120 Banks Avenue, Eastgardens (formerly 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 indicative number of units for each urban block;
- Amend Condition No. 29 which relates to car parking allocation;
- Amend Condition No. 30(a) which relates to the layout of the car parking spaces within UB5C;
- Amend Condition No. 34 which relates to the unit mix provided within each urban block.
- Amend Condition No. 55 which references A009 which is proposed to be amended.

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 unit mix is inappropriate as proposed and contains a large percentage of one bedroom units therefore the approved percentage is to be retained.

EXECUTIVE SUMMARY

Section 4.56 Application to modify Development Consent No. 14/96 to modify the Stage 1 consent to permit amendments of the podium height, ground floor use, typical road plan, unit mix, parking rates and use of Building D as a hotel at 15 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 2 & 6 & 8 Studio Drive, 148 Bunnerong Road, 1 Finch Drive, and 120 Banks Avenue, Eastgardens (previously known as 130–150 Bunnerong Road, Eastgardens, was submitted to Council on 19 June 2019.

The application originally was to include amendments to the podium height, ground floor use, typical road plan, unit mix, parking rates and use of Building D as a hotel. Amended plans

were submitted during the assessment of the application which removed any change to the podium height and the use of Building D as a hotel.

It is key to note that the applicant has submitted a separate development application for the change of use of Building D within UB5C for a hotel use. This was originally approved as a residential tower which was encompassed as part of a larger mixed use development. This application is currently under assessment and is concurrently being reviewed with the subject application. This modification will enable the Stage 1 consent to be amended to allow consistency with the proposed changes that are subject to the development application. This application will not carry out an assessment on the use of the site as a hotel and will only relate to modifications to the approved concept plans and conditions to enable future development. The calculation regarding to unit mix and indicative unit sizes will be reflective as a whole number and not as a separate use i.e. hotel and residential units.

The application was placed on public exhibition and was advertised under the *Environmental Planning and Assessment Regulation* for a thirty (30) day period from 6 August to 6 September 2019. Three (3) objections were received with one being from Randwick Council.

The proposal slightly decreases the concept landscaped area in the overall Stage 1 approved plans. The landscaped area was originally approved at 15,700sqm (15.2%). The change to the ground floor plan, particularly along the western side of UB5C will remove landscaping to allow for a potential porte cochere associated with a hotel use. The proposed landscaped area will result in 15,619sqm (15.1%). This is a net loss of 81sqm from the overall site. This figure is considered minor and Council does not oppose this reduction. Appropriate landscaping will be considered as part of the development application.

The applicant seeks to amend the condition relating to unit mix within the urban block. On the basis of 530 units, the proposed unit mix is 209 x one bedroom units, 240 x two bedroom units and 81 x three bedroom units. A breakdown of the percentage of the overall unit mix is 40% for one bedroom units, 45% for two bedroom units and 15% for three bedroom units. This differs to the approved unit mix of 30% for one bedroom unit, 55% for two bedroom units and 15% for three bedroom units. The applicant has sought a greater number of one bedroom units which is not accepted. The percentages that have been provided in the condition is to be retained as is.

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 had 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. Three of the urban blocks (UB5W, UB4 and UB5E) have been completed and two urban blocks (UB5C and UB3) are under construction. The central park has also been completed. 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.

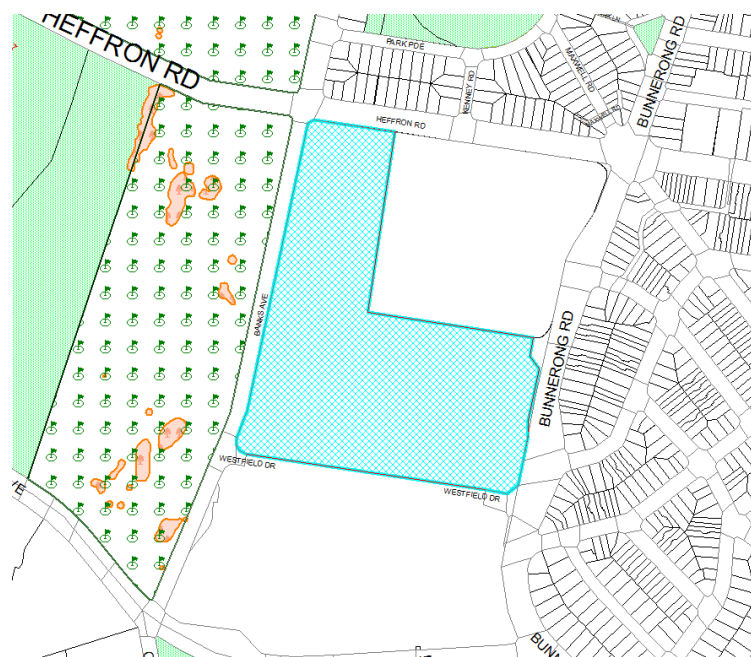


Figure 1. Locality map of the subject site



Figure 2. Aerial photograph of the subject site dated December 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.

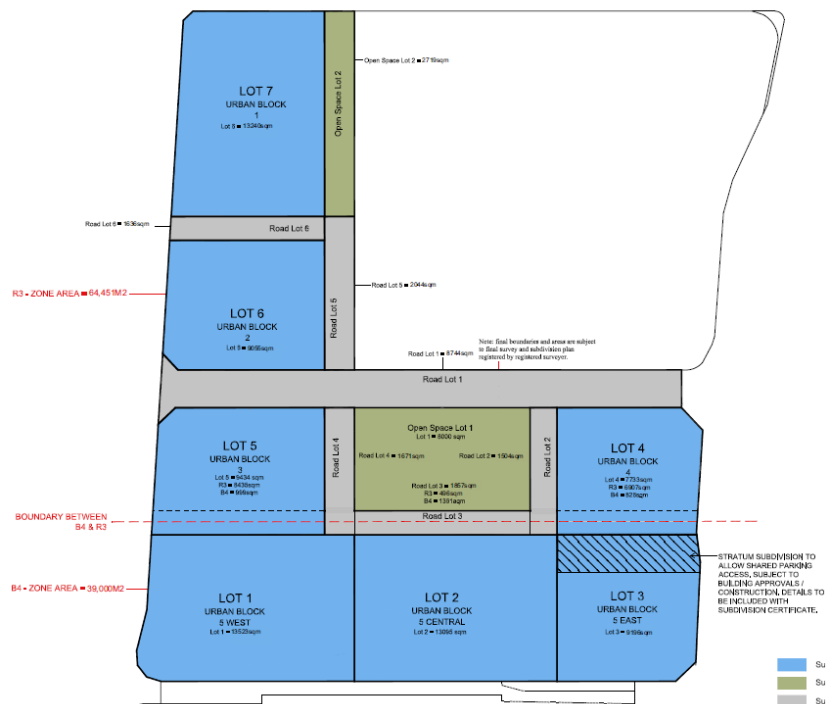


Figure 3. Approved Master plan concept subdivision plan DA-14/96



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

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

DA-14/96/02- Modifications included reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of two childcare centres, reduction in podium height and provision of an additional residential level within the 6 tower forms in response to the reduced podium height and modifications to conditions. This was approved by the Sydney Eastern City Planning Panel on 24 July 2018.

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

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

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

DA-14/96/07- Modification to 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 was approved by the Sydney Eastern City Planning Panel on 24 July 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.

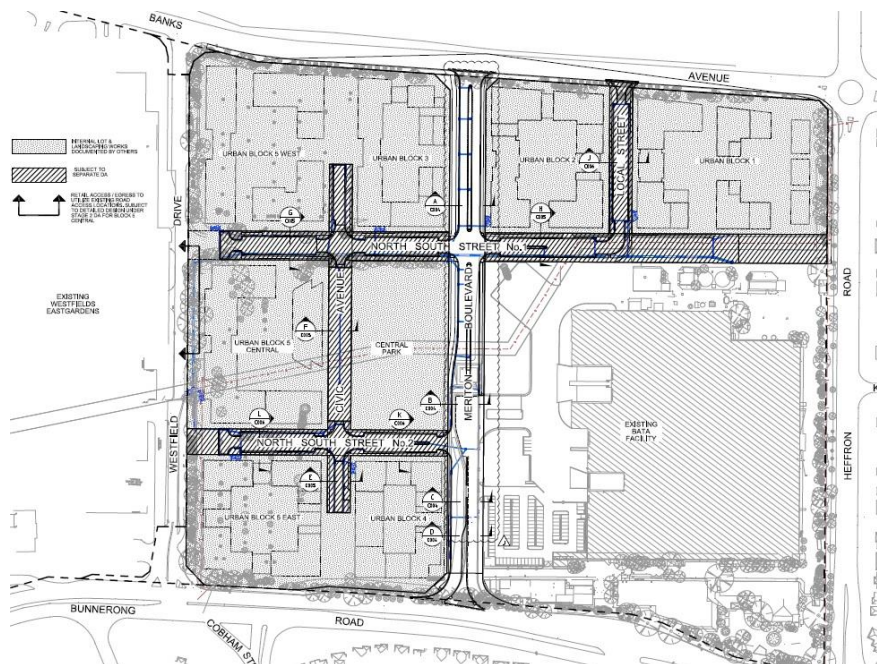


Figure 5. Approved Site Plan DA-14/159

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. The building has been completed and is currently occupied.

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 was approved by the Sydney Eastern City Planning Panel on 2 August 2018. The building is currently under construction.

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 was approved on 29 November 2018 by the Sydney Eastern City Planning Panel. The building is currently under construction.

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 was approved by the Bayside Planning Panel on 24 July 2018. The construction of the park is completed.

DESCRIPTION OF PROPOSED MODIFICATIONS

The Section 4.56 Application seeks consent to modify the Stage 1 approved plans and conditions. The applicant seeks to change one of the towers (Building D) to a hotel from residential therefore the proposed changes to the Stage 1 consent are required to allow for flexibility for any future use. The use and physical amendments to the hotel are not under assessment as part of this application, but rather a separate development application (DA-2019/235). A summary of the proposed modification, in its amended form, is as follows:

- Reduction in the overall landscaped area approved in the concept. The proposal seeks to reduce the overall area by 81sqm from 15,700sqm (15.2%) to 15,619sqm (15.1%).
- The modifications propose change to the approved indicative unit mix and the car parking approved in the Stage 1 consent. The approved consent permitted an overall 3,597 car spaces associated with the residential uses across the entire masterplan site as well as 154 x one bedroom units, 284 x two bedroom units and 77 x three bedroom units with a total of 515 apartments approved in UB5C.

As the approved concept did not approve a hotel use, Council has assessed the proposed modifications as residential units as a maximum figure.

- The applicant has stated that the proposed changes will enable a separate application to be lodged and assessed for the approved UB5C development, primarily for the purpose of rationalizing the design and improving the buildability of the approved development. These changes will provide the mechanism for a future change of use development application for a hotel building. This application has been lodged and is identified as DA-2019/235 in Council's records. The application is likely to be determined by the Bayside Local Planning Panel.

The proposed modification originally sought to reduce the height of the podium from 5 storeys to 4 storeys as any future change of use into hotel would generate a lesser amount of car parking that is required for a residential flat building. The eventual loss in the residential car parking would have resulted in a large area of empty space therefore the drop in storeys. The calculation of car parking was incorrectly provided by the applicant and the car parking generated across the urban block with the associated approved uses and the hotel use under assessment required that the car parking be reinstated back to a 5 storey podium. This is being assessed as part of the associated DA (DA-2019/235). Therefore any change to the approved concept podium heights and street wall plans and conditions is not required to be assessed or further amended as part of this application.

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

The following conditions are proposed to be modified as part of this application:

- 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 indicative number of units for each urban block;
- Amend Condition No. 29 which relates to car parking allocation;
- Amend Condition No. 30(a) which relates to the layout of the car parking spaces within UB5C;
- Amend Condition No. 34 which relates to the unit mix provided within each urban block.
- Amend Condition No. 55 which references A009 which is proposed to be amended.

ASSESSMENT OF PROPOSED MODIFICATIONS

Modification No. 1 – Reduction in overall landscaped area

As stated above, the proposal seeks to modify the amount of landscaped area that is provided for UB5C. The primary change is to the western side of the block to allow for any future porte cochere entry that may be associated with a hotel or serviced apartment use. The change in landscaping is minimal as this results in a loss of 81sqm as the concept approved a landscaped area of 1,831sqm which now is proposed to 1,750sqm. The overall landscaped area on the masterplan site was approved at 15,700sqm (15.2%) and now results in 15,619sqm (15.1%). The figures below show the degree of modification between the approved and proposed scheme:

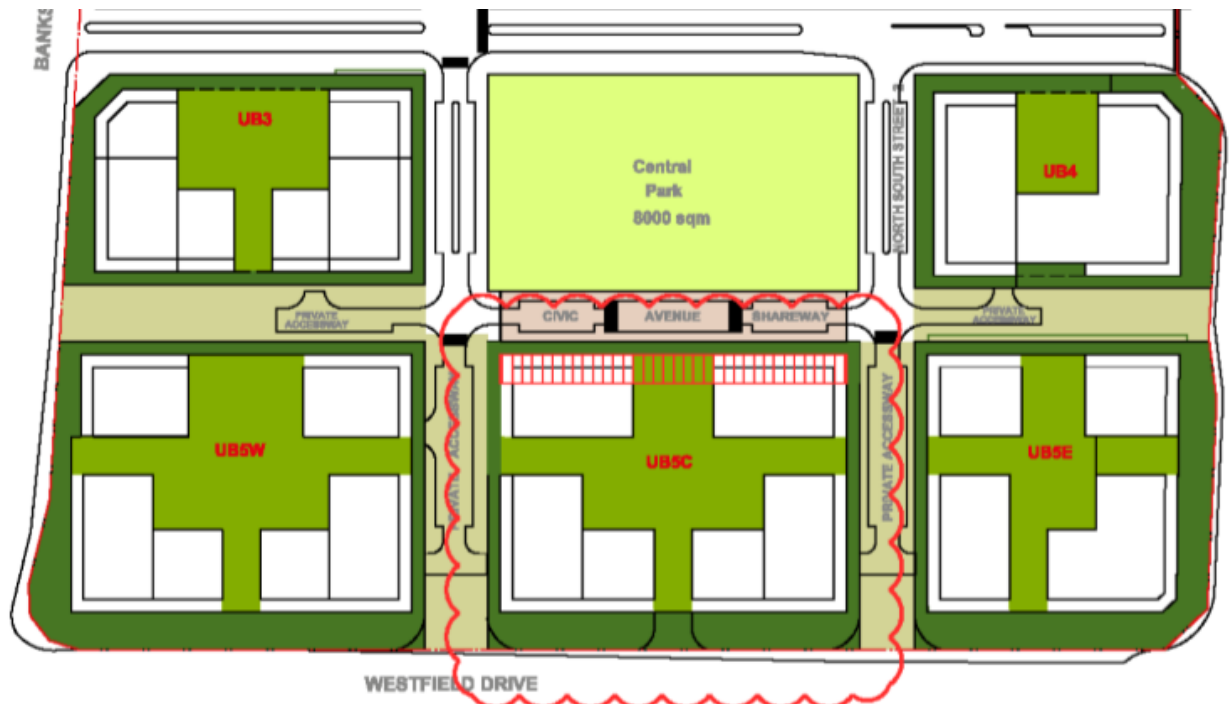


Figure 6. Approved landscape and open space area of UB5C

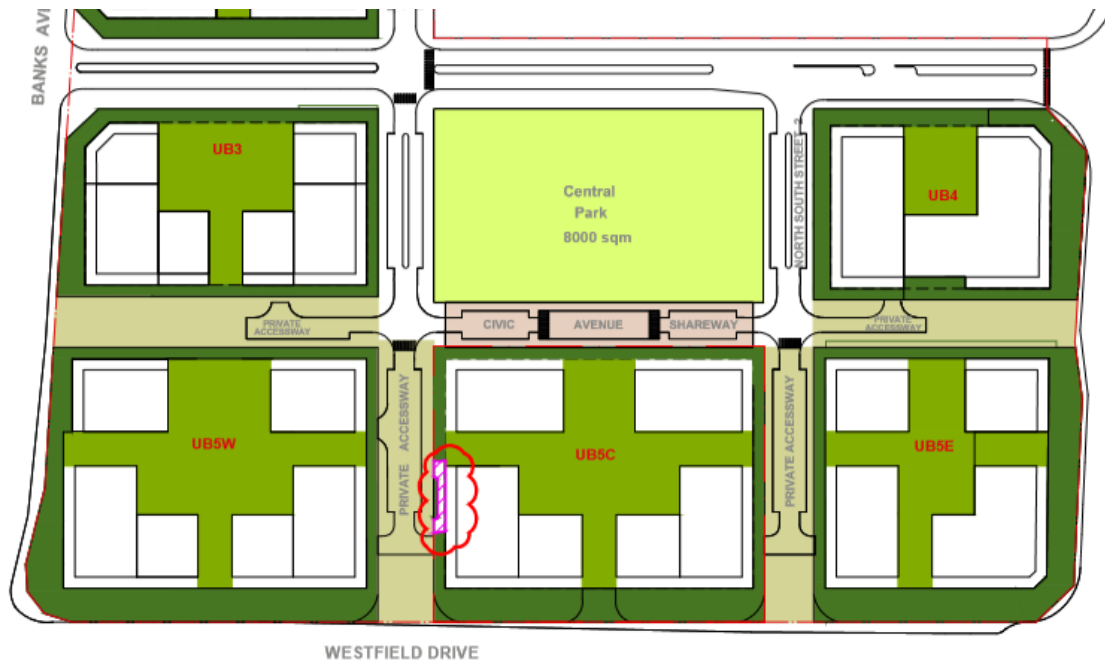


Figure 7. Proposed change to UB5C landscaped area

The proposed modification to the landscaped area is considered to be minor in nature and does not change the overall outlook of the concept design. The loss in landscaping is contained to a very small portion of one urban block to allow for indicative and future access on the site. Any future development application which encompasses this change will require consideration of the loss of landscaping on the western side of the site. The proposed change is supported.

Modification No. 2 – Modification of conditions

The modifications to the application result in a number of changes to conditions. An assessment of these changes is provided below:

Condition No. 1:

The condition relates to the list of approved plans and reference documents. This has been amended to reflect the amended plans that are subject to this application.

Condition No. 12:

Condition No. 12 relates to the maximum GFA and indicative number of units for each urban block. An excerpt of the approved condition relating to UB5C is provided below:

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
				45,306		453
B4	2	UB5 Central	13,095 13,095	5,000 ^f 50,306	3.84 3.84	
B4	3	UB5 East	9,011 9,196	22,412	2.49 2.43	224 202
B4	part lot 4	part UB4	826			

The proposed modification does not seek to change the GFA for the urban block or the overall masterplan site. The indicative number of units will change as a result of any approval for a future hotel use, subject to a DA. As there is no associated use approved as part of the original Stage 1 consent for hotel, the assessment will be carried out as if the proposal has provided residential units. The total amount of units that the applicant has proposed is 530 units. This is an increase of 15 units to what was originally approved. The condition has been updated to reflect 530 units as well as the title of the last column of the condition has been modified to reflect that this is the indicative maximum number of units. An assessment of the unit mix is provided in greater detail below as the number of units is dependent on this calculation.

Condition No. 29

The condition relates to the indicative car parking allocation for residential uses on the masterplan site. The table within the approved condition is as follows:

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	

As demonstrated, the approved indicative number of car parking spaces for the residential component of the site is 3,597 car spaces. This condition ties in with Condition No. 34 which provides the unit mix approved for UB5C. As will be demonstrated in greater detail in the discussion relating to Condition No. 34 below, UB5C was approved with 154 x one bedroom units, 284 x two bedroom units and 77 x three bedrooms units. This generated a total of 154 spaces for the one bedroom units, 426 spaces for the two bedroom units and 154 spaces for the three bedroom unit, a total of 734 spaces. Additionally, 52 spaces would be required as residential visitor spaces. The development application under assessment, concurrently with this application, seeks to reduce the overall number of residential units to 330. This results in a change in the overall unit mix and evidently to the car parking allocation.

The proposal under the DA seeks to reconfigure the layout to provide a total of 102 x one bedroom units, 171 x two bedroom units and 57 x three bedroom units. This amounts to 330 units which would require a total of 33 visitor spaces. The proposed unit mix change within the DA would modify the condition to require 102 spaces for the one bedroom units, 257 car spaces for the two bedroom units and 114 car spaces for the three bedroom units. This is a total of 473 car spaces with 33 visitor spaces. As the condition provides the indicative **minimum** number of car spaces associated with a residential use, it is not significant to assess the additional 200 'units' as part of this application. The applicant could provide more than the amount modified or assess the car parking on the basis of the BBDCP 2013, should the 'hotel' use be approved as part of a separate application. Any issues relating to traffic and car parking will be assessed in greater detail in DA- 2019/235. The condition will be modified as follows:

Use	Minimum number car spaces	Indicative minimum number of car spaces
Residential		
One bedroom	1	445 493 441
Two bedroom	1.5	4668 1847 1,678
Three bedroom	2	4336 996 956
Residential Visitor	1 per 10 units	222 221 202

Car Share Spaces	22 including min 10 in basements	22
Total residential		3,693 3,597 3,299
Other Uses	As per BBDCP 2013	

Condition No. 30(a):

This condition makes reference to A008 plan which is proposed to be amended as part of this application. The condition has been updated to reflect to correct revision of the plan. This is supported.

Condition No. 34:

This condition is sought to be amended to reflect the total indicative number of residential units within UB5C. The table below demonstrates the approved unit mix for UB3 and UB5C.

Unit Type	Proportion (UB3)	Indicative maximum number of units	Proportion (UB5C)	Indicative maximum number of units
Studios	N/A	0	N/A	0
One bedroom	17%	62	30%	154
Two bedroom	62%	228	55%	284
Three bedroom	21%	78	15%	77
Total		368		515

As discussed above under Condition No. 29, the applicant seeks to change the overall indicative number of residential units to allow for a hotel use which is being assessed under DA-2019/235. Under that development application, the applicant seeks to decrease the number of residential units from 515 to 330 and provide a total of 200 hotel rooms. This will have an increase in the overall number of units/suites by 15. In the absence of a 'hotel' use approved as part of the Stage 1 consent, the entire 530 units will be assessed as residential.

The proposed modification will provide a total of 209 x one bedroom units, 240 x two bedroom units and 81 x three bedroom units and amounts to 530 units. The percentage of one bedroom units has increased from 30% to 40%, the percentage of two bedroom units has reduced to 45% and the percentage of three bedrooms is 15%. The proposal seeks to increase the overall percentage of one bedroom units as part of this application. This is not supported by Council as it will result in development creep that was not anticipated as part of the original Stage 1 consent. The percentage as previously modified in a Section 4.56 Application was considered appropriate particularly as the condition was reworded to allow for a range of acceptable variance to the percentage of units. It is appropriate that the percentages that were previously approved by the Panel are retained and that the condition is to be modified to remove the last column that provides a breakdown of the number of units associated with the use. The applicant is to comply within DA-2019/235 with the condition as amended. The table below has been modified to demonstrate this change:

Unit Type	Proportion (UB3)	Indicative maximum number of units	Proportion (UB5C)	Indicative maximum number of units
Studios	N/A	0	N/A	0
One bedroom	17%	62	30%	154
Two bedroom	62%	228	55%	284
Three bedroom	21%	78	15%	77
Total		368		515

Condition No. 55:

This condition makes reference to A009 plan which is proposed to be amended as part of this application. The condition has been updated to reflect to correct revision of the plan. This is supported.

Statutory Considerations

SECTION 4.56 CONSIDERATIONS

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 application relates to the approved landscaped area and modifications to the conditions to reflect the proposed changes to the masterplan to enable future modifications to UB5C that are assessed in a separate application. The proposed modifications, as further amended as part of this application, 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. As stated throughout the report, the use of part of the building as a hotel is not under assessment within this application and will be assessed under a separate development application.

(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, and in accordance with the Environmental Planning and Assessment Regulation, the application was notified for a period of thirty (30) days between 6 August and 6 September 2019. Three (3) submissions were received, one being 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 within the submissions and have been addressed as follows:

- *Building D which is proposed to be converted to a hotel is located within Area B within the Review of Planning Controls Denison Street Hillsdale report. The residential control for Area B is prohibited (south) or permitted with consent (north). Part of Building D is in Area B. Additionally, the site is located within the Botany Bay Development Control Plan 2013. Part 8 of the DCP states that use of Building D as a hotel is considered incompatible with residential fatality risk as defined in HIPAP No4, use of Building D as a hotel will not be permissible. Residential land uses considered incompatible with residential fatality risk, injury or irritation risk as defined in HIPAP No4, resulting from operations within the Botany/Randwick industrial area under this plan include; dwelling houses, hotels, motels and caretakers residences. It is known to Bayside Council that the transport route of Dangerous Goods from the existing chlorine plant in the BIP travels from Wentworth Ave to the north along Bunnerong Rd. The proposed site has frontage to this part of Bunnerong Road.*

Officers' Comment:

The proposed modification seeks consent to allow primarily for changes to conditions of consent. The change of use of the residential to a hotel is not being assessed as part of this application and will be subject to DA-2019/235. Regardless, the site has approval for a residential flat building which is a more intensive use. The original Stage 1 approval process as well as any planning proposal that has been carried out on the site would have carried out an assessment on risk due to its proximity to the Botany Industrial Park as well as the Dangerous Goods Route and this was found acceptable to allow for residential intensification of the site. As shown in the diagram below, the site is on the outer edge of the assessment and area B primarily relates to the Westfield Eastgardens which is located to the south of the subject site. As there is already approval for residential development, any proposed changes should not impact the overall outcome of the original approval.

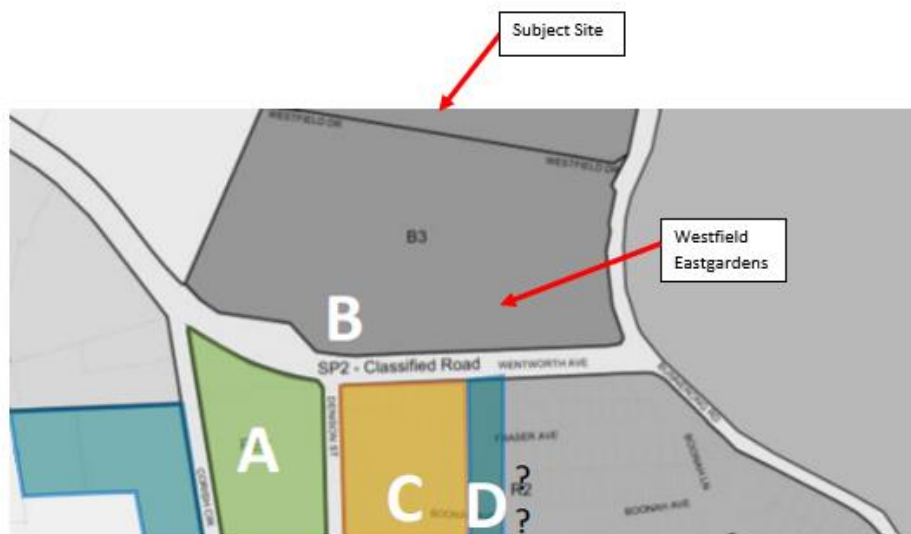


Figure 8. Areas requiring specific risk-based planning controls

- No assessment of transport risk has been undertaken and/or made public by the authorities along the chlorine transport route beyond Denison St.

The results and outcome of the Review of Planning Controls have ‘flagged’ potential fatality risk in residential areas Wentworth Ave and Bunnerong Rd. Area B, principally the Eastgardens Shopping Centre, notes that the cumulative LSIFR for the southern part of Area B is greater than 1 pmpy and the proposed Planning Control prohibits new residential development. Area B has significant frontage to Wentworth Ave and Bunnerong Rd. There are residential areas adjacent to Area B in Wentworth Ave and Bunnerong Rd that were not assessed in the DG QRA. See attachment showing Area B. It can be assumed that when an assessment is undertaken of land on the opposite side of Area B in Wentworth Ave and Bunnerong Rd, these areas would be in unacceptable risk areas with a cumulative LSIFR greater than 1 pmpy.

The Review of Planning Controls, Recommendation 8.8; BBCC should review DG Transport QRA every 5 years with the first review in 2017. Recommendation 8.8 stated; it may also be appropriate to extend the DG review and Transport QRA to include Wentworth Ave up to the intersection with Bunnerong Rd and with Banks Ave.

The Review of Planning Controls outcome and the Recommendations have clearly established that unacceptable risk areas extend beyond the study area of the DG QRA.

There has been a notable failure by the authorities over many years to address the DG transport risk issue by itself and in combination with the risk from fixed installations.

The future planning and development assessment for Bayside Council should be based on a comprehensive cumulative and updatable risk assessment study taking into account the BIP, the Port and road, rail and pipeline transport of hazardous materials through the LGA.

In the absence of knowledge of the total cumulative risks posed by all contributors, it is improper for consent approval to be given to any development application where risk criteria may potentially be breached, and certainly to any application where significant intensification of people population may occur. Until the proposed quantitative Risk Assessment of Botany Industrial areas is completed and actioned by Bayside Council, any new development or development proposal along the transport route for chlorine from the chlorine plant in the BIP and/or in the vicinity of the Botany/Randwick Industrial Complex should not be considered by Bayside Council (or Randwick Council) unless the applicant provides a transport risk assessment report or societal risk assessment report.

Officers’ Comments:

Risk has been addressed in the previous issue above. The subject application does not assess use for a hotel, regardless, the site would have considered risk at the Stage 1 concept approval and planning proposal stage. The proposal has been approved for residential development and if reviewing the figure above, would fall outside the scope of assessment.

- **Change of use**

Although the use of hotel accommodation is permitted within the B4 Mixed Use Zone, the site specific Development Control Plan (DCP) developed for the BATA site lists Land Use Options and Development Restrictions applicable to the site. Land use option specifically allow for commercial and residential uses only. It should be noted

that the use of hotel accommodation is not listed within these land use options nor is it outlined as being permitted within the site within this document. Of particular concern is the fact that the section refers to the capping of residential capacity and total retail area due to the traffic analysis and modelling previously provided. The DCP lists and highlights specific concerns of traffic impacts that would be generated by these specific uses. The introduction of a new use as a hotel, raises concerns about the impacts, and in particular the potential increase in traffic and parking, the new proposed use will have within and surrounding the development, in the Randwick Local Government Area.

Officers' Comment:

The BBDCP 2013 was written prior to the Stage 1 consent being approved by the Land and Environment Court and therefore the consent may have conditions that supersede the controls provided within the BBDCP. Regardless, the proposal is not assessing the change of use to a hotel. The DCP may be silent with regard to short/long term accommodation however it does not rule out that this cannot occur, particularly as the zoning allows for this use to be carried out. Impacts from the use of the hotel will be assessed under DA-2019/235. In this instance, Council has assessed any increase in the number of 'units' as residential and the worst case scenario.

- **Substantially the same development**

The introduction of the new use of hotel accommodation within UB5C may not be within the scope of an application to modify a development consent as the development is no longer considered to be classified as substantially the same as what was originally approved. The proposed introduction of the use of hotel accommodation within a previously approved development (containing only commercial and residential uses) will create a different and more intensive development, creating greater and new impacts both within and surrounding the BATA site. There is inadequate information in the subject application to indicate that the proposed hotel use is substantially the same development as that originally approved.

Officers' Comment:

The proposal has been modified so that the change of use of Building D from residential to a hotel use is removed from the assessment of the application as this was not considered to be substantially the same development. The applicant has submitted a development application (DA-2019/235) which assesses the proposed use. Any issues that arise from the use of a hotel will be considered as part of that development application.

- **Unit Mix**

The proposed modification proposes a significant departure from the approved unit mix for UB5C. Although the proposed modifications will not result in an increase in building envelope, the modification (if approved) will however, result in an increase in the amount of people that can be accommodated within UB5C and the BATA site as a whole. This will result in a more intensive development with greater impacts. Council has on numerous occasions, in providing submissions on the BATA site, expressed concerns about alterations from the approved unit mix as stipulated in the Masterplan Consent, raising concerns about the negative flow-on impacts for Randwick City Council in terms of infrastructure and services. Council reiterates these concerns.

Officers' Comment:

The proposal has been assessed as residential units with regard to the overall increase by 15 units. The proposed unit breakdown provided by the applicant is not supported by Council and the approved breakdown of 30% one bedroom units, 55% two bedroom units and 15% three bedroom units is to be retained and the applicant is to amend any subsequent DA to reflect this unit mix.

- **Civic Open Space**

Although not addressed in the SEE, the subject application proposes the removal of the previously approved 1000m² Civic Open Space fronting Civic Avenue and Central Park. This could potentially jeopardise the desired future character of UB5 as stipulated in the site specific DCP for the BATA site. This in turn could result in a significant reduction in the amenity of the entire BATA site redevelopment.

Officers' Comment:

There is no change to the civic open space as part of this application. The civic open space is to be retained as 1,000sqm.

- **Traffic and Parking**

The SEE gives no details of proposed parking rates and does not address the parking requirements as contained in 3A Parking and Access of the Botany Bay Development Control Plan (BBDCP) 2013. Specifically, 3A of the BBDCP 2013 contains parking rates for tourist and visitor accommodation such as hotel accommodation which has not been considered by the proponent for the proposed hotel use. No justification of the proposed parking rates as shown on DWG A001 dated 11/06/2019 has been provided. Council is concerned that the proposed hotel use, if approved, would result in a deficit in parking spaces for UB5C that in turn could result in a spill over to the general areas of BATA site and cause an increased demand for on-street parking within surrounding streets in the Randwick City Local Government Area. It should be noted that the site specific DCP for the BATA site states that developments must comply with the car parking controls. Therefore the proposed parking rates should not be endorsed by Bayside Council.

The hotel use will generate traffic impacts that are more intensive than the current approved residential units. In this regard, Council is concerned that traffic impacts have not been considered as there is no traffic impact assessment in the SEE. As such, Council queries whether the notified proposal is minor in nature and intensity as stated in the applicants SEE.

Officers' Comments:

The parking rates are outlined in DA-2019/235 which also provides a breakdown to the unit mix resultant from modifications to the approved UB5C. An assessment of the car parking rates is provided in the report above. The Stage 1 consent did not provide a breakdown of the car parking rates for uses other than residential. Regardless the condition is an indicative minimum rate. The proposal can still rely on the BBDCP 2013 car parking rates and will be assessed and utilized in the DA for the change of use of a hotel.

- **Additional Information**

The SEE fails to address the proposed modifications and merely outlines the necessary textual correctional changes that need to be undertaken for to the masterplan consent. No justification as to why the proposed hotel is required in the form that is proposed given the associated deletion of the important civic open space. Overall, Council considers that the SEE is highly general in nature and at times provides confusing, inadequate, and incorrect information. Of particular concern is the applications failure to address relevant/pertinent sections of the Botany Bay Development Control Plan namely parts 7F Hotel and Motel Accommodation, 3A Parking and Access and 9D the site specific development control plan for 130–150 Bunnerong Road, Pagewood. Additionally, it should be noted that no Plan of Management has been provided for the proposed hotel. Other examples of confusing, inadequate and incorrect information include:

- The SEE initially states that the subject site is zoned B4 Mixed Use and then later states that it is zoned R3 Medium Density Residential.*
- The SEE outlines the proposed increases in the indicative number of units for UB5C however, has not amended the overall total number of units proposed for the BATA site redevelopment.*
- No information is provided outlining the proposed parking rates, and*
- No Traffic Impact Assessment Report has been submitted with the application.*

As the subject application seeks to set the parameters for a future development application for UB5C, Council is primarily concerned about the unforeseen impacts that the subject application will have on Randwick City Council residents. A significant amount of additional information is required to adequately assess the impacts of the proposed development.

Council also considers that there are some key areas of impact analysis that should be provided with this application. For example, the proposal does not include an analysis of the impact of the development on nearby community facilities or other social infrastructure. Council is concerned about the cumulative intensification of the BATA site and the added demand this would place upon community facilities, services, open space, and other physical and social assets within Randwick City.

Officers Comments:

The applicant was requested to provide greater information with regard to break down of units and car parking as well as justification for the use. As stated before, the impacts from a proposed hotel use is to be considered as part of the development application for that use. This application relates to the approved Stage 1 consent and relies on minor modifications which have been addressed in the report above.

SECTION 4.42- STATUS OF CONCEPT APPLICATIONS AND CONSENT CONSIDERATIONS

The Stage 1 Master plan consent DA-14/96 is the first of a Staged Development Application as per Section 4.42 of the Environmental Planning and Assessment Act. The subject application is to modify the Stage 1 consent and are modified as discussed above in the report.

SECTION 4.15 CONSIDERATIONS

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 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. There are no changes proposed as part of the subject application that relate to FSR, height, permissibility and any other relevant LEP control.

Botany Bay Development Control Plan 2013

Part 9D – 130-150 Bunnerong Road

The Section 4.56 Application 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. 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.

The proposal does not significantly change any controls that are relevant within the DCP which may be applicable within this application. As stated before, the proposal does not assess the proposed hotel use of part of UB5C within this application. This will be subject to an assessment under a separate development application. This will be further explored within DA-2019/235.

The proposal continues to maintain the objectives of the BBDCP 2013 and does not significantly alter the Stage 1 consent.

(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 modification relates to the approved landscaped area and modifications to the conditions to reflect the proposed changes to the masterplan to enable future modifications to UB5C that are assessed in a separate application. 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 the application and three (3) submissions were received. 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 seeking to modify Development Consent No. 14/96 to permit amendments to the ground floor use, typical road plan, unit mix and parking rates at 5 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 2 & 6 & 8 Studio Drive, 148 Bunnerong Road, 1 Finch Drive, and 120 Banks Avenue, Eastgardens (previously known as 130-150 Bunnerong Road, Eastgardens), has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposed modifications are considered to be minor in nature and appropriate to allow flexibility with the assessment being carried out in DA-2019/235 relating to minor changes to the approved development as well as the change of use of one of the residential towers to a hotel development. The proposal is considered to be substantially the same development to what was approved by the Land and Environment Court as well as to the subsequent modification applications approved by the Panel. The proposed changes will have minimal impact within the site and surrounding areas. There were some proposed recommendations that were put forward by the applicant which are not supported by Council and this has been reflected in the amended conditions. This relates to the unit mix. Therefore, the application should be approved subject to the conditions (as amended) in the attached Schedule of Consent Conditions.

Premises: 15 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 2 & 6 & 8 Studio Drive, 148 Bunnerong Road, 1 Finch Drive, and 120 Banks Avenue, Eastgardens (previously known as 130-150 Bunnerong Road, Eastgardens)

DA Nos: 2014/10096/H

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
Dwg No. A001 - Cover Sheet/Schedule	-	Dated 6 July 2018; Received 9 July 2018 Dated 13 September 2019; Received 19 September 2019

Drawing No.	Author	Dated
Dwg No. A003 – Master Plan		Dated 6 July 2018; Received 9 July 2018
Dwg No. A005 – Building Heights Plan		Dated 22 February 2018; Received 9 July 2018
Dwg No. A006 – Building Envelope Detail		Dated 22 February 2018; Received 9 July 2018
Dwg No. A007 – Building Separation Plan/ADG		Dated 9 July 2018; Received 9 July 2018
Dwg No. A008 – Ground Floor Plan – Use		Dated 9 July 2018; Received 9 July 2018 Dated 23 October 2019; Received 23 October 2019
Dwg No. A009 –Open Space and Public Domain Plan		Dated 11 November 2017; Received 9 July 2018 Dated 23 October 2019; Received 23 October 2019
Dwg No. A010 – Indicative Apartment Layout on Master Plan		Dated 28 October 2016; Received 9 July 2018 Dated 13 September 2019; Received 19 September 2019
Dwg No. A012– Typical Road Plan – Accessibility & Parking		Dated 28 October 2016; Received 9 July 2018 Dated 13 September 2019; Received 19 September 2019
Dwg No. A015 – Setback Hierarchy		Dated 22 February 2018; Received 9 July 2018
Dwg No. A100 – Site Elevations		Dated 22 February 2018; Received 9 July 2018
Dwg No. A101 – Site Elevations		Dated 28 October 2016; Received 9 July 2018

Drawing No.	Author	Dated
Dwg No. A102 – Site Sections		Dated 22 February 2018; Received 9 July 2018
Dwg No. A204 – Block Elevations- UB5C		Dated 19 December 2017; Received 9 July 2018
Dwg No. A300 – Sections- Streetscape 1 & Building Articulation		Dated 24 March 2017; Received 24 March 2017
Dwg No. A301 – Sections- Streetscape 2 & Building Articulation		Dated 28 October 2016; Received 9 July 2018
Dwg No. A302 – Sections- Streetscape 3 & Building Articulation		Dated 24 March 2017; Received 24 March 2017
Dwg No. A303 – Sections- Streetscape 4 & Building Articulation		Dated 9 July 2018; Received 9 July 2018
Dwg No. A306 – Sections- Streetscape 7 & Building Articulation		Dated 28 October 2016; Received 9 July 2018
Dwg No. A104 – Sun Shadow Diagram		28 October 2016
Dwg No. A402 – 3D Views		-
Dwg No. A014 – Subdivision Concept Plan	PTW Architects	Dated 21 November 2017; Received 21 November 2017
Dwg No. A001 – Cover Sheet/Schedule Dwg No. A006 – Building Envelope Detail Dwg No. A007 – Building Separation Plan/SEPP 65 Dwg No. A009 – Open Space and Public Domain Plan Dwg No. A014 – Subdivision Concept Plan Dwg No. A015 – Setback Hierarchy	PTW Architects	29 April 2015
Dwg No. A002 – Site Analysis Dwg No. A004 – Staging Plan	PTW Architects	14 April 2015

Drawing No.	Author	Dated
Dwg No. A008 – Ground Floor Plan – Use Dwg No. A010 – Indicative Apartment Layout on Master Plan Dwg No. A011 – Existing Tree Plan Dwg No. A012 – Typical Road Plan – Accessibility & Parking Dwg No. A013 – Road Hierarchy Dwg No. A100 – Site Elevations Dwg No. A101 – Site Elevations Dwg No. A102 – Site Sections Dwg No. A104 – Sun Shadow Diagram Dwg No. A200 – Block Elevations- UB1 Dwg No. A201 – Block Elevations- UB2 Dwg No. A202 – Block Elevations- UB3 Dwg No. A203 – Block Elevations- UB4 Dwg No. A205 – Block Elevations- UB5W Dwg No. A206 – Block Elevations- UB5E Dwg No. A402 – 3D Views		
Dwg No. A204 – Block Elevations- UB5C	PTW Architects	3 August 2015
Dwg No. A003 – Master Plan	PTW Architects	28 April 2015
Dwg No. A005 – Building Height Plan Dwg No. A016 – Indicative UB5W Apartment Sleeve Layout Dwg No. A300 – Sections – Streetscape 1 & Building Articulation Dwg No. A301 – Sections – Streetscape 2 & Building Articulation Dwg No. A302 – Sections – Streetscape 3 & Building Articulation	PTW Architects	21 April 2015

Drawing No.	Author	Dated
Dwg No. A304 – Sections- Streetscape 5 & Building Articulation Dwg No. A305 – Sections- Streetscape 6 & Building Articulation Dwg No. A306 – Sections- Streetscape 7 & Building Articulation Dwg No. A307 – Sections- Streetscape 8 & Building Articulation		
Dwg No. A400 – Tower Podium Articulation Examples and Sample Applications Dwg No. A401 – Typical Apartment Layout	PTW Architects	5 May 2015
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)(**DA-2014/10096/H**)

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:
 - i) "East West Boulevard" proposed Road Lot 1.
 - ii) Local Street Road, proposed Road Lot 6;
 - iii) Road, proposed Road Lot 4;
 - iv) Civic Avenue, Road proposed Road Lot 3;
 - v) North South Street 1, proposed Lot 5;
 - vi) 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**

- i) 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.

- ii) 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)."

- iii) Future Stage 2 development applications will also have a covenant in the above terms placed on any future development consent for those applications.
- iv) 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.

- v) The covenant is to run with the land. The covenant is to be placed on the title at no cost to the Council.
- vi) 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	2(A)	Separate DA for land subdivision to be lodged concurrently with the application for the	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

excluding the private access ways for each Urban Blocks, including the creation of any easements		development of UB5W.		relevant Occupation Certificate.
Civil works and servicing for the development on each Urban Block	2A(2) 2A(3) 2A(4) 2B 2C 2D 2E	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
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.~~

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 intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.	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 Water infrastructure relocation; including as conditions intersection works for Banks Avenue and Bunnerong Road for connections to East West Boulevard.	Prior to OC of final building for UB5C.
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	Prior to OC for UB5W	Prior to OC of final building for UB5C

		those in DA14/159.		
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 of roads excluding those in DA14/159.	Prior to OC for UB5W	Prior to OC of final building for UB5C
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

- 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	Maximum 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	515 530
B4	3	UB5 East	9,011 9,196	22,412	2.49 2.43	224 202
B4	part lot 4	part UB4	826	18,225	2.30 2.36	182 167
R3	part lot 4	part UB4	7,089 7,733			
B4	part lot 5	part UB3	999	37,011	3.92 3.92	370 368
R3	part lot 5	part UB3	8,435 9,434			
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	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			
sub total			28140 28,175			
TOTAL			103,425 103,451	227,287	N/A	2223 2224 2236

(DA-14/96/03) (DA-14/96/02) (**DA-2014/10096/H**)

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 13/09/19**
- 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	48.8m (RL40.8) 15.3m (RL37.3)	40.5m (RL62.5)	43.1m (RL65.1)
	B4, B5	48.8m (RL40.8) 15.3m (RL37.3)	52.9m (RL74.9)	55.5m (RL77.5)
	B3, B6	48.8m (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)

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. The floor to ceiling heights to be a minimum of 4m for retail uses, minimum 3.5m for commercial uses and to comply with the Apartment Design Guide for residential uses. (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)
- Urban Block 1- minimum 12 metres to Heffron Road and 6-12 metres to Banks Avenue;
 - Urban Blocks 2- minimum 6 metres (Banks Avenue)
 - Urban Block 3 – minimum 6 metres- 12 metres (Banks Avenue)
 - Urban Block 5 West - minimum 6 metres- 12 metres (Banks Avenue)
 - Urban Block 4- minimum 6 metres- 12 metres (Bunnerong Road)
 - Urban Block 5 East - minimum 8 metres (Bunnerong Road)
 - 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	445 493 441

Two bedroom	1.5	1668 1847 1,678
Three bedroom	2	1336 996 956
Residential Visitor	1 per 10 units	222 221 202
Car Share Spaces	22 including min 10 in basements	22
Total residential		3,693 3,597 3,299
Other Uses	As per BBDCP 2013	

(DA-14/96/02)(DA-14/96/07)(**DA-2014/10096/H**)

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** **23 October 2019**. (DA-14/96/02) (**DA-2014/10096/H**)
- 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. Dwellings and private open space must comply with the minimum apartment Design Guideline requirements with regard to dimensions and area. (DA-14/96/07)

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 with a tolerance of 10%. No studio apartments are permitted. The development application for each individual future stage must comply with this mix.

Unit Type	Proportion (UB3)	Indicative maximum number of units	Proportion (UB5C)	Indicative maximum number of units
Studios	N/A	0	N/A	0
One bedroom	17%	62	30%	154
Two bedroom	62%	228	55%	284
Three bedroom	21%	78	15%	77
Total		368		515

~~(DA-14/96/07)(DA-2014/10096/H)~~

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:
- a) 0 – 9 units – Nil;
 - b) 0-30 units – 1 adaptable housing;
 - c) 31-50 units – 2 adaptable housing;
 - d) 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~~ **23 October 2019**, 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)~~ **(DA-2014/10096/H)**
- 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 carpark, 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 measures 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 as further amended by DA-2014/10096/H dated 19 June 2019** and that any alteration, variation, or extension to the use, for which approval has been given would require further approval from Council.

APPENDIX 1

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.