

Statement of Environmental Effects

Section 4.56 Application

130 – 150 Bunnerong Road, Eastgardens (Master Plan UB5C)

Amend Conditions 1, 12 and 34 to convert Building D of UB5C from Serviced Apartments back to Residential

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Annexure 1: Amended Architectural Drawings

1 Introduction

This application has been prepared by Karimbla Constructions Services (NSW) Pty Ltd in support of a Section 4.56 modification application to enable Building D of the approved mixed-use development at Urban Block 5C (UB5C) to be converted back to residential apartments from serviced apartments.

Block D is nearing completion and will be left closed down due to the Coronavirus outbreak for an unknown timeframe. To keep people employed within the business, it is therefore imperative the serviced apartments be converted back to residential as was originally approved.

This application seeks to amend Conditions 1, 12 and 34.

A detailed summary of the changes is provided further in the report.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.56 of the EP&A Act.

From a planning perspective, the changes to the masterplan involves:

- Changing the use back to residential;
- Amends the residential unit mix to reflect the serviced apartments constructed, which continues to comply with the masterplan;
- Remove relevant references to serviced apartments in the consent relating to indicative numbers; and
- Delete reference to the porte cochere and revert this space back to residential units as originally envisaged by the masterplan.

2 Site and Surroundings

2.1 The Site

The site comprises an L-shaped parcel of land with an area of 103,547sqm at 130-150 Bunnerong Road, Pagewood within the former City of Botany Local Government Area (LGA). It is legally described as Lot 2 in DP1187426. The land was formally known as Virginia Park and was previously occupied by industrial uses associated with the manufacturing operations of British American Tobacco Australasia (BATA). It was rezoned in 2013 to support mixed use development including high density residential uses.

The site has frontages to Banks Avenue to the west, Westfield Drive to the south, Bunnerong Road to the east and Heffron Road to the north. The site borders land zoned for industrial purposes and until recently was occupied by BATA's remaining site operations.

The site has been cleared of its former industrial buildings; new internal road infrastructure has been completed.

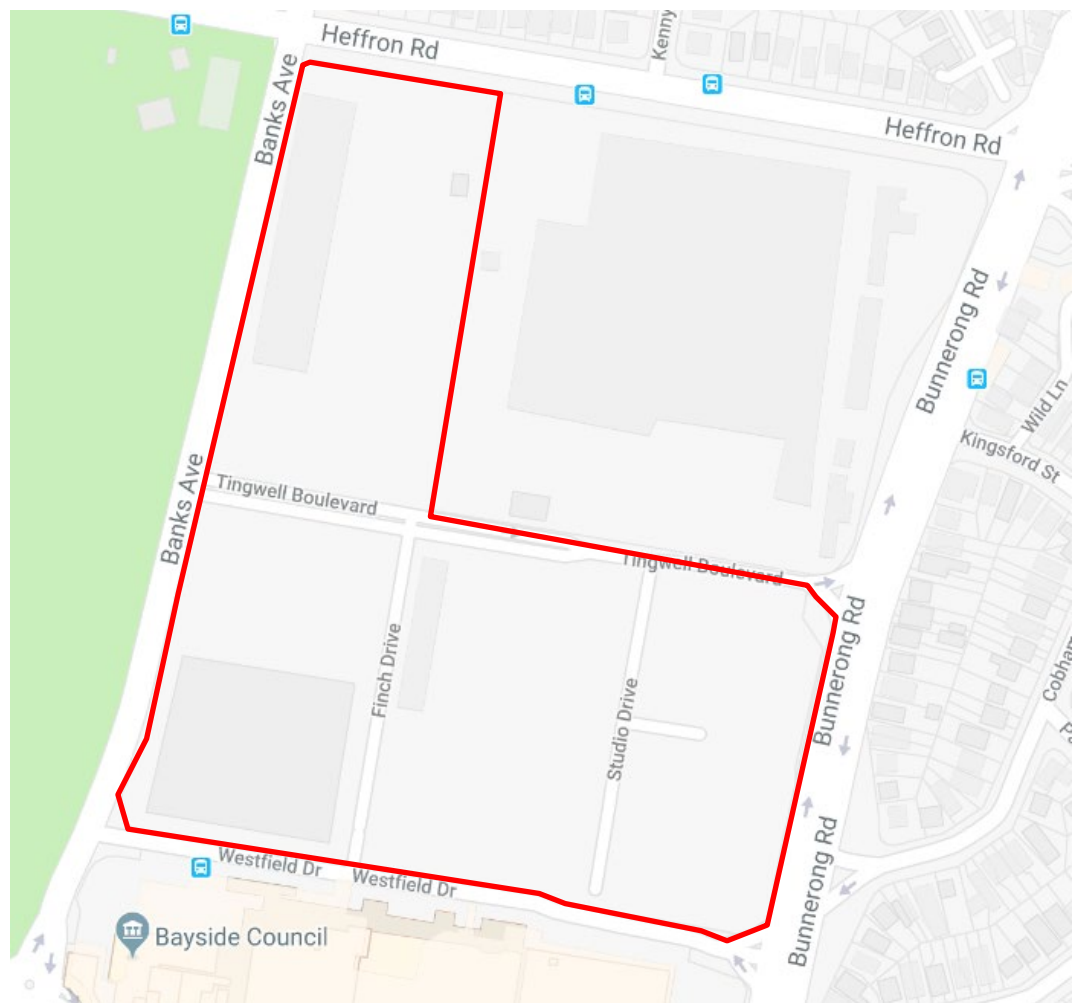


FIGURE 1 SITE MAP (SOURCE: NEAR MAPS, DECEMBER 2018)

2.2 Surrounding Area

The surrounding land uses in the vicinity of the sites comprise:

- North: Low density residential uses. Pagewood shops are located to the north-east.
- East: Low density residential uses.
- South: Westfield Eastgardens shopping centre. The servicing area of the shopping centre borders the site's southern boundary. Commercial and industrial uses are located further to the south-west.
- West: Bonnie Doon Golf Course and associated club house.

An aerial of the subject site that shows the surrounding area is shown in **Figure 2** below.



FIGURE 2: SITE MAP (SOURCE: NEARMAPS, DECEMBER 2018)

2.3 Existing Consents

Development Application 2014/96 for a Stage 1 concept proposal was approved by the Land and Environment Court on 7 August 2015. The consent allows for the comprehensive redevelopment of Pagewood Green for a mixed-use development comprising a maximum 2,223 residential apartments, minimum 3,693 car parking spaces, 5,000sqm retail floorspace and childcare centres.

The Stage 1 consent established the development parameters for the future development of the site but it does not allow for the construction of buildings or works associated with the project. All physical work will be the subject of separate development applications lodged with Council.

In accordance with Condition 7 of the Stage 1 consent, and the provisions of Clause 83B (3) of the EP&A Act, various Stage 2 development applications for future buildings have been approved as detailed below:

Block	DA Reference	Details	Status
UB5W	DA16/018	487 residential apartments, childcare centre, 847 car parking spaces	Approved 9 June 2016
UB5E	DA2016/143	205 residential apartments, 340 car spaces	Approved 22 February 2017
UB4	DA2017/1022	166 residential apartments, childcare centre, 310 car parking spaces	Approved 5 October 2017
UB3	DA2017/1224	368 residential apartments, 719 car spaces	Approved 2 August 2018
UB5C	DA2018/1003	515 residential apartments and ground floor retail units, 399 car spaces	Approved 29 November 2018.

3 Detailed Description of the Proposed Modifications

This application has been prepared by Karimbla Constructions Services (NSW) Pty Ltd in support of a Section 4.56 modification application to enable Building D of the approved mixed-use development at Urban Block 5C (UB5C) to be converted from serviced apartments back to residential apartments as originally approved by the masterplan back in 2015.

- Changing the use back to residential;
- Amends the residential unit mix to reflect the serviced apartments constructed, which continues to comply with the masterplan;
- Remove relevant references to serviced apartments in the consent relating to indicative numbers; and
- Delete reference to the porte cochere and revert this space back to residential units as originally envisaged by the masterplan.

3.1 Proposed Modification

This application seeks to amend the stamped approved plans listed in Condition 1 and modify the wording in Conditions 12 and 34 of the Stage 1 consent by amending the consent as follows.

Strikethrough denotes text to be deleted, new text shown in **bold**:

Drawing No.	Author	Dated
Dwg No. A001 – Cover Sheet / Schedule		Dated 13 September 2019 Received 19 September
Dwg No. A003 – Master Plan		Dated 6 July 2018 Received 19 September 2019
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 23 October 2019 Received 23 October 2019 Dated 17 April 2020
Dwg No. A009 —Open Space and Public Domain Plan		Dated 23 October 2019 Received 23 October 2019 Dated 17 April 2020
Dwg No. A010 — Indicative Apartment Layout on Master Plan		Dated 13 September 2019 Received 19 September 2019 Dated 17 April 2020
Dwg No. A012— Typical Road Plan — Accessibility & Parking		Dated 13 September 2019 Received 19 September 2019 Dated 17 April 2020

Drawing No.	Author	Dated
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
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. A002 – Site Analysis Dwg No. A004 – Staging Plan Dwg No. A011 – Existing Tree Plan Dwg No. A013 – Road Hierarchy 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	PTW Architects	14 April 2015
Dwg No. A016 – Indicative UB5W Apartment Sleeve Layout Dwg No. A304 – Sections – Streetscape 5 & Building Articulation	PTW Architects	21 April 2015

Drawing No.	Author	Dated
Dwg No. A305 – Sections – Streetscape 6 & 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

GFA AND FSR

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

2013 LEP Zone	Proposed Lot	Urban Block	Site Area sqm	GFA sqm	FSR	Maximum Indicative Unit Nos
B4	1	UB5 West	13,523	51,712	3.82	487
B4	2	UB5 Central	13,095	50,306	3.84	330 533 200 (hotel/serviced apartments)
B4	3	UB5 East	9,196	22,412	2.43	202
B4	part lot 4	part UB4	7,733	18,225	2.36	167
R3	part lot 4	part UB4				
B4	part lot 5	part UB3	9,434	37,011	3.92	368
R3	part lot 5	part UB3				
R3	6	UB2	9,055	28,603	3.16	292
R3	7	UB1	13,240	19,018	1.44	190
Sub Total			75,276	227,287	N/A	2236 2239
B4	Part Road Lot 3	Part Civic Avenue	1,857			
R3	Part Road Lot 3	Part Civic Avenue				
R3	Road Lot 4		1,671			
R3	Road Lot 2		1,504			
R3	Road Lot 1	East West Boulevard	8,744			
R3	Road Lot 5		2,044			

2013 LEP Zone	Proposed Lot	Urban Block	Site Area sqm	GFA sqm	FSR	Maximum Indicative Unit Nos
R3	Road Lot 6		1,636			
R3	Open Space Lot 2	Linear Park	2,719			
R3	Central Park	Central Park	8000			
Sub Total			28,175			
TOTAL			103,451	227,287	N/A	2236 2239

Notes

- a. Proposed lots shown on Drawing No. A014 dated 21/11/17
- b. Urban Blocks shown on Drawing No. A004 dated 29/4/15
- c. Site area shown Drawing No. A014 dated 21/11/17
- d. GFA is Residential and Child Care Centres unless as noted, taken from Drawing No. A001 dated 13/09/19
- e. FSR calculated from Table shown on Drawing No. A001 dated 6/7/18 and Drawing No. A014 dated 21/11/17
- f. Maximum 5000 sqm retail space

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	Proportion	Indicative Maximum Number of Units
Studios	N/A	0
One Bedroom	Maximum 20%	280
Two Bedroom	50%	760
Three + bedroom	Minimum 30%	374
TOTAL		1414

Note Unit size is as defined in Table 7

The mix of **residential** 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 Size	Proportion (UB3)	Indicative Maximum Number of Units	Proportion (UB5C)
Studios	N/A	0	N/A
One Bedroom	17%	62	30% 40%
Two Bedroom	62%	228	55% 45%
Three Bedroom	21%	78	15% 14%
Four Bedroom			1%
TOTAL		368	

~~The mix of hotel/serviced apartments units provided within UB5C shall comply with the table below. The development application for each individual future stage must comply with this mix.~~

Hotel/Serviced Apartment Room Type	Proportion (UB5C)	Indicative Maximum Number of Units
One Bedroom	53%	107
Two Bedroom	35%	69
Three Bedroom	12%	24
TOTAL		200

No changes to any of the other conditions of consent are proposed by this application

3.2 Proposed Works

No physical works are proposed by this application.

4 Substantially the same development

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

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

The proposed modification remains substantially the same development by converting Block D back to a residential use as was originally intended and approved in the masterplan.

The mix, gross floor area, and indicative unit numbers remain compliant with the masterplan conditions, and the residential units originally proposed in the location of the port cochere are reinstated.

Blocks A, B, C and the retail frontage remain in the masterplan and are mostly constructed.

5 Environmental Planning Assessment

Under Section 4.56 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The following assessment considers the relevant matters under Section 4.15 (1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

5.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

5.1.1 Botany Bay Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site being zoned R3 Medium Density Residential and B4 Mixed Use. The reinstatement of residential units is permitted in the zone subject to consent from the Planning Authority.

5.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site. There are no changes as a result of the proposed consolidating LEP.

5.3 Section 4.15(1)(a)(iii): Development Control Plans

5.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 applies to the subject site. Part 9D of the DCP includes site specific controls for the 130-150 Bunnerong Road site. The proposed amendments do not alter the development's compliance with the provisions of the DCP.

5.4 Section 4.15(1)(a)(iiia): Planning Agreements

The site is subject to a Voluntary Planning Agreement (VPA) negotiated by the Applicant and the then Botany Bay Council during the assessment of the Stage 1 Masterplan application.

The proposed modification does not affect the details of the VPA or the Applicant's ability to deliver the requirements of the agreement.

5.5 Section 4.15(1)(a)(iv): Regulations

The Section 4.56 application has been made in accordance with the requirements contained in Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

5.6 Section 4.15(1)(b): Likely Impacts

Surrounding Development

The proposed modification has no change to the visual impact, disruption of views, loss of privacy or loss of solar access to existing development in the vicinity from the original approval and ensures that the essential elements of the approved development remain unchanged including the approved use, scale, height, interface with the surrounding area, and the site function.

Built Environment

There is no change to the built form as the modification to the masterplan reverts back to a residential use.

Social and Economic

The modification to reinstate residential units back into Block D has been unforeseen due to the one in a 100-year viral pandemic not seen since the “Spanish Flu”. The entire tourist industry has collapsed both economically and socially for the workforce and business. All hotels and serviced apartments throughout Australia not just the subject site remain closed, which has resulted in monumental unemployment. Opening up of any tourist accommodation to travellers remains unknown and most likely for the foreseeable future.

To keep people employed and improve the social environment, it is therefore imperative to convert the recently approved serviced apartments by the local and regional planning panels back to residential. By converting Block D back to residential, the economic multipliers create a positive economic boost to the financial sector, property management, real estate offices, valuers, conveyancers, furniture/whitegoods purchases, increased demand to local shops and the like.

There are no negative impacts from reinstating residential units back into Block D. Keeping the block as an empty building will be more detrimental both socially and economically.

Natural Environment

The modification will not create or change adverse natural environmental impacts to the subject site and the vicinity.

5.7 Section 4.15(1)(c): Suitability of the Site

The suitability of the site for residential use in Block D was considered appropriate when the masterplan was originally approved as a residential building.

The modification merely brings back the residential use that is most suited for Block D.

5.8 Section 4.15(1)(d): Submissions

In accordance with Council's policy, the application will be placed on public exhibition and submissions invited from any interested parties.

As part of the assessment process, Council will take into consideration any matters raised in any submissions received in response to the public exhibition period.

5.9 Section 4.15(1)(e): The Public Interest

By converting Block D back to a residential use, makes the entire development more acceptable and compatible with residents in Buildings A, B and C, than for serviced apartments. In this regard the public interest will be more beneficial bringing back the original residential use to a predominately residential development.

6 Conclusion

This application has been prepared by Karimbla Constructions Services (NSW) Pty Ltd in support of a Section 4.56 modification application to enable Building D of the approved mixed-use development at Urban Block 5C (UB5C) to be converted back to residential apartments.

A comprehensive assessment of the proposed modifications has been made against all of the applicable environmental planning provisions. The development has been found to be compliant in relation to all relevant planning controls in terms of standards, underlying objectives and merit considerations.

The modification required for the masterplan has been unforeseen from a generational health event that is having devastating economic and social upheavals in the tourism sector alone. Reverting Block D back to residential will improve the economic and employment opportunities for the community. Converting Block D back to a residential use, merely reinstates the masterplan as originally approved in Urban Block 5C.

For these reasons, it is considered that the modification provides an appropriate response to unforeseen changing circumstances that were not around at the time of converting the residential units to serviced apartments a year ago.

Accordingly, the application should be recommended for approval.

Annexure 1: Amended Architectural Drawings