

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

Panel Reference	PPSSEC-50
DA Number	DA-2014/10096/I
LGA	Bayside Council
Proposed Development	Section 4.56 Application to modify the masterplan DA-2014/96 to convert service apartments to residential apartments in Urban Block 5C; changes to unit numbers and mix; delete porte cochere and changes to conditions.
Street Address	1 & 5 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 1, 2, 6 & 8 Studio Drive, 148 Bunnerong Road, and 120 Banks Avenue, Eastgardens (previously known as 130-150 Bunnerong Road, Eastgardens)
Applicant/Owner	Applicant: Karimbla Construction Services (NSW) Pty Ltd Owner: Karimbla Properties (No. 39) Pty Ltd
Date of DA lodgement	1 May 2020
Number of Submissions	Five (5) Submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	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	• List all of the relevant environmental planning instruments: s4.15(1)(a)(i) ○ 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); ○ Bayside Draft Local Environmental Plan 2020. • List any relevant development control plan: s4.15(1)(a)(iii); ○ 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)(iia); ○ Nil • List any coastal zone management plan: s4.15(1)(a)(v) ○ Nil • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 ○ Regs 115
List all documents submitted with this report for the Panel's consideration	• Architectural Plans • Statement of Environmental Effects • Design Verification Statement
Summary of key submissions	• Traffic safety concerns • Dangerous Goods Route concerns
Report prepared by	Ana Trifunovska – Development Assessment Planner

Report date	31 July 2020
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Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

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

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

- a) Amend Condition No. 1 which relates to the drawings and documents approved with the Masterplan;
- b) Amend Condition No. 12 which relates to the maximum GFA and indicative number of units for each urban block;
- c) Amend Condition No. 29 which relates to car parking allocation;
- d) Amend Condition No. 30 which references Dwg No. A008, for consistency with Condition No. 1;
- e) Amend Condition No. 34 which relates to the unit mix provided within each urban block.
- f) Amend Condition No. 41 which references Dwg No. A012, for consistency with Condition No. 1;
- g) Amend Condition No. 42 which references Dwg No. A009, for consistency with Condition No. 1;
- h) Amend Condition No. 44 which references Dwg No. A009, for consistency with Condition No. 1;

- i) Amend Condition No. 55 which references Dwg No. A009, for consistency with Condition No. 1;

The conditions are imposed and modified for the following reasons:

- a) To ensure compliance with the terms of the Environmental Planning and Assessment Act, the Building Code of Australia, and Council's codes, policies and specifications;
- b) To protect the environment;
- c) To ensure that there is no unacceptable impact on the amenity of the area, or to private and public property;
- d) To ensure it is in the public interest;

EXECUTIVE SUMMARY

Section 4.56 Application to modify Development Consent No. 14/96 to convert serviced apartments to residential apartments in Urban Block 5C; changes to unit numbers and mix; delete porte cochere and changes to conditions at 1 & 5 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 1, 2, 6 & 8 Studio Drive, 148 Bunnerong Road, and 120 Banks Avenue, Eastgardens (previously known as 130-150 Bunnerong Road, Eastgardens), was submitted to Council on 1 May 2020.

It is key to note that the applicant has submitted a separate development application for the change of use of Building D within UB5C back to residential apartments (DA-2018/1003/C). The serviced apartment segment of this building was originally approved as a predominately residential tower. However, under DA-2014/10096/H, the previously approved application, the residential units were converted to serviced apartments.

The DA-2018/1003/C 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 only relates to modifications to the approved concept plans and conditions to enable future development. The calculation regarding unit mix, indicative unit sizes, and car parking will be reflective as a whole number.

The application was placed on public exhibition under the *Environmental Planning and Assessment Regulation* for a fourteen (14) day period from 11 May 2020 to 25 May 2020. Five (5) objections were received raising concern regarding traffic and road hazards, the dangerous goods route, and loss of employment opportunities. These issues are addressed in *Section 4.56(d)* of this report.

The proposal removes all reference of the serviced apartment use from the concept plans and the conditions of consent. Consequently, the following changes are proposed:

- Replace Porte cochere lobby area with residential units;
- An increase in unit numbers from 526 units to 530 units (to remain as existing in the consent);
- An increase in GFA to UB5C of 250sqm resulting in an overall GFA of 50,556sqm;
- An increase in FSR to UB5C from 3.84:1 to 3.86:1; and
- Reconfiguration of the proportion of car parking provided per unit type.

The Section 4.56 Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is 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 a number of allotments legally described as Lot 2 DP 1187426, Lot 1 DP 1236250, Lot 2 DP 1236250, Lot 3 DP 1236250, Lot 4 DP 1236250, Lot 5 DP 1236250, Lot 6 DP 1236250, Lot 7 DP 1236250, SP 97153, Lot 22 DP 1242288, Lot 31 DP 1246453, SP 98537, Lot 43 DP 1256461, Lot 32 DP 1246453, Lot 33 DP 1246453, Lot 24 DP 1242288, 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. All urban blocks have been completed excepting UB5C which is currently under construction. The majority of the building has been constructed, however the area approved as the porte cochere has been left vacant. The central park has also been completed. The north-western portion of the site has been cleared of all structures and is currently vacant.

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 center. 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.

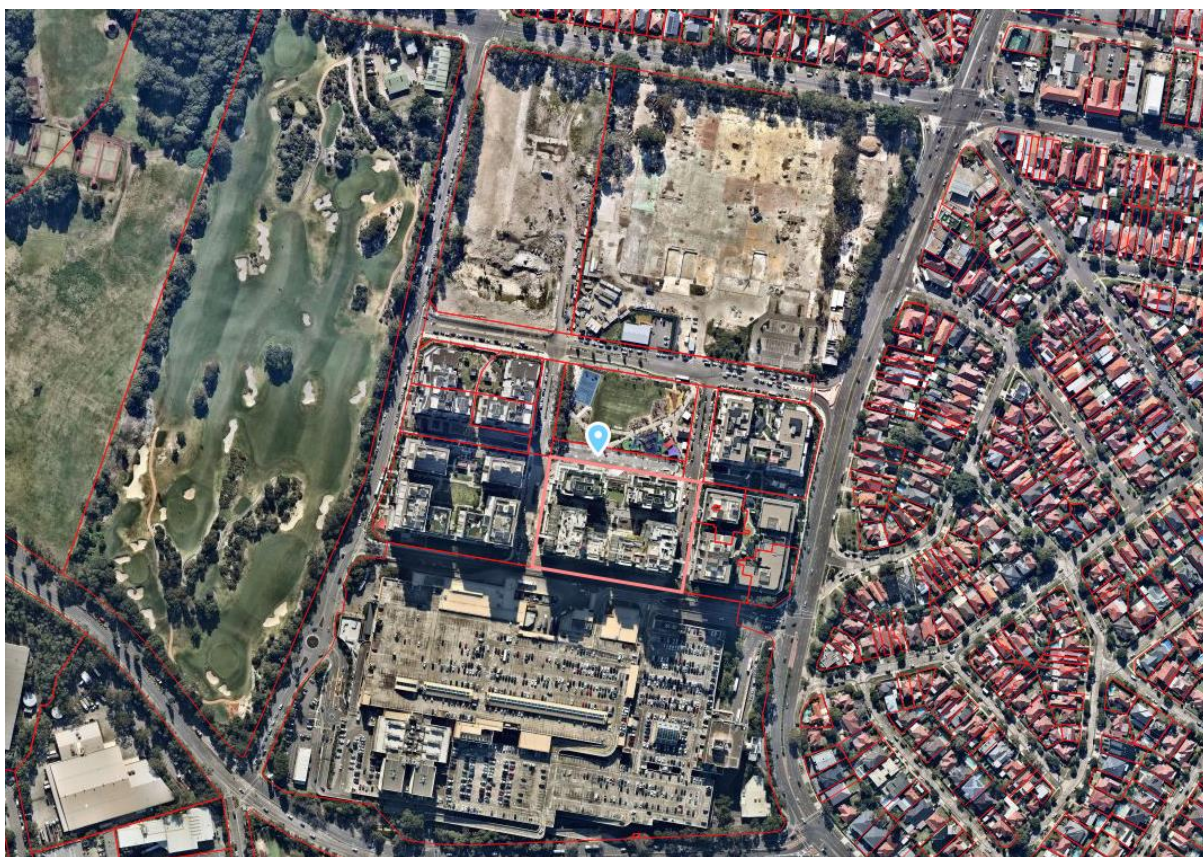


Figure 1 Aerial imagery of subject site pinpointed in blue (Nearmap: 1 June 2020)



Figure 2 Cadastral imagery of subject site highlighted in red



Figure 3 UB5C currently under construction. Note the porte cochere area has been left hollow.

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 8,000 sqm of public open space.

The Capital Investment Value CIV for these works was \$128,431,190, 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.

It is noted that Part 9D of the BDDCP 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.

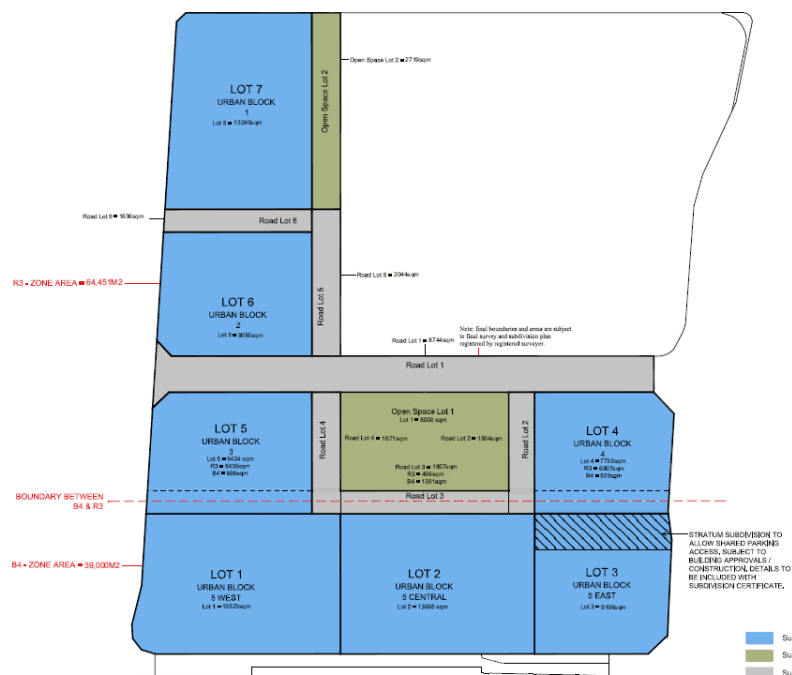


Figure 4 Approved Master plan concept subdivision plan DA-14/96

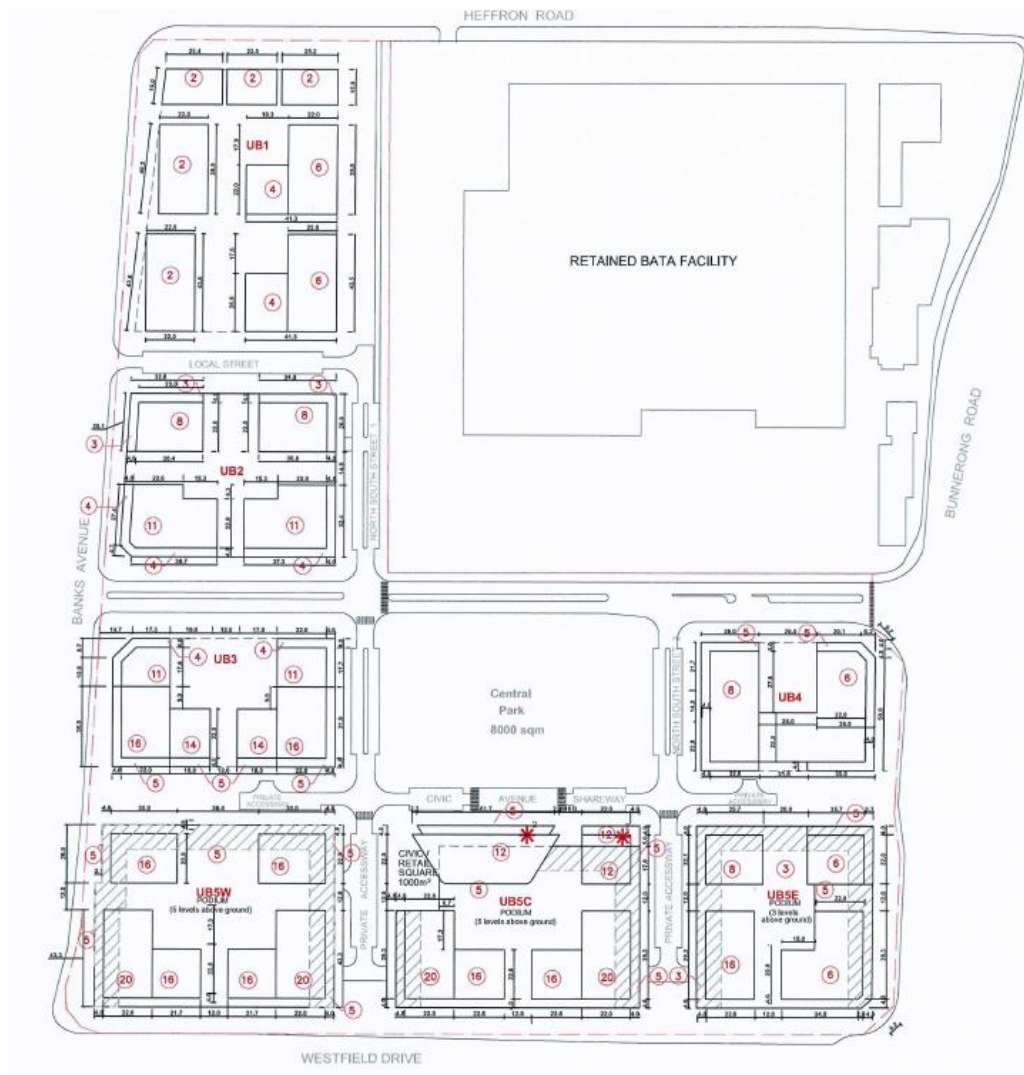


Figure 5 Approved Building Envelope Plan – DA-14/96

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-14/96/05** – Withdrawn on 16 May 2020.
- **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.
- **DA-2014/10096/G** - Modification to conditions relating to the timing and staging of road dedication and public domain works. Currently under assessment.
- **DA-2014/10096/H** – Modification 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 was approved by the Sydney Eastern City Planning Panel on 7 November 2019.

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.

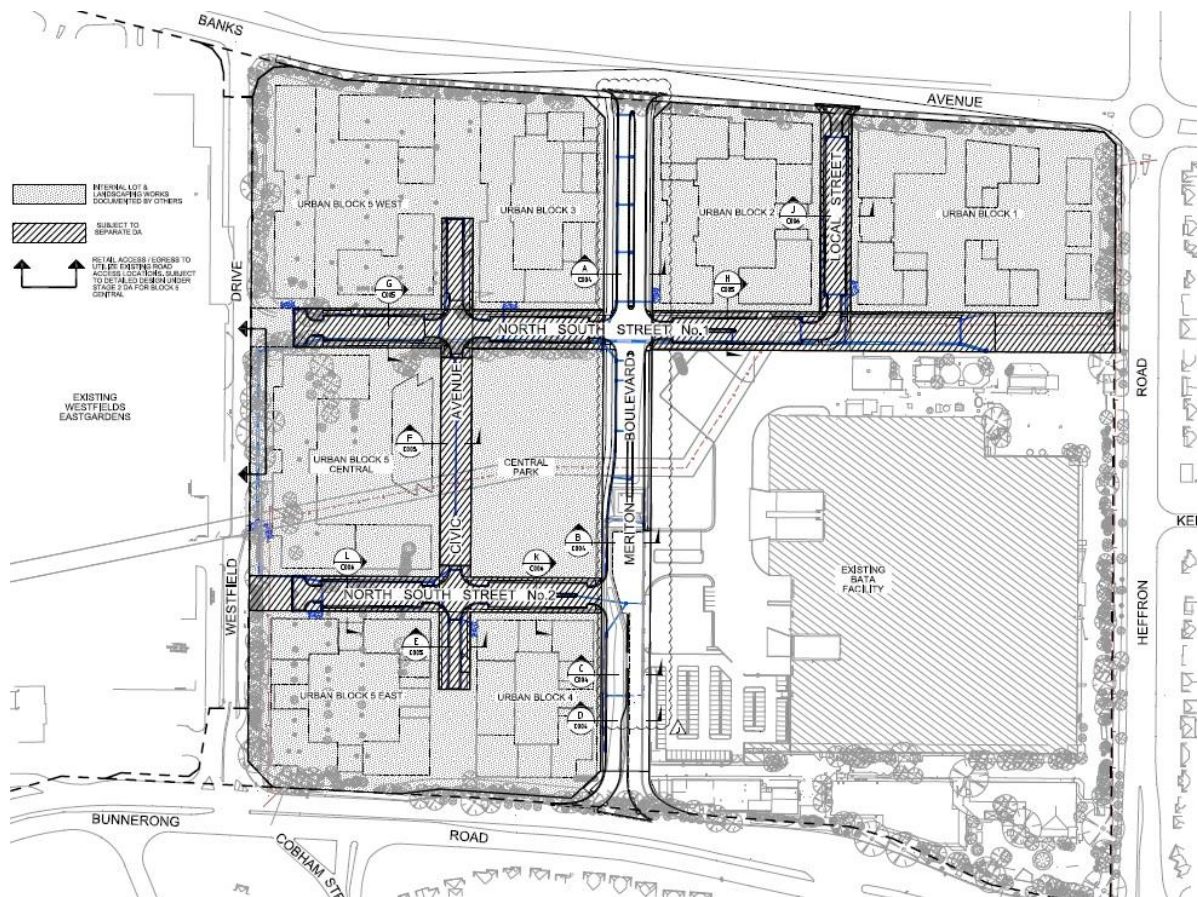


Figure 6 Approved Site Plan DA-14/159

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.

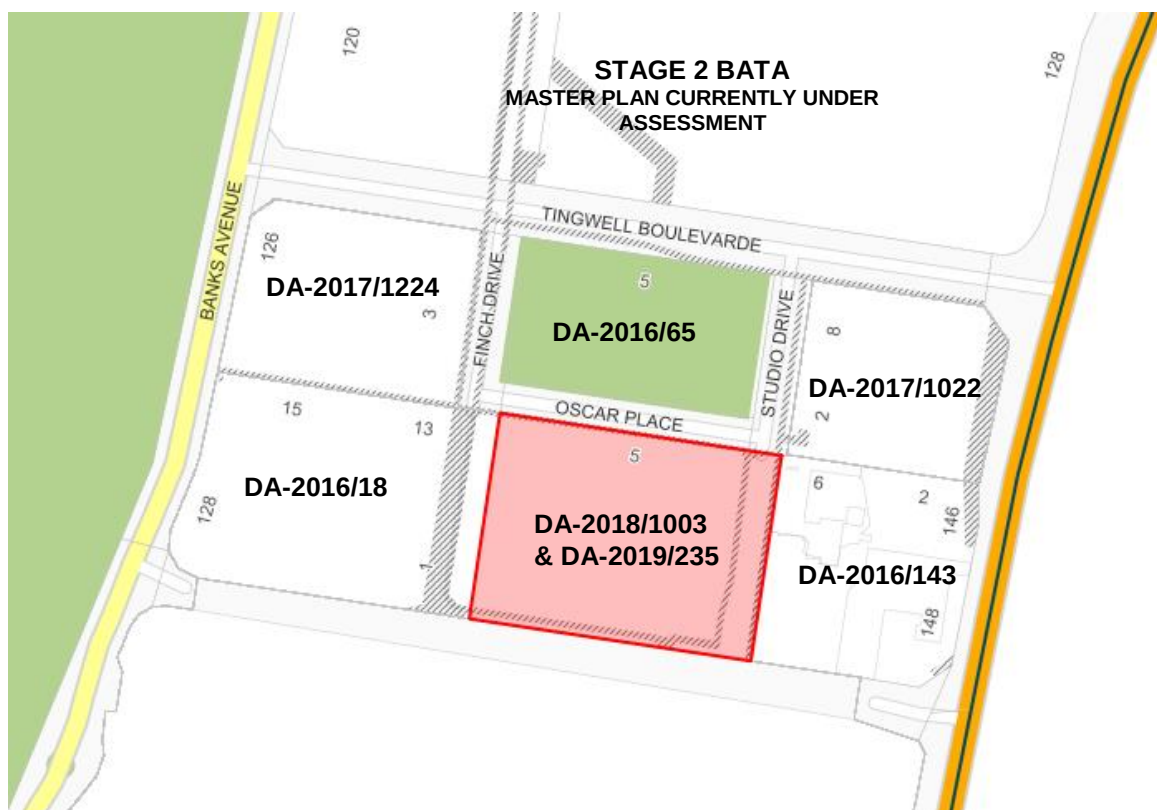


Figure 7 Subject site and respective DA's for each mixed use development

DA-2016/18 - 1 Finch Drive, Eastgardens

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. Approved on 9 June 2016 by Sydney East Joint Regional Planning Panel. Construction of this development has been completed and occupation has been carried out.

DA-2016/143 – 2-6 Studio Drive, Eastgardens

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. Approved on 16 February 2017 by Sydney Central Planning Panel. Construction of this development has been completed and occupation has been carried out.

DA-2017/1022 – 8 Studio Drive, Eastgardens

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. Approved on 5 October 2017 by Sydney Central Planning Panel. Construction of this development has been completed and occupation has been carried out.

DA-2016/65 – Public Domain Works

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. Approved on 24 July 2018 by Bayside Planning Panel. Construction of the park is completed.

DA-2017/1224 – 5 Finch Drive, Eastgardens

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. Approved on 2 August 2018 by Sydney Eastern City Planning Panel. Construction of this development has been completed. The Occupation Certificate is yet to be issued.

DA-2018/1003 & DA-2019/235 – 5 Oscar Place, Eastgardens

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

The amendments to this master plan consent are linked to amendments proposed to DA-2018/1003. The following applications have been considered by Council with regard to this site:

- **DA-2018/1003/A** - On the 19 June 2019, Council received DA-2018/1003/A, a Section 4.55(2) modification application seeking a number of amendments that will support a future development application for the change of use from residential apartments to hotel suites in the approved Building D at UB5C (the subject development). The proposed use of the development was determined as not being substantially the same as the approved residential and retail premises and therefore, the application was withdrawn on 3 July 2019.
- **DA-2018/1003/B** – On 13 December 2019, Council received DA-2018/1003/B, a Section 4.55(1A) modification application seeking to amend the approved unit mix in Buildings A, B, and C on Levels 13 and 21 by including penthouse units and associated modifications to roof terraces on Levels 14 and 22. The application was approved by Council on 23 April 2020.
- **DA-2019/235** – On 3 July 2019, Council received DA-2019/235, a development application seeking modifications to the building envelope as approved under DA-218/1003, internal reconfiguration and conversion of approved Building D from residential apartments to serviced apartments. This DA would operate in conjunction with DA-2018/1003. The application was approved by the Bayside Planning Panel on 11 February 2020.
- **DA-2019/235/A** – On 17 February 2020, Council received DA-2019/235, a Section 4.55(1A) modification application seeking to amend Level 01 by reconfiguring the retail spaces by increasing them from 8 to 9 spaces. The application was withdrawn on 28 April 2020 as the reconfiguration would result in an increase in GFA which would exceed the maximum allowable as imposed in the master plan consent.

- **DA-2018/1003/C** – On 4 May 2020, Council received DA-2018/1003/C, a Section 4.55(1A) modification application seeking to modify the approved mixed use development to convert serviced apartments to residential apartments in Urban Block 5C; changes to unit numbers and mix; delete porte cochere and changes to conditions. The application is currently under assessment as its determination will depend on the outcome of this master plan modification application. The approval of both these consents would require the surrender of DA-2019/235. The specifics of these modifications are discussed further in this report.

DESCRIPTION OF PROPOSED MODIFICATIONS

The Section 4.56 Application seeks consent to modify the Stage 1 approved plans and conditions. The applicant seeks to revert one of the towers (Building D at 5 Oscar Place – UB5C) from serviced apartments (hotel use), back to the originally approved residential use.

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 tower are not under assessment as part of this application, but rather fall under the separate development application (DA-2018/1003).

However, as the changes to the UB5C DA directly impact upon the figures to be amended in the master plan consent, the changes are taken into account.

DA-2018/1003/C – 5 Oscar Place, Eastgardens - Key Modifications

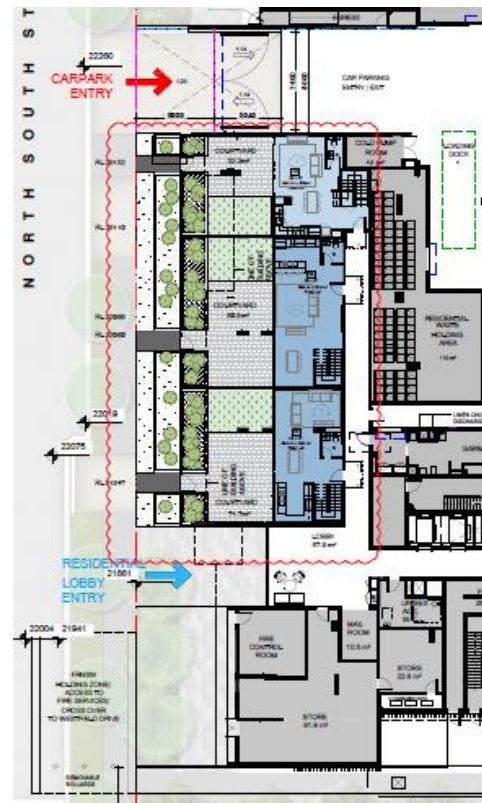
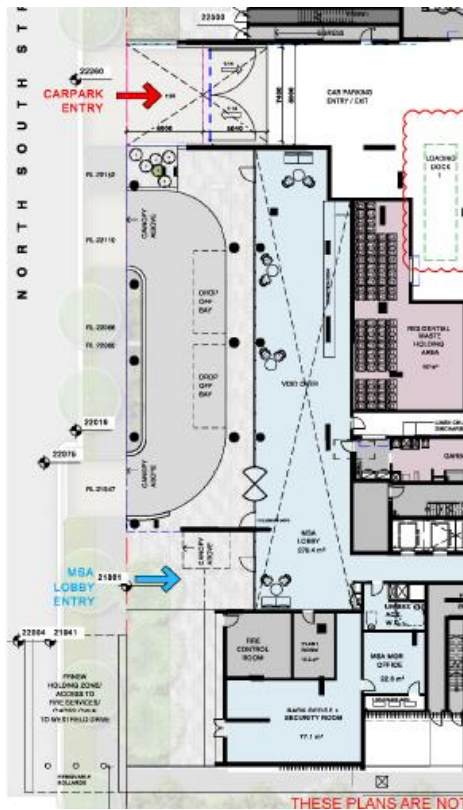
There are a number of proposed amendments to DA-2018/1003/C which directly impact upon the requirements of the master plan conditions.

The key change revolves around the conversion of the serviced apartment double height Porte cochere and lobby area into residential apartments which will increase the GFA of the overall development as space that was originally a void (and therefore excluded from GFA) is proposed to be converted to residential trafficable floor area.

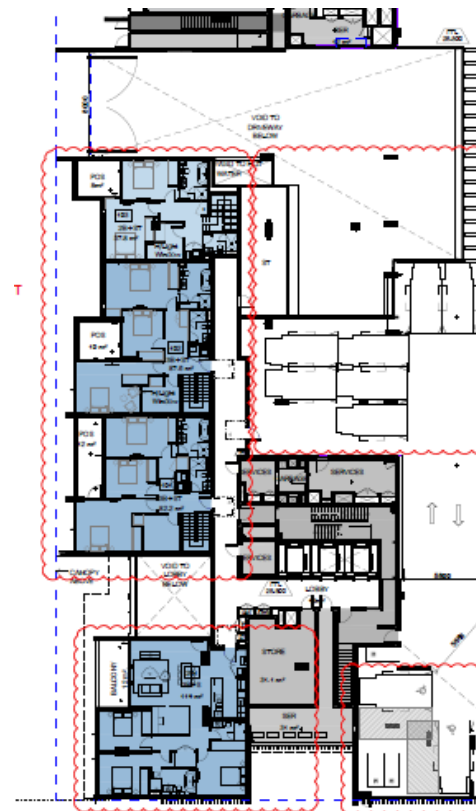
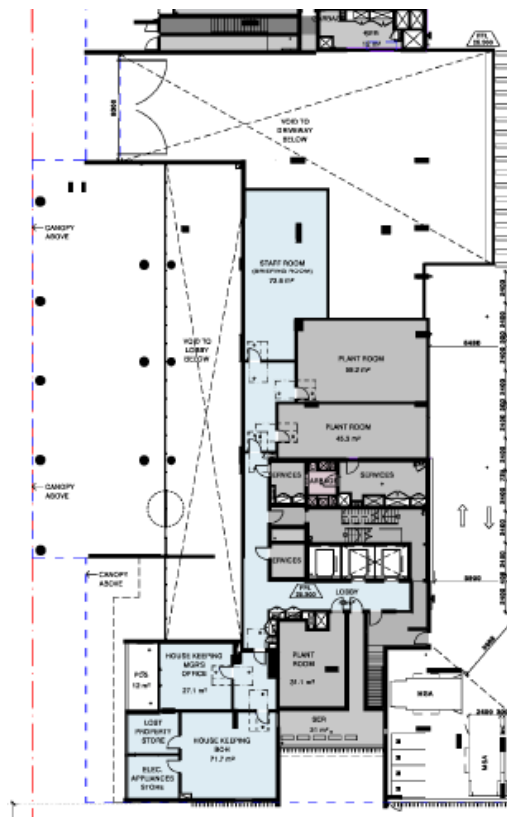
There are three x two storey height residential units proposed in the location of the Porte cochere area. Another residential unit is also proposed on Level 1 to replace serviced apartment housekeeping rooms. Therefore, there will be 530 residential units in total, which complies with the maximum number of units permitted by the master plan (530 units).

There are also a number of minor changes to upper levels with serviced apartment related service rooms proposed to be converted into W/C's or storage rooms which are required to be included in the calculation of GFA.

In line with the master plan, the maximum allowable GFA for UB5C is 50,306sqm. The GFA proposed amounts to 50,556sqm which results in a 250sqm exceedance from the maximum allowable GFA. Consequently the proposed FSR will also exceed the maximum FSR allowable under the master plan consent. The master plan allows a maximum FSR of 3.84:1, while the proposed modification seeks an FSR of 3.86:1 (0.5% variation).



Left: Level 1 - Approved Porte cochere lobby area
Right: Level 1 - Proposed Modification with double storey residential units



Left: Level 2 - Approved Porte cochere lobby area
Right: Level 2 - Proposed Modification with double storey residential units & serviced apartment storage areas converted to unit

The reinstatement of residential units subsequently alters the unit mix proportions and car parking requirements which are dictated by conditions in the master plan consent. These issues and other concerns are discussed in detail in the assessment of DA-2018/1003/C.

Conditions to be modified

A summary of the proposed modifications to the conditions of consent is provided below:

- Change the serviced apartment (hotel) use, back to residential use in Building D of 5 Oscar Place;
- Amend Table 1 in Condition No. 1 to reflect the amended plans;
- Amend Table 4 in Condition No. 12 with regards to UB5 Central as follows:
 - Delete reference to the 200 units for hotel/serviced apartments;
 - Amend the maximum indicative unit numbers to 530 units;
 - Amend the GFA to reflect the increase in floor area. In line with the modification application DA-2018/1003/C, there will be an area increase of 250sqm resulting in a total GFA of 50,556sqm for UB5C. Amend the subtotal and total GFA areas accordingly;
 - Amend the FSR to reflect the increase in floor area. In line with the modification application DA-2018/1003/C, and the increase in GFA, the proposed FSR will increase from 3.84:1 to **3.86:1**.
- Amend Table 6 in Condition No. 29 to reflect the changes in the indicative minimum number of car spaces;
- Amend Condition No. 30 to reflect the amended Ground Floor Use Plan for consistency;
- Amend Condition No. 34 to delete the table referencing the unit mix of hotel/serviced apartment units to be provided within UB5C;
- Amend Condition No. 41 to reflect the amended Typical Road Plan – Accessibility & Parking Plan for consistency;
- Amend Condition No. 42 to reflect the amended Open Space and Public Domain Plan for consistency;
- Amend Condition No. 44 to reflect the amended Open Space and Public Domain Plan for consistency; and
- Amend Condition No. 55 to reflect the amended Open Space and Public Domain Plan for consistency.

The following changes have been made on the plans:

Plan Reference	Amendment
<i>Ground Floor Plan Use</i>	Reference to the hotel and indicative hotel drop off zone have been deleted.
<i>Open Space and Public Domain Plan</i>	Increase in landscaped area due to deletion of porte cochere and deletion of reference to hotel drop off zone.
<i>Typical Road Plan – Accessibility & Parking</i>	Deletion of reference to indicative hotel drop off zone and hotel vehicle access.

<i>Indicative Apartment Layout on Masterplan</i>	Deletion of serviced apartment colour referencing for Building D.
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ASSESSMENT OF PROPOSED MODIFICATIONS

Increase to GFA and FSR

As stated above, the proposal seeks to increase the maximum allowable GFA and FSR to 50,556 sqm and 3.86:1 respectively. The increase in area is minor in nature and is contained within the limits of the approved building envelope. The additional proposed units will be located within the constraints of the approved lobby/Porte cochere area while other increases in floor area to upper floors are also contained within existing spaces originally dedicated to services.

The deviation from the maximum allowable GFA and FSR is further discussed in detail in Section 4.15 of this report. A justification statement provided by the applicant has been addressed.

Number of Units

The last approval for UB5C (DA-2018/1003/B) approved a total of 526 units. DA-2018/1003/C which is currently under assessment, proposes a total of 530 units. DA-2014/10096/H, which is the latest approved master plan application, allows a maximum indicative unit number total (residential and serviced apartment units) of 530 units. Therefore, the total number of units proposed under DA-2018/1003/C will not exceed the maximum number of units last approved in the master plan.

However, Condition No. 12 is to be amended to delete reference to serviced apartments and consolidate the unit numbers into a total of 530 units.

Unit Mix

As the application involves the conversion of approved serviced apartments to residential units, the table referencing unit mix of serviced apartments in Condition No. 34 shall be deleted. The required residential unit proportions as per Condition No. 34 are as follows:

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 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

An assessment of the unit mix proposed in DA-2018/1003/C, currently under assessment, demonstrates that the proposed proportions will comply with the table above:

One Bedroom: 210 units / 40% (Within the tolerance of 10%)

Two Bedroom: 238 units / 45% (Within the tolerance of 10%)

Three Bedroom: 82 units / 15%

The proportions are within the 10% tolerance, therefore there is no requirement to amend the residential unit mix table to reflect the new proportions.

Car Parking

As the unit mix proportion of the development is altered, this will in turn impact upon the number of residential car spaces required. This relates to Condition No. 29 which conditions the indicative minimum number of car spaces for the BATA 1 development as a whole.

The approved table does not take into account the serviced apartment parking rates. Therefore, as the serviced apartments will be converted back into residential apartments, there will be an increase in the indicative minimum number of car spaces to reflect the conversion.

DA-2014/10096/H approved the following indicative minimum number of car spaces:

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	

Based on the proposed unit mix proportion of units in UB5C the following parking spaces are required:

Use	Car Parking Rate	Minimum number of car spaces required in previous consent (DA-2018/1003/B) (330 Units)	Minimum number of car spaces required - Proposed (DA-2018/1003/C) (530 Units)	Difference calculated from previous approval (DA-2014/10096/H)
<i>One Bedroom</i>	1 space per unit	102	210	+ 108
<i>Two Bedroom</i>	1.5 spaces per unit	257	357	+ 100
<i>Three/Four Bedroom</i>	2 spaces per unit	114	164	+ 50
<i>Residential Visitor</i>	1 space per 10 units	33	53	+ 20
<i>Total Residential</i>	-	506	784	+ 278

Therefore, Table 6 in Condition No. 29 is to be amended to account for the additional spaces (the difference calculated above) as follows:

Use	Minimum number car spaces	Indicative minimum number of car spaces
Residential		
One bedroom	1	445 493 441 549
Two bedroom	1.5	1668 1847 1,678 1,778
Three bedroom	2	1336 996 956 1,006
Residential Visitor	1 per 10 units	222 221 202 222
Car Share Spaces	22 including min 10 in basements	22
Total residential		3,693 3,597 3,299 3,577

Other Uses	As per BBDCP 2013
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Any further issues relating to traffic and car parking will be assessed in greater detail in DA-2018/1003/C.

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 deletion of all references to the serviced apartment use as the approved serviced apartments are to be converted back to residential units. 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. The proposal is considered to remain as substantially the same development as originally approved. As stated throughout the report, the conversion of the approved serviced apartments back into residential units 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 fourteen (14) days from 11 May 2020 to 25 May 2020. Five (5) submissions were received and are addressed below.

(c) Notification

All previous objectors to the parent development application (DA-14/96) have been notified of the proposal 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:

Loss of Employment Opportunities

Submitter's Comment: Changing the service apartments to residential apartments will reduce job opportunities generated from the serviced apartments. The community needs employment opportunities to recover economically.

Planner's Comment: The changes respond to the current Covid-19 pandemic situation as short term accommodation (serviced apartment uses) is currently not economically

or socially viable. The development will continue to provide employment opportunities through the nine (9) retail tenancies on the northern side of UB5C.

Increased Traffic & Road Hazards

Submitter's Comment: Increasing the number of units will add traffic pressure to the existing congested network. The road and traffic conditions, particularly from Heffron Road, will be hazardous for Bonnie Doon Golf Club employees, pedestrians, cyclists and vehicles. Concern is raised that the additional housing density will add pressure to the road network and create a hazardous and potentially fatal situation. The Bonnie Doon Golf Club seeks the construction of an underpass to mitigate the risk.

Planner's Comment: The modification does not alter the approved traffic and accessibility conditions. The bulk and scale of the development will remain as existing, with changes to FSR contained within the approved building envelope. Furthermore, the number of units will not exceed the maximum allowable in the current consent and proposed off-street car parking complies with the approved rates in Condition No. 29. The impact of traffic and pressure on the road network has been considered in previous applications and as established above, approval of this application is unlikely to increase traffic or cause hazardous risk.

Dangerous Goods Route Risk

Submitter's Comment: The site has significant exposure to Bunnerong Road which is a carriageway of large volumes of dangerous goods vehicles to the Botany Industrial Park (BIP) to the south. A transport risk assessment has not been completed.

Planner's Comment: Vehicle access to the site forms part of a larger road network within the BATA site which has one entry/exit connecting Bunnerong Road and Banks Avenue, via Tingwell Boulevard. It is highly unlikely that the four (4) additional units will trigger additional risk exposure to the dangerous goods route. Bunnerong Road and Banks Avenue are not dangerous goods routes and the site is not located within the Denison Street Risk referral zone.

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

Land Use

The subject site is within the B4 Mixed Use and R3 Medium Density Residential zones. 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 which is zoned R4 High Density Residential. The proposed modifications to the masterplan continue to be compliant with the zone objectives under the BBLEP 2013 with UB5C retaining a portion for commercial uses.

Clause 4.4 - Floor Space Ratio

The master plan application was approved with an FSR of 3.84:1 which exceeds the maximum allowable FSR prescribed by BBLEP2013 (0.3:1). The subject application involves an increase in GFA and will therefore exceed the maximum allowable FSR.

The conversion of serviced apartments into residential units has resulted in an increase in GFA of 250sqm as the former lobby area and void is converted into residential units, and other service spaces are converted into storage or other trafficable spaces.

The following is proposed:

Approved GFA: 50,306 sqm

Proposed GFA: 50,556 sqm

Approved FSR: 3.84:1

Proposed FSR: 3.86:1

Variation: 250 sqm / 0.5%

The applicant has provided the following justification for the deviation:

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118, 5 matters were listed to demonstrate whether compliance of a development standard was unreasonable or unnecessary, as established in Wehbe v Pittwater Council (2007) NSWLEC 827. This case also stipulated that all 5 methods may not need demonstrate compliance is necessary where relevant. Each of the matters are addressed below.

1. Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].

Compliance with the development standard is unreasonable and unnecessary as the objectives of the development standard are achieved, Clause 4.4 of the Botany Bay LEP 2013 outlines the objectives of the Floor Space Ratio standard to which the development continues to satisfy. A response to the objectives is outlined below.

a) to establish a maximum floor space ratio to enable appropriate development density to be achieved,

Overall, the conversion from serviced apartments back to residential in Building D of UB5C will result in an FSR of 3.86:1, this is based on the proposed total GFA of 50,556

sqm. Therefore, the proposal does not comply with Clause 4.4 of the LEP and is inconsistent with what was originally approved in the Masterplan.

The modification proposes to slightly increase the approved gross floor area of UB5C by 250sqm, resulting in a minor increase of 0.02 to the approved masterplan FSR of 3.84:1 equating to 3.86:1. In the overall scheme of the development, this variation is considered to be minor in nature and inconsequential.

b) to ensure that development intensity reflects its locality.

The urban density and built form scale proposed remains consistent with the Stage 1 masterplan consent for the Pagewood Green site and the desired future character for the site envisaged under the BBDCP 2013 which establishes the desired future character of the site as a “vibrant mixed use community with a high level of amenity and quality public domain”.

c) To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo a substantial transformation.

The proposed modification will continue to maintain an appropriate visual relationship between the existing character of areas and locations that are not undergoing a substantial transformation. The reinstatement of 3 units in the porte-cochere does not face any of the existing lower residential areas.

d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities

The reinstatement of the 3 units on the podium levels face an internal private driveway and neighbouring residential towers to the west. The reinstated units are consistent with the original design of the masterplan which will continue to improve the streetscape and is not visually seen from adjoining roads or parks.

e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The proposed modification to reinstate the 3 units in the podium levels will improve the amenity of adjoining properties in Urban Block 5W, by not retaining a drop off zone for vehicles.

f) To provide an appropriate correlation between the size of a site and the extent of any development on that site,

The site has been assessed to be suitable for the proposed density and intensity of use proposed through the consideration of the Stage 1 masterplan application and original DA consent.

The proposed modification remains substantially the same development by converting back Building D of UB5C back to a residential use as was originally intended and approved in the Masterplan and under the Stage 2 Development Application DA2018/1003 for the buildings.

g) to facilitate development that contributes to the economic growth of Botany Bay.

Converting Building D of UB5C back to a residential use will ensure the economic survival of retail shops on the Ground Floor.

As a result of the Coronavirus outbreak the entire tourist industry has collapsed both economically and socially. Building D is nearing completion and if it remains a serviced apartment use, the building will continue to remain empty for an unknown timeframe. As a result, the retail shops on the Ground Floor will struggle financially.

To keep people employed and support the Ground Floor shops, it is therefore imperative the serviced apartments be converted back to residential as was originally approved.

Clause 4.6(3)(b) – Is there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118, the written request under Clause 4.6 must be “environmental planning grounds” by their nature established under Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA.

a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,

The social and economic welfare of the community is promoted by the conversion of serviced apartments back to residential units. The additional floor space is a minor adjustment to allow for the conversion to take place.

As a result of the Coronavirus outbreak the entire tourist industry has collapsed both economically and socially at the time of writing this report. If Building D continues to be a serviced apartment use, the building will remain empty for the unforeseeable future. This will result in undesirable social problems and conflicts with adjoining residents of Building A, B and C not wanting the serviced apartments to be used as quarantine accommodation for the coronavirus, which at this stage without a vaccine has no end in sight.

From an economic perspective, retail shops on the Ground Floor of the mixed-use development will struggle financially with an empty serviced apartment building. This would be detrimental to the welfare of existing residents within the precinct and Ground Floor retail tenants. For this reason, the minor variation to the floor space ratio is considered reasonable.

b) To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

The proposed change of use and minor floor space increase continues to facilitate ecological sustainable development and relevant economic and social considerations that were a consideration under the original masterplan approval. The return of the building back to residential will continue to comply with BASIX when Council consider the modification application of the residential consent that allows for the building to be residential in the first place.

c) To promote the orderly and economic use and development of land,

The orderly and economic use of the land will be made more certain with Building D reverting back to residential from serviced apartments. As a serviced apartment development, the building will remain vacant because of the coronavirus and subsequently this will result in less people around to support the retail shops on the ground floor. For this reason, the minor variation to the floor space ratio is considered reasonable.

e) To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

The additional floor space will have no impacts in respect of threats to native animals and plants, ecological communities and their habitat then previously considered in the original DA and Concept Plan DA approval.

g) To promote good design and amenity of the built environment,

The change to the floor space ratio will continue to promote good design and amenity of the built environment. The changes proposed in the masterplan and to allow for the minor increase in gross floor area, will have the building under the Stage 2 Development Application brought back to a residential design along the western façade where there currently exists an empty chasm where the Porte-cohere was to go.

Without the minor variation to the gross floor area, there can be no reinstatement of units into the porte-cohere area which will leave a vacuum of space that will be detrimental in terms of community safety, and therefore to improve the amenity of the built environment the space must be filled.

h) To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

Not applicable. The masterplan does not allow for construction to take place. Nonetheless, granting approval of the modification to the masterplan will allow positive consideration of allowing the units to be constructed under a separate application. Council will require the relevant conditions for proper construction, maintenance, protection of health and safety.

Planner's Comments:

The applicant's written justification is considered to be adequate in addressing the deviation as the standard is deemed to be unreasonable and unnecessary in the circumstances of the case, and because there are sufficient environmental planning grounds to justify the contravention.

The increase in GFA is minor and contained within the approved building envelope constraints, therefore there will be no additional building bulk. Furthermore, the reinstatement of units in the lobby area will not exceed or impact upon any other numerical requirements of the master plan including unit mix proportions, number of units and car parking as discussed in detail in this report.

The development will be in the public interest as it will continue to be consistent with the objectives of the floor space ratio development standard and the objectives for development within the zone. On this basis, the variation to the FSR is supported.

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

Bayside Draft LEP 2020

The Bayside draft LEP 2020 was placed on public exhibition from 8 April to 1 June 2020 and applies to the subject site.

The draft LEP reviews the current planning controls under three existing LEPs into one consolidated LEP. The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area.

The proposal is generally consistent with the objectives and requirements of the draft LEP.

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, this proposal does not assess the physical reinstatement of residential units. This is subject to an assessment under a separate modification application (DA-2018/1003/C).

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

Environmental Planning and Assessment Regulation 2000

Clause 115(3) of the Environmental Planning and Assessment Regulation 2000 states the following:

In addition, if an application for the modification of a development consent under section 4.55(2) or section 4.56(1) of the Act relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50(1A), the application must be accompanied by a statement by a qualified designer.

A Design Verification Statement (the Statement) prepared by Mona Chao (dated 3 August 2020) which verifies the matters prescribed under Clause 115(3A)(b) has been submitted with the application.

The Statement confirms that the development satisfies the matters required as per Section 115(3A)(b)(i) and (ii) which are the Design Quality Principles set out in Schedule 1 of SEPP No. 65, and the objectives of the Apartment Design Guidelines.

Furthermore, in accordance with Section 115(3A)(c), the Statement confirms that the modification will not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.

(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 reverts the approved serviced apartment units back to residential apartments and amends conditions to reflect the proposed changes to the masterplan to enable future modifications to UB5C that are assessed in a separate application. The likely impacts of the development relating to FSR, unit mix, and car parking have been considered in this report and are found to be acceptable.

As such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality.

(c) The suitability of the site for development.

The suitability of the site was considered as part of the assessment of the initial application. The proposed modification does not detract from the suitability of the site for the proposed development.

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

In accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was notified to surrounding property owners for a fourteen (14) day period from 11 May 2020 to 25 May 2020. Issues raised within the submissions are discussed in detail above (Section 4.56(d)).

(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 convert service apartments to residential apartments in Urban Block 5C; changes to unit numbers and mix; delete porte cochere and changes to conditions at 1 & 5 Finch Drive, 5 Oscar Place, 5 Tingwell Boulevard, 1, 2, 6 & 8 Studio Drive, 148 Bunnerong Road, 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 in allowing flexibility with the assessment being carried out in DA-2018/1003/C relating to minor changes to the approved development.

The proposed changes will have minimal impact within the site and surrounding areas. The changes respond to the current Covid-19 pandemic situation as short term accommodation (serviced apartment uses) is currently not economically or socially viable for the applicant.

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.

Therefore, the application is recommended to be approved subject to the conditions (as amended) in the attached Schedule of Consent Conditions.

Premises: 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)

DA Nos: 2014/10096/I

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
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

Drawing No.	Author	Dated
Dwg No. A008 – Ground Floor Plan – Use		Dated 23 October 2019; Received 23 October 2019 Dated 17 April 2020; Received 4 May 2020
Dwg No. A009 –Open Space and Public Domain Plan		Dated 23 October 2019; Received 23 October 2019 Dated 17 April 2020; Received 4 May 2020
Dwg No. A010 – Indicative Apartment Layout on Master Plan		Dated 13 September 2019; Received 19 September 2019 Dated 17 April 2020; Received 4 May 2020
Dwg No. A012– Typical Road Plan – Accessibility & Parking		Dated 13 September 2019; Received 19 September 2019 Dated 17 April 2020; Received 4 May 2020
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

Drawing No.	Author	Dated
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 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	PTW Architects	14 April 2015

Drawing No.	Author	Dated
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 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	PTW Architects	21 April 2015
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

Drawing No.	Author	Dated
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)
(DA-2014/10096/I)

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 excluding the private access ways for each Urban Blocks, including the creation of any easements	2(A)	Separate DA for land subdivision to be lodged concurrently with the application for the development of UB5W.	Subdivision certificates to be obtained on completion of subdivision works relevant to each block.	Dedication of land to Council upon completion of works related to each Urban Block to Council's satisfaction prior to the release of the relevant Occupation Certificate.
Civil works and servicing for the development on each Urban Block	2A(2) 2A(3) 2A(4) 2B 2C 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	N/A

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

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

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

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

(DA-14/96/06)

Table 3

Work	Stage	Requirements for works/Urban Blocks	Timing of Completion	Timing of dedication
Construction of East-West Boulevard (Lot 1) and Sydney Water infrastructure relocation; including as conditions 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	Prior to OC of final building for UB5C.

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

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

Table 4

2013 LEP Zone	Proposed Lot ^a	Urban Block ^b	Site Area sq m ^c	GFA sq m ^d	FSR ^e	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 13,095	45,306 50,306^f 50,556^f	3.84 3.86	453 515 530
B4	3	UB5 East	9,011 9,196	22,412	2.49 2.43	224 202
B4	part lot 4	part UB4	826 7,089	18,225	2.30 2.36	182 167
R3	part lot 4	part UB4	7,733			
B4	part lot 5	part UB3	999 8,435	37,011	3.92 3.92	370 368
R3	part lot 5	part UB3	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	227,287 227,537	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	227,287 227,537	N/A	2223 2221 2236

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

Notes

- Proposed lots shown on Drawing No. A014 dated ~~29/4/15~~ 21/11/17
 - Urban Blocks shown on Drawing No. A004 dated 29/4/15
 - Site area shown on ~~Plan of Subdivision of Lot 2 DP1187426~~ dated ~~28/4/15~~ Drawing No. A014 dated 21/11/17
 - 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
 - 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.
 - Maximum 5000 sq m retail space
- 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.
 - 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

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

Table 5

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

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

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)
 - a) Urban Block 1- minimum 12 metres to Heffron Road and 6-12 metres to Banks Avenue;
 - b) Urban Blocks 2- minimum 6 metres (Banks Avenue)
 - c) Urban Block 3 – minimum 6 metres- 12 metres (Banks Avenue)
 - d) Urban Block 5 West - minimum 6 metres- 12 metres (Banks Avenue)
 - e) Urban Block 4- minimum 6 metres- 12 metres (Bunnerong Road)
 - f) Urban Block 5 East - minimum 8 metres (Bunnerong Road)
 - g) Urban Blocks 5 West, 5 Central and 5 East - minimum 12 metres (Westfield Drive).
27. The corridor lengths within residential apartments shall not be as shown on Drawing A010 dated ~~29 April 2015~~ 28 October 2016, as the corridor lengths are excessive and

serve too many units. A maximum number of 10 units are to be serviced by each lift core. (DA-14/96/02)

28. Every development application for Stage 2 and future stage buildings must provide the following:
- a) 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;
 - b) 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;
 - c) 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
 - d) 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	445 493 441 549
Two bedroom	1.5	1668 1847 1,678 1,778
Three bedroom	2	1336 996 956 1,006
Residential Visitor	1 per 10 units	222 221 202 222
Car Share Spaces	22 including min 10 in basements	22
Total residential		3,693 3,597 3,299

		3,577
Other Uses	As per BBDCP 2013	

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

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 17 April 2020**. (DA-14/96/02) (DA-2014/10096/H) (**DA-2014/10096/I**)
- 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

~~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

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

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

SOLAR ACCESS AND BUILDING FORM

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

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

PUBLIC DOMAIN

39. The active street frontage facing Civic Avenue to Civic Square is to occupy a minimum of 80% of the entire ground floor northern building frontage of UB5C. (DA-14/96/02)
40. The Civic Retail Square Open Space identified in Urban Block UB5 Central UB1 shall have a minimum area of 1,000sq metres. ~~and the podium shall not extend into the Civic Retail Square open space.~~ (DA-14/96/02)
41. For the road network with the exception of the private access ways as shown on DWG No.A012 Typical Road Plan prepared by PTW dated ~~29 April 2015~~ **28 October 2016** **17 April 2020**. 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.

(DA-2014/10096/I)

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** **17 April 2020** 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.

(DA-2014/10096/I)

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** **17 April 2020** 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.

(DA-2014/10096/I)

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** **17 April 2020**, 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

- 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 measure are to be detailed in the development applications.
62. East-West Boulevard between the BATA Heavy Vehicle access point and the Banks Avenue intersection shall have a (3) tonne and over load limit restriction signage. The heavy vehicle restriction excluded construction vehicles and garbage trucks associated with the subject site
- a) East-West Boulevard shall be dedicated to Council, at no cost or expense to Council, prior to the issue of any Occupation Certificate for the final building on Urban Block 5C.
 - b) The first Stage 2 DA, being the DA for Urban Block 5C shall include the details of the public domain works for East West Boulevard. This shall include details to embellish the road reserve and the central median with landscaping, tree planting, seating, paving, cycle paths, undergrounding of power cables, and suitable street lighting.
 - c) Every future Stage 2 and later development application shall include an Acid Sulfate Soil Management Plan including an assessment of the likely effects of building in acid sulfate soils and how these will be mitigated.
 - d) In addition, monitoring plans detailing the timing and methods of acid sulfate soil monitoring during excavation (including, but not limited to monitoring of pH of soil and water) and trigger or action values shall be submitted to Council with each DA.
 - e) Upon completion of the management of acid sulfate soils and potential acid sulfate soils, a validation report shall be submitted to Council detailing the volume of potential acid sulfate soils encountered, management strategies used, results of testing indicating the presence of potential acid sulfate soils and testing results indicating that neutralisation of potential acid sulfate soils was achieved.
63. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent.
64. All services (Utility, Council, etc) within the site's frontage to Heffron Road, Banks Avenue and Bunnerong Road (including footpath) shall be relocated/ adjusted to match the proposed/existing levels alignment, at the applicant's full costs.
65. The following DCP Requirements shall be implemented in the detail design phase of the Stage 2 and each future stage of development. These sections will need to be submitted to and approved by Council:

- a) The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.)
- b) The plans shall incorporate but not be limited to the following:
 - i) The recommendations made under Section 3.2 of the Civil Development Application Report by AT&L dated July 2014,
 - ii) Minimum On-site Detention System (OSD) for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
 - 1 Urban Block 1, minimum OSD is 616m³,
 - 2 Urban Block 2, minimum OSD is 228m³,
 - 3 Urban Block 3, minimum OSD is 379m³,
 - 4 Urban Block 4, minimum OSD is 324m³,
 - 5 Urban Block 5East, minimum OSD is 506m³,
 - 6 Urban Block 5West, minimum OSD is 512m³, and
 - 7 Urban Block 5Central, minimum OSD is 404m³,
 - iii) Maximum permissible discharge for each development shall be as follows unless otherwise agreed under future Stage 2 Development Applications:
 - 1 Urban Block 1, maximum permissible discharge is 165L/s,
 - 2 Urban Block 2, maximum permissible discharge is 62L/s,
 - 3 Urban Block 3, maximum permissible discharge is 100L/s,
 - 4 Urban Block 4, maximum permissible discharge is 85L/s,
 - 5 Urban Block 5East, maximum permissible discharge is 135L/s,
 - 6 Urban Block 5West, maximum permissible discharge is 138L/s, and
 - 7 Urban Block 5Central, maximum permissible discharge is 110L/s,
- c) For each development, the On-Site Detention System (OSD) discharge outlet shall be connected to the new stormwater pit and pipe system on the new roads adjacent to each building,
- d) For each development, if underground car parking is proposed and is affected by the water table, no pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,

- e) For each development, if underground car parking is proposed and is tanked, the pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - f) For each development, if underground car parking is proposed, the pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,
 - g) For each development, if underground car parking is proposed, all site specific environmental concerns will have to be addressed,
 - h) For each development, all stormwater runoff from each development shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council drainage system. As such, details of the pollution control device shall be shown on the stormwater management plans,
 - i) For each development, the rainwater tank(s) shall be constructed in a way enabling the overflow from the Rainwater tanks to drain to the on-site detention system,
 - j) For each development, the rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the OSD system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the OSD system is equivalent to 50% of the size of the rainwater tanks,
 - k) For each development, the water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
 - l) For each development, a WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Council's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" that was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.
66. The following requirements shall be implemented in the detail design phase of the development for Stage 2 and future stages. These sections will need to be submitted to and approved by Council:
- a) Detail pavement design for the construction of East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue,
 - b) Detail verges design including kerb & gutter, footpath and any swale / rain garden treatment for East West Boulevard, North South Street 1, North South Street 2, Local Street and Civic Avenue. The footpath and kerb & gutter shall be designed in accordance with Council's Infrastructure Specifications,

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

SITE REMEDIATION

68. On the basis that remediation is Category 2, and is work that does not need development consent:

- a) Prior to the construction certificate for the relevant development for each Urban Block and including the public parks, a Site Audit Statement (Part B) is to be submitted that states that the land has been remediated in accordance with the remedial action plan (RAP) and suitable for the proposed residential and public park use. This shall also assess the site suitability for the more sensitive exposure setting of (NEPM 1999) HIL-E Parks, recreational open space and playing fields for the public park areas that are to be dedicated to council.
 - b) Remediation shall be completed by a suitably qualified and experienced environmental consultant in accordance with:
 - i) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - ii) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - iii) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
 - c) Any change to the status of the remediation will require the submission of a separate DA and RAP to Council in accordance with SEPP 55.
69. Future development stages will be integrated development and will require referral to relevant authorities and conditions will be imposed on subsequent development stages.
 70. During construction, no construction vehicles are to use to use Westfield Drive to enter or exit the site, unless there is agreement by the owner of the road, Terrace Towers P/L. There shall be no access to Westfield Drive during the operation of the development including no access from the internal road network or residential parking facilities; other than access for commercial vehicles to access the loading facilities for the retail component in Urban Block 5C.
 71. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14(96) dated as 7 August 2015 and as further amended by DA-14/96/04 received 17 July 2017 and as further amended by DA-14/96/03 dated as 2 February 2017 and as further amended by DA-14/96/06 dated as 27 September 2017 and as further amended by DA-14/96/02 dated 30 November 2016 and as further amended by DA-14/96/07 dated 22 March 2018 ~~and as further amended by DA-2014/10096/H dated 19 June 2019 and as further amended by DA-2014/10096/I dated 4 August 2020~~ 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.