

Sydney Eastern City Planning Panel

SCPP No.	2018SCL036
DA No:	DA/664/2016/A
Street Address	164-174 Barker St, RANDWICK (Corner lot A DP 330407)
Applicant	Cbus Property Sydney Residential Pty Ltd
Owner	Cbus Property Sydney Residential Pty Ltd
Number of submissions	Nil
Recommendation	Approval
Report By:	Louis Coorey

1. Executive Summary

Council is in receipt of a Section 4.55 (2) modification to development application No. 664/2016 seeking consent for modification of the approved two eight storey shop top housing buildings known as E1.1 and E1.2, located at the north eastern part of the 'Newmarket site'. The modifications seek for both buildings an increase in finished floor level at level 1 by 100mm, increase in roof plant height by 400mm, and a 1m southward extension of Level 7 southern apartments.

The original development application (DA) was approved by the Sydney Central Planning Panel on 17 August 2017, for the demolition of the existing structures, construction of the two eight storey buildings including ground level retail/commercial tenancies, 128 residential apartments, 2 basement levels of parking with 137 car spaces, an urban plaza, associated site, remediation and landscape works. The approved scheme allowed an exceedance of the height at the northern end of the buildings fronting Barker Street.

The original DA was prepared in accordance with the requirements of the Staged Development application No 88/2016 for the whole of the Newmarket Site the subject of a S34 agreement pursuant to the Land & Environment Court Act.

The Section 4.55 (2) modification is referred to the Sydney Eastern City Planning Panel for determination as it was the consent authority for the original pursuant to Schedule 4A, of the (former) Environmental Planning and Assessment Act 1979 and Part 4 of the State Environmental Planning Policy (State and Regional Development) 2011, whereby the development had a capital investment value in excess of \$20 million.

The Section 4.55 (2) modification was publicly notified to surrounding property owners and was advertised within the local newspaper with site notification attached to the subject site in accordance with the Randwick Comprehensive Development Control Plan 2013 (RDCP). No submissions were received in response to the public exhibition.

The key issues associated with the proposal relate to the increase in overall height above the staged DA approval (DA/88/2016), and the southward extension of the level 7 apartments within both buildings encroaching beyond the envelope approved in the Staged DA approval.

The modifications to height of the buildings is driven by the installation requirements for the centralised heat recovery VRF system as opposed to the individual multi-head split units within the buildings. The benefits of the VRF system are that it has greater energy efficiency requiring less plant space on the roof, allows for simultaneous heat and cooling suitable for the northern orientation of the development and requires smaller footprint on the roof which allows for more space for photovoltaic cells on the roof.

The modification for a 1m extension of level 7 southern apartments is to improve the amenity of the two apartments at the southern end of each building providing an additional 16sqm to building E1.1 and 15sqm to building E1.2.

The subject site has an approximately site area of 1.87ha. The total gross floor area approved under DA/664/2016 was 12,168m², which equates to 0.65:1. The modification proposes to increase the total approved GFA of Lot E1 by 31m² to 12,199m², which would result in minor increase in the FSR to 0.652:1. Notwithstanding, the proposal remain compliance with the allowable FSR of 1.3:1 for the entire Newmarket site.

While the additional floor area sought will not be contained within the building envelopes approved as part of the Staged DA approval (DA/88/2016). This modification is supported as there will only be minor impacts.

The application was referred to Council's Design Excellence Panel (DEP). The proposed modifications are generally considered to have minimal impact on the aesthetics or amenity of the development.

The application was also referred to Council's Heritage Planner given proximity to the adjacent heritage item to the south identified as the Newmarket Sale's Ring. Council's Heritage Planner raises no objection to the increased height and has stated that there will be a neutral impact on the nearby heritage items and heritage conservation area.

The application was also referred to Sydney Airport who did not raise any concerns and have issued amended maximum heights for the proposed development.

The approved development will remain substantially the same development as a result of the proposed modifications in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended). The proposed increase in height will achieve a more sustainable development. The proposed floor area results will improve the amenity for occupants with minimal impacts on adjacent properties.

Therefore, the application to increase the height and reduce the floor to ceiling height at level 1 are supported and recommended for approval.

2. Site Description and Locality

The whole of the subject site known as the 'Newmarket Site' includes a number of allotments comprising the following addresses and respective lot and DP numbers including:

Address:	Lot and DP number
164-174 Barker Street, Randwick	Corner Lot A, DP 330407 Newmarket Stable
158-162 Barker Street, Randwick	Corner Lot 1, DP 1041725 Pt Stable 2
156 Barker Street, Randwick	Lot 4 DP 165055
152-154 Barker Street, Randwick	Lot 1 DP 81877 & Lot 4 DP 1039981
150 Barker Street, Randwick	Lot 1, DP 932027
1 Jane Street, Randwick	Lot B DP 344447
18 Jane Street, Randwick	Lot 1 DP 85107
21 Jane Street, Randwick	Lot B DP 312682
181 Botany Street, Randwick	Lot 3 DP 1102370
8-12 Young Street, Randwick	Lot 1 DP 87614
14-20 Young Street	Corner Lot 3 DP 1041725
28 Young Street, Randwick	Part Lot 1 DP 541576
30 Young Street, Randwick	Part Lot 1 DP 541576
32-42 Young Street, Randwick	Lot 1 DP 1102864

The 'Newmarket Site' has a total site area of 5.063 ha bound by roads including Barker, Young, Middle, Jane Botany and Meeks Street. Topographically the site falls approximately 1 metre from west to east along the Barker Street frontage, 3 metres from north to south along the eastern end and is relatively flat from east to west along the southern end of the site. The existing improvements on the site comprise of a

commercial animal boarding/training establishment and other ancillary structures associated with horse stabling varying in the number of storeys.

The subject DA is situated on Lot E1 at the northern end of the eastern precinct (shown in aerial image below), at 164-174 Barker Street, Randwick. It is legally known as Lot A DP330407. Lot E1 has an approximate area of 4,354m². The site has a frontage of 74.3m to Barker Street and 50.95m to Young Street. The site is currently a construction site.



Figure 1: E1 Site & surrounds (Source: Urbis SEE)

The immediate context of the subject site, to the north on the opposite side of Barker Street is the Neuroscience Research Australia buildings which have a maximum height of 31.2m and located within the Prince of Wales Hospital Precinct. To the east, Lot E1 adjoins Randwick Girls High School to the east, to the south the future public park and heritage listed sales ring, and to the west separated by Young Street is the northern precinct of the Newmarket Site.

3. Relevant History

Staged Development application No 88/2016 was the subject of a S34 agreement pursuant to the Land & Environment Court Act. The approved Concept Plan provided for a mixed use development on the subject site comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation
- Road infrastructure and public domain conceptual layout
- Subdivision into 9 development lots and one public open space lots
- Four new public streets intersecting from Young, Jane and Botany Street
- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) that will guide the form and character of buildings to be erected on the site

- 19 buildings which range from 2 to 8 storeys with an indicative number of 650-750 residential dwellings, retail and commercial uses including an urban plaza.
- Provision of parking at the basement level in addition to on-street parking across the site
- Adaptive re-use of the Newmarket House and the Big Stable Building
- Site remediation and earthworks

The proposal also includes a new 5,000sqm public park within the eastern precinct which is consistent in its location with Section 3.4: Open Space Network and Landscaping of the Newmarket Green DCP. The roads would also be dedicated to Council as part of the subdivision.

The approved scheme allowed an exceedance of the height at the northern end of the site in providing for part 8 storey to the buildings fronting Barker St and included a draft voluntary planning agreement which also provides a 1.5% contribution of affordable housing and the transfer of the Big Stable and its curtilage to Council. The following figure indicates the approved buildings envelopes and the urban structure associated with the Concept Plan approval.

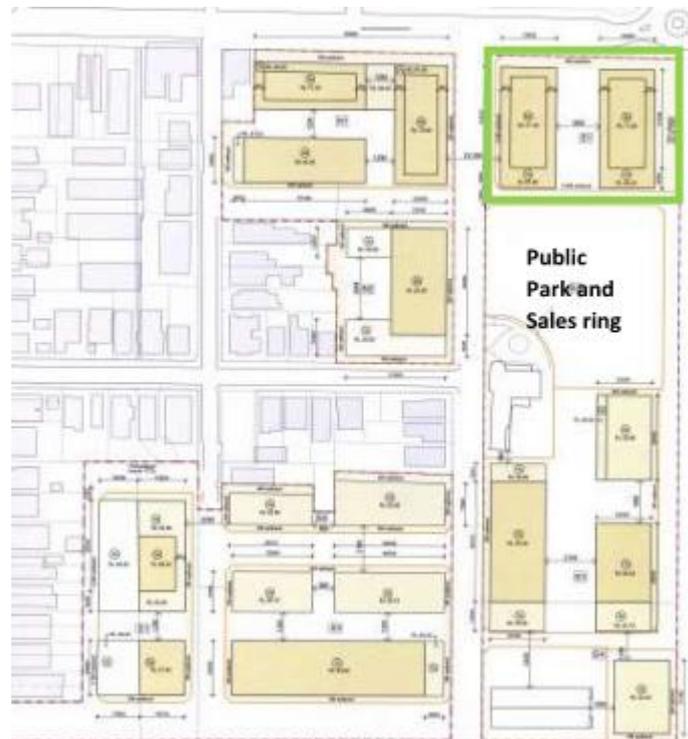


Figure 2: Approved building envelope plan

DA consents have been issued for the southern precinct under DA/88/2017. It is noted that a reduced envelope was approved over part of the southern precinct accounting for the compliant FSR identified as part of this S4.55 application.

4. The Proposed Development

The proposed modifications include the following:

Level 1:

Increase in finished floor level at level 1 by 100mm reducing the floor to ceiling height from 3.1m down to 3m.

Roof:

Increase in roof plant height of 400mm from approved RL of building E1.1 from RL71.40 to RL71.80 and building E1.2 from RL71.85 to RL72.25.

Level 7:

1m southward extension of Level 7 southern apartments. Apartment 704 in building E1.1 increases in size by 16sqm from 119sqm to 135sqm and Apartment 704 in building E1.2 increases by 15sqm from 116sqm to 131sqm.

5. Notification/ Advertising

The subject development was advertised/notified to surrounding landowners for a period of 14 days in accordance with the RDCP. As a result no submission was received.

6. Technical Advice: Internal and External

6.3 Heritage Planner

The following advice is provided by Council's Heritage Planner:

Comment:

The proposed increase in roof plant height of 400mm from approved RL71.40 to RL71.80 on building E1.1, and RL71.85 to RL72.25 for building E1.2 would not be significantly visible from the Struggletown Conservation Area as the additional bulk would be located centrally within the roof form, and setback substantially from the external building wall lines.

The extension of floor area for Level 7 apartments at the southern end of buildings E1.1 and E1.2 would result in additional bulk at the top floor level. The additions encroach on the approved envelope as part of the Staged DA and its southern setback at the top level. The additions would result in an increase in the perceived height and scale of the building, and would be visible from longer views experienced from the Struggletown Conservation Area, as well as from heritage items on the opposite side of Young Street to the west.

However, although the proposal would result in additional visual bulk to the upper floor level, the extension would not significantly affect the aesthetic, social or historic significance of the site's heritage items (Newmarket House and Newmarket Sale Ring) located within the southern portion of the site, or their setting. In addition, the proposal would not affect significant view corridors created from Barker Street towards the sites heritage items, and the additional visual bulk would have a neutral impact on the aesthetic significance and character of the Struggletown Conservation Area.

As such, there are no heritage objections to the proposed development. The proposal would have a neutral impact on the significance of nearby heritage items and heritage conservation area.

6.8 Design Excellence Panel – SEPP 65 Design Quality of Residential Apartment Development

The following advice is provided by Council's Design Excellence Panel:

"Briefing Matter - 2018SCL036 -Randwick - DA/664/2016/A

- Floor Levels - no objection on a design excellence basis. ADG requirements will continue to be met with the proposed changes.*
- FSR Increase in Floor Area - no objection from a design excellence point of view. Shadow diagrams provided indicate little discernible impacts of the additional floor space. The proposal will still remain within the allowable 1.3:1 for the overall Newmarket Site.*

- *Height of Buildings - no objection from a design excellence point of view. Shadow diagrams provided indicate little discernible impacts of the additional height.*

In looking at the shadow diagrams and comparing between the red line and the grey area, I really can't see any real impact of the requested changes. The aesthetics and amenity of the projects are also not really affected. The report notes that all ADG requirements will continue to be met."

6.4 Sydney Airport Corporation Limited

The following advice is provided by Sydney Airport Corporation Limited:

Proposed Activity: PROPERTY DEVELOPMENT

Location: 150-174 BARKER STREET, RANDWICK

Proponent: URBIS

Date: 04/03/2016

Sydney Airport received the above application from you.

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to the following maximum heights:

*Building E1 - 72.25m AHD
 Building E3 - 66.35m AHD
 Building N1 - 71.35m AHD
 Building N2 - 63.55m AHD
 Building S1 - 59.00m AHD
 Building S2 - 52.80m AHD
 Building S3 - 67.65m AHD*

In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to maximum heights as detailed above.

Should you wish to exceed these heights, a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

Information required by Sydney Airport prior to any approval is set out in Attachment A.

"Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1))."

The height of the prescribed airspace at this location is 80 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones.

Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

Comment: Building E1 remains below the Obstacle Limitation Surface - 80m above AHD. Condition 29 of the DA consent is amended accordingly.

7. Relevant Environmental Planning Instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
- Randwick Local Environmental Plan 2012

7.1 State Environmental Planning Policy (State and Regional Development) 2011

The provisions of the SEPP (State and Regional Development) 2011 apply to the proposed development as the consent authority for the subject Section 4.55 modification to DA/664/2016 is the Sydney Eastern City Planning Panel given the original DA was classified as 'regional development' in accordance with the requirements of the SEPP and Part 2, Division 2.4 of the Environmental Planning and Assessment Act 1979 (as amended).

8.2 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. Council's Environmental Health Officers have reviewed the original development application and the site has been assessed as suitable for its intended purpose.

8.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves the modification to a residential flat building being 3 storeys and more in height. The proposal has been considered by Council's Design Excellence Panel, who did not raise any concerns with the proposed modifications (the Panel's comments are included in Section 6). The original DA was assessed in

accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide (ADG) against the design criteria requirements.

As a result of the proposed modifications, the approved development will remain compliant with SEPP No. 65 and the ADG. The subject Section 4.55 modification does not warrant a new assessment other than for the changes that relate to relevant ADG criteria as provided below.

Clause	Requirement	Proposal	Compliance								
Part 3: Siting the Development											
3B-2	Orientation										
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	<p>The proposed internal modifications to apartments 704 in buildings E1.1 and E1.2 will not result in reduced solar access to living areas.</p> <p>The Level 1 increased floor level will retain floor to ceiling height of 3m which is well above the 2.7m minimum required for habitable spaces ensuring sufficient solar access.</p>	Complies.								
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	The proposed 1m southward extension to the level 7 apartments results in minimal additional impact.	Complies								
Part 4: Designing the Building											
4C	Ceiling Heights										
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="327 1547 762 2067"> <thead> <tr> <th colspan="2">Minimum Ceiling height for apartment and mixed use buildings</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area</td> </tr> </tbody> </table>	Minimum Ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area	<p><u>Residential</u> The apartments will achieve the minimum floor to ceiling height of 2.7 metres</p> <p><u>Commercial:</u> 3.0 m to 3.6m</p>	<p>Does not comply.</p> <p>The floor to ceiling height for level 1 will be below the 3.3m control. See comment below.</p>
Minimum Ceiling height for apartment and mixed use buildings											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area										

Clause	Requirement	Proposal	Compliance										
	<table border="1"> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use.</td> </tr> </table> <p>These minimums do not preclude higher ceilings if desired.</p>	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.								
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope												
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.												
<p>Assessment comments:</p> <p>The proposed first floor levels will be 100mm lower than the 3.1m originally approved. The proposed level 1 floor to ceiling heights satisfy the design guidance for the following reasons:</p> <ul style="list-style-type: none"> • The reduction of level 1 floor to ceiling height is partially offset by an increase in ground level floor to ceiling heights. • The level 1 floor to ceiling heights are substantially higher than the 2.7m minimum required for the habitable uses. Therefore, the amenity of units is not in question. • The 3m floor to ceiling heights continue to allow ongoing flexibility of building use should there be a demand for first floor commercial in the future. • The floor to ceiling heights at ground and level 1 are higher than the levels above and will continue to maintain the sense of space from street level. 													
4D	<p>Apartment Size and Layout</p> <p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each requiring 95sqm for apartment 704 in each building. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3bedroom	90m ²	<p>E1.1: Apartment 704 increases by 16sqm from 119sqm to 135sqm. E1.2: Apartment 704 increases by 15sqm from 116sqm to 131sqm.</p>	Complies.
Apartment Type	Minimum Internal Area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3bedroom	90m ²												
	In open plan layouts (where the living, dining and kitchen are combined) the maximum		Complies.										

Clause	Requirement	Proposal	Compliance															
	habitable room depth is 8m from a window																	
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9m2 (excluding wardrobe space)		Complies															
4E	Private open space and balconies																	
	All apartments are required to have primary balconies as follows: <table border="1" data-bbox="327 584 778 918"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio Apt.</td> <td>4m2</td> <td>-</td> </tr> <tr> <td>1 bed Apt.</td> <td>8m2</td> <td>2m</td> </tr> <tr> <td>2 bed Apt.</td> <td>10m2</td> <td>2m</td> </tr> <tr> <td>3+ bed Apt.</td> <td>12m2</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio Apt.	4m2	-	1 bed Apt.	8m2	2m	2 bed Apt.	10m2	2m	3+ bed Apt.	12m2	2.4m	E1.1: 202sqm reduced down to 187sqm E1.2: 144sqm reduced down to 133sqm.	Complies.
Dwelling Type	Minimum Area	Minimum Depth																
Studio Apt.	4m2	-																
1 bed Apt.	8m2	2m																
2 bed Apt.	10m2	2m																
3+ bed Apt.	12m2	2.4m																

8.4 State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

SEPP: BASIX applies to the proposed development. A revised BASIX Certificate was submitted with the subject application demonstrating compliance with water, thermal comfort and energy targets and the modified development is conditioned to ensure compliance with the SEPP: BASIX subject to deletion of the increase in size of apartment 704 in each building.

8.5 Randwick Local Environmental Plan 2012:

The subject site is zoned B1 Neighbourhood Centre under the Randwick Local Environmental Plan 2012 (RLEP). The proposed modifications are ancillary to the approved and shop top housing permissible in the zone with Council's consent.

The proposed modifications associated with the encroachment above the staged DA approval and the reduction of the level 1 floor to ceiling height will continue to promote the aims of the RLEP in relation to the aesthetic character, sustainability, environmental qualities and social amenity of the locality. The proposed southward extension of 1m to the Level 7 southern apartments however is not considered to promote the aims of the RLEP or the following objectives of the B1 Neighbourhood Centre zone:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To enable residential development that is well-integrated with, and supports the primary business function of the zone.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*

Built form:

The built form for both multi storey buildings have a reduced footprint for the top level providing setbacks from the levels below. The proposed 1m southward extension on building E1.2 extends vertically from the levels below. However, the additional wall along the eastern elevation only creates minor perceptible mass.

The modifications to height of the buildings is driven by the installation requirements for the centralised heat recovery system as opposed to the individual multi-head split units within the buildings. The proposed height increase for Building E1.1 is from RL71.40 to RL71.80 and for building E1.2 from RL71.85 to RL72.25. The benefits of the proposed near recovery system are that it has greater energy efficiency requiring less plant space on the roof, allows for simultaneous heat and cooling suitable for the northern orientation of the development and requires smaller footprint on the roof which allows for more space for photovoltaic cells on the roof.

8.5.1 Special provision—land at Young Street Randwick

- (1) *This clause applies to land at Young Street, Randwick, shown as Area 1 on the [Key Sites Map](#).*
- (2) *Despite clause 4.5 (3), but subject to the other provisions of clause 4.5, the land to which this clause applies is taken to be a single site area for the purposes of applying a floor space ratio.*
- (3) *The consent authority may approve development with a floor space ratio of up to 1.3:1 on the land to which this clause applies but only if the consent authority is satisfied that:*
 - (a) *a part of the land will be used for recreational purposes, and*
 - (b) *that part will be contiguous and will have an area of at least 5,000m², and*
 - (c) *the configuration and location of that part will be appropriate for those recreational purposes.*

The original approval provided the public reserve in accordance with the above criteria.

In terms of the GFA, the proposed modification will add a total of 31m² of GFA and result in minor increase in the FSR to 0.652:1. The proposed additional GFA will result in minor increase to the GFA for the overall site and will remain compliance with the maximum FSR of 1.3:1 applicable to the entire Newmarket site.

8.6 Policy Controls

The following policy controls apply in the assessment of the proposed development and are elaborated upon in the section below:

- **Randwick Comprehensive Development Control Plan 2013**

This RDCP provides guidance for development applications to supplement the provisions of the RLEP. Whilst the RLEP provisions for height of buildings and floor space ratio are not applicable due to the approval for the development, there are General Controls in part B of the RDCP that remain relevant to the application, providing guidance in achieving a good planning outcome.

The relevant general controls include: Part B1 Design, B2 Heritage, B3 Ecologically sustainable Development, B6 Recycling and waste management. In relation to the considerations that remain in the RDCP that are relevant to the subject modifications, these are largely assessed as acceptable and where necessary have been the subject of

technical officers' comments and conditions recommended for inclusion in the determination.

- **Randwick City Council Development Contributions Plan.**

A suitable condition is already included as part of the approved development consent requiring the payment of a section 7.12 contribution in accordance with the requirements of Council's plan.

9. Environmental Assessment

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument	Refer to the "Environmental Planning Instruments" section of this report for details.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Refer to the "Policy Control" section of this report for details. The proposal satisfies the objectives and development standards of the RDCP.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the <i>Environmental Planning and Assessment Regulation 2000</i> have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in the body of this report. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The subject site is suitable for the proposed modifications, which are as assessed and conditioned ancillary to an approved development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions have been received.
Section 4.15(1)(e) – The public interest	The proposal as conditioned will not result in any unreasonable or unacceptable ecological, social or economic impacts on the locality. Therefore, the development is considered to be in the public interest.

9.1 Section 4.55 Assessment

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, the Consent Authority may only agree to a modification of an existing Development Consent if the following criteria has been complied with:-

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

- b) it has consulted with any relevant public authorities or approval bodies, and
- c) it has notified the application & considered any submissions made concerning the proposed modification

1. Substantially the Same Development

The numeric changes to the proposed development are minor being a 400mm height increase for buildings E1.1 and E1.2 plus 31m² of additional floor area. Qualitatively, there will be minimal alteration to the aesthetics appearance of the buildings and the development has minimal impact on surrounding sites.

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development, and is therefore considered to be substantially the same development.

2. Consultation with Other Approval Bodies or Public Authorities

The development is not integrated development or development where the concurrence of another public authority is required.

3. Notification and Consideration of Submissions:

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the RDCP. No submissions were received as a result of the notification process.

10. Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design.

Direction 4a: Improved design and sustainability across all development.

11. Conclusion:

That the Section 4.55 (2) modification to DA/664/2016 seeking consent for an increase in finished floor level at level 1 by 100mm, and increase in roof plant height of 400mm, within Lot E1 of the Newmarket Site located at 164-174 Barker St, RANDWICK, be approved (subject to new and modified conditions) for the following reasons:

- The proposal satisfies the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.
- The proposal remains substantially the same development in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended.
- The proposal remains compliant with the requirements of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.
- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal will not result in adverse amenity impacts to surrounding residential and non-residential land uses.

12. Recommendation

That the Sydney Central Regional Planning Panel, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/664/2016 for an increase in finished floor level at level 1 by 100mm, and increase in roof plant height of 400mm within Lot E1 of the Newmarket Site located at 164-174 Barker St, RANDWICK, subject to the following new and modified conditions:

- **Amend Condition 1 to read:**

Approved Plans & Supporting Documentation

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
DA.E1.08.003 Rev C - Section CC	BATESSMART	26.05.2017
DA.E1.08.002 Rev C - Section BB -	BATESSMART	26.05.2017
DA.E1.08.001 Rev C - Section AA	BATESSMART	26.05.2017
DA.E1.07.010 Rev C - Streetscape Elevations	BATESSMART	26.05.2017
DA.E1.07.003 Rev C - Retail Plaza Elevations	BATESSMART	26.05.2017
DA.E1.07.002 Rev C - East & South Elevations	BATESSMART	26.05.2017
DA.E1.07.001 Rev C - North & West Elevations	BATESSMART	26.05.2017
DA.E1.06.002 Rev C - Area Calculation Plans Sheet 2	BATESSMART	26.05.2017
DA.E1.06.001 Rev C - Area Calculation Plans Sheet 1	BATESSMART	26.05.2017
DA.E1.05.003 Rev C - Unit Type Plans Sheet 3	BATESSMART	26.05.2017
DA.E1.05.002 Rev C - Unit Type Plans Sheet 2	BATESSMART	26.05.2017
DA.E1.05.001 Rev C - Unit Type Plans Sheet 1	BATESSMART	26.05.2017
DA.E1.02.108 Rev C - Roof Plan	BATESSMART	26.05.2017
DA.E1.02.107 Rev C -Level 7	BATESSMART	26.05.2017
DA.E1.02.102 Rev C - Typical Level 2-6	BATESSMART	26.05.2017
DA.E1.02.101 Rev C - Level 1	BATESSMART	26.05.2017
DA.E1.02.100 Rev C - Ground Level	BATESSMART	26.05.2017
DA.E1.02.002 Rev C - Basement B02	BATESSMART	26.05.2017
DA.E1.02.001 Rev C - Basement B01	BATESSMART	26.05.2017
DA.E1.01.002 Rev C - Existing Conditions, Demolition & Site Analysis Plan	BATESSMART	26.05.2017
DA.E1.01.001 Rev C - Site Plan	BATESSMART	26.05.2017
BASIX Certificate number: 756170M_03		02.06.2017

EXCEPT where amended by:

- **Council in red on the approved plans; and/or**
- **Other conditions of this consent; and/or**
- **the following Section 4.55 plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 plans and detailed in the Section 4.55 application:**

Plan	Drawn by	Dated
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DA.E1.08.003 Rev D - Section CC	BATESSMART	30.10.17
DA.E1.08.002 Rev E - Section BB -	BATESSMART	30.10.17
DA.E1.08.001 Rev E - Section AA	BATESSMART	30.10.17
DA.E1.07.010 Rev D - Streetscape Elevations	BATESSMART	30.10.17
DA.E1.07.003 Rev E - Retail Plaza Elevations	BATESSMART	30.10.17
DA.E1.07.002 Rev E - East & South Elevations	BATESSMART	30.10.17
DA.E1.07.001 Rev E - North & West Elevations	BATESSMART	30.10.17
DA.E1.02.108 Rev D - Roof Plan	BATESSMART	30.10.17
DA.E1.02.107 Rev D -Level 7	BATESSMART	30.10.17

Amend Condition 18 to read:

Airport (Protection of Airspace) Regulations 1996

18. The maximum height of the proposed buildings, is granted as denoted in the Sydney Airport Corporation Limited letter to Council dated 20 April 2018 (Reg No: 16/0214a). Should these heights be exceeded, a new application may be required to be submitted unless written consent is obtained to exceed these heights.

SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Information requirements are contained in the letter identified above.

Details demonstrating compliance shall be incorporated in the Construction Certificate drawings to the satisfaction of the Certifier.