

JOINT REGIONAL PLANNING PANEL
(Sydney East Region)

JRPP No	2014SYE036
DA Number	DA 14/40
Local Government Area	City of Botany Bay
Proposed Development	<p>Integrated Development Application for the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner:</p> <ul style="list-style-type: none"> • Demolition of all structures on site. • Site excavation and remediation. • Construction of three residential flat buildings as follows: <ul style="list-style-type: none"> • Three (3) storey building containing 9 townhouses. • Four (4) storey building containing 29 units. • Part three (3) and six (6) storey building containing 51 units. • Total of 89 units. • Total floor space ratio of 1.5:1 and a maximum building height of 20 metres. • Two basement parking levels to accommodate 162 vehicles.
Street Address	15-19 Edgehill Avenue, Botany
Lot & DP Nos.	Lot 1 DP 1047383
Applicant	National Project Consultants Pty Ltd
Capital Investment Value (CIV)	\$33,808,000
Number of Submissions	<p>First notification – 15 individual submissions and one petition letter with 427 signatures</p> <p>Second Notification – 5 individual submissions and one petition letter with 126 signatures</p>
Recommendation	Approval subject to conditions
Report by	Thomas Copping, Senior Development Assessment Planner

EXECUTIVE SUMMARY

The application seeks the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of three residential flat buildings as follows:
 - Three (3) storey building containing 9 townhouses.
 - Four (4) storey building containing 29 units.
 - Part three (3) and six (6) storey building containing 51 units.
 - Total of 89 units.
- Total floor space ratio of 1.5:1 and a maximum building height of 20 metres.
- Two basement parking levels to accommodate 162 vehicles.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal exceeds \$20 million.

The Development Application is Integrated Development, pursuant to Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from the NSW Office of Water. In a letter dated 3 April 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development.

The site is zoned R3 Medium Density Residential pursuant to the Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The proposal falls within the definition of “residential flat building” and is therefore permissible in this zone with development consent.

The total area of the subject site is 5,937m² and the proposal is submitted under the bonus provisions of Clause 4.3(2A) and Clause 4.4(2A) of the BBLEP 2013 relating to maximum floor space ratio (FSR) and height, which apply to development sites that are zoned R3 Medium Density Residential and have over 2,000m² in site area. Clause 4.4(2A) and Clause 4.3(2A) allow a FSR of 1.5:1 and a height of 22 metres. The proposal development has an FSR of 1.5:1 and a height of 20 metres (including lift overruns), and therefore complies with the BBLEP 2013 provisions.

The application has been assessed against the provisions and objectives of SEPP 65, BBLEP 2013 and BBDCP 2013. The proposal complies with the maximum height, FSR, setbacks, building separation, private open space, solar access, car parking, unit sizes, cross ventilation and provision of deep soil. While the proposal has non-compliances with communal open space, site coverage, landscaping, unit mix and building depth, these departures are addressed in the assessment and on balance are considered to be reasonable in the circumstances.

The proposed development will result in significant public works and improvements to beautify Edgehill Avenue including new street tree planting, landscaping, footpath, road asphalt, lighting, and undergrounding of services such as power lines. The developer will also be required to construct street calming devices and provide a stormwater easement to relieve residents that are currently affected by flooding on Edgehill Avenue.

The proposed townhouses fronting Edgehill Avenue and the West Block building result in satisfactory height transitions to lower scale buildings. The major issue of contention raised in the assessment relate to the bulk and scale of proposed East Block building and its integration with the character of the streetscape and surrounding locality.

In response to these issues, significant amendments have been made to the design originally presented to the DRP including the implementation of a 2 to 3 storey podium as per the specific recommendation of the DRP along with further amendments to increase the upper level setbacks to create a building form that 'steps up' from the street and hides taller elements that are set back behind the podium level. The design currently before the Panel is considered to have largely resolved the crucial issues relating to the building interface with lower scale development and streetscape presentation/character.

The proposal achieves the anticipated density and development outcome for the site granted by the bonus provisions for height and FSR under the BBLEP 2013 and generally responds to the desired future character of the locality as per the character precinct objectives contained within Part 8 of the BBDCP 2013. The proposal in its amended form is recommended to the JRPP for consideration and approval, subject to conditions.

BACKGROUND

On 18 July 2013 a preliminary proposal for a single 7 storey residential flat building for the subject site was presented to and reviewed by the Design Review Panel (DRP). The DRP raised concerns in regards to visual dominance of the development resulting from the bulk and scale of the building, integration streetscape character and the interface with residences on Edgehill Avenue and the adjoining nursing home. The indicated that the proposed design would not be supported however a specific recommendation was made by the Panel for the implementation of a 2 to 3 storey podium with taller building elements set back from the street behind the main facade.

The design was subsequently amended and presented to Council during pre-DA discussion. The design incorporated townhouses along the site frontage and two residential flat buildings comprising a 7 storey building with a 3 storey podium to the street (East Block) and a 4 storey building (West Block). Concerns were raised by Council in regards to the height of the 7 storey East Block building and in response the design was further amended to reduce the height of East Block to 6 storeys.

On 6 March 2014 Council received Development Application No. 14/40, which initially sought consent for the construction of a residential flat building at 15-19 Edgehill Avenue Botany in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of three residential flat buildings as follows:
 - Three (3) storey building containing 9 townhouses
 - Four (4) storey building containing 32 units
 - Part three (3) storey and part six (6) storey building containing 52 units
 - Total of 93 units
- Total Floor Space Ratio of 1.5:1 and a maximum building height of 20 metres.
- Two basement levels of car parking to accommodate 171 vehicles.

The development application was first advertised and notified to nearby residents in accordance with Council's Notifications Policy from 7 April 2014 to 12 May 2014. In response to the notification period, Council received fifteen (15) individual submissions and a petition containing four hundred and twenty seven (427) signatures objecting to the proposal. The issues raised by the submissions relate to the height, bulk and scale of the building, character of the street, view loss, traffic, car parking and flooding.

An objection letter was received from the NSW Family and Community Services which raised concerns in relation to the building separation to any future development of the adjoining nursing home at No. 31-33 Edgehill Avenue. The issues raised by the submissions are addressed in detail by the assessment.

In a letter to the Applicant dated 28 July 2014, Council raised issues in regards to the bulk and scale of the proposed East Block Building, building interface with Edgehill Avenue and integration with adjoining lower scale development. Comments were also provided in relation to the height transition to West Block and overshadowing impacts to the existing residential flat building to the south.

On 18 August 2014, the Applicant submitted revised plans incorporating the following amendments:

- Increased upper level setbacks to East Block to create a 'stepped' built form incorporating a 2 storey podium, Level 3 set back from the street by 6 metres, Levels 4 and 5 by 12 metres and Level 6 by 15 metres to form rooftop terrace apartments.
- Alterations to the East Block facade and internal reconfiguration to create two storey street front apartments and replicate the modulated townhouse style facade across the site frontage.
- Increase upper level setbacks to West Block to reduce the 4th storey and create rooftop terrace apartments on Level 4, size reductions to balconies and vertical blade walls to reduce building bulk and to accentuate the height transition to adjoining dwellings.
- Deletion of 4 apartments to accommodate the additional setbacks and associated reduction in the total number of car parking spaces.

On 12 September 2014, the Applicant submitted further revised plans incorporating the following amendments:

- Further changes to East Block Level 6 to incorporate an upper level 9 metre side setback to the adjoining nursing home.
- Further setbacks and light wells created to the southern end of East and West Block to increase solar penetration to north facing apartments belonging to the residential flat building to the south at No. 25 Chelmsford Ave.
- Revised Statement of Environmental Effects addressing the amended design and with further consideration of the LEP objectives for FSR and Height.

As a result of the amendments to the proposal dated 18 August 2014 and 12 September 2014, the proposed development (as amended) seeks the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of three residential flat buildings as follows:
 - Three (3) storey building containing 9 townhouses.
 - Four (4) storey building containing 29 units.

- Part three (3) and six (6) storey building containing 51 units.
- Total of 89 units.
- Total floor space ratio of 1.5:1 and a maximum building height of 20 metres.
- Two basement parking levels to accommodate 162 vehicles.

The amended proposed has been renotified to nearby residents and the previous objectors for a period of thirty (30) days from 24 September to 25 October 2014. In response to the second notification Council received 5 individual submissions and a petition letter with 126 signatures. A further submission was received from NSW Family and Community Services reiterating their previous concerns relating to building separation. In addition to the public notification a Residents Consultation Meeting was held on 11 November 2014.

On 10 September 2014, South Sydney Juniors Rugby League Club Ltd lodged Class 1 proceedings in the Land and Environment Court (No: 10719 of 2014) against the deemed refusal of the application. The Call-over was 8 October 2014 and the Section 34 Conference is scheduled for 27 November 2014.

Description of the Site and Surrounding Development

The subject site is located on the southern side of Edgehill Avenue and is known as 15-19 Edgehill Avenue Botany. The legal description of the land is Lot 1 in DP 1047383. The site is irregular in shape with a frontage of 102.73 metres to Edgehill Avenue and a total site area of 5,937m².

The subject site is zoned R3 Medium Density Residential pursuant to the zoning map accompanying the Land Use Table of the Botany Bay LEP 2013 gazetted on 21 June 2013.

The site is currently occupied by the South Sydney Juniors Bowling Club which includes the main building, bowling greens, equipment shed, single storey office building and at grade car parking area.

The site is generally flat which appears to be from the filling of the site carried out for the construction of the bowling greens. The levels of the site are approximately 900mm above the street level at Edgehill Avenue with the exception of the northwest corner of the site which falls towards Edgehill Avenue and the south west corner of the site which falls to the west towards Chelmsford Avenue. The fill is contained by an existing retaining wall along the frontage of the site to Edgehill Avenue.

The subject site benefits from an existing Right of Carriageway and drainage easement over No. 25 Chelmsford Avenue, to the southwest, which provides vehicular access from Chelmsford Avenue to the subject site and the adjoining residential flat building at No. 25 Chelmsford Avenue.

Surrounding development within the vicinity of the subject site is described as follows:

- To the north, directly opposite the site are single and two storey dwellings.
- To the east is a two storey nursing home known as Sir Joseph Banks Nursing Home (No. 31-33 Edgehill Avenue).
- To the south and south west is a three storey residential flat building and multi-unit terrace housing fronting Chelmsford Avenue (No. 25 Chelmsford Avenue).
- To the west are single and two storey dwellings fronting Chelmsford Avenue.

- 50 metres to the east of the subject site is a large allotment of land occupied by two to three storey multi-unit dwellings owned by NSW Housing.
- 150 metres to the east of the subject site are four storey walk up flats (Hayden Place – 52 Edgehill Avenue)
- 70 metres to the West along Chelmsford Avenue are a mix of single and two storey dwellings including a four storey walk up flat (24 Chelmsford Avenue).
- 80 metres to the West fronting The Esplanade is a five storey residential flat building, currently under construction and nearing completion (15-18 The Esplanade).
- 100 metres to the West on the corner of the Esplanade and Folkestone Parade is a 4 storey residential flat building and multi-unit terraces (32-36 The Esplanade).

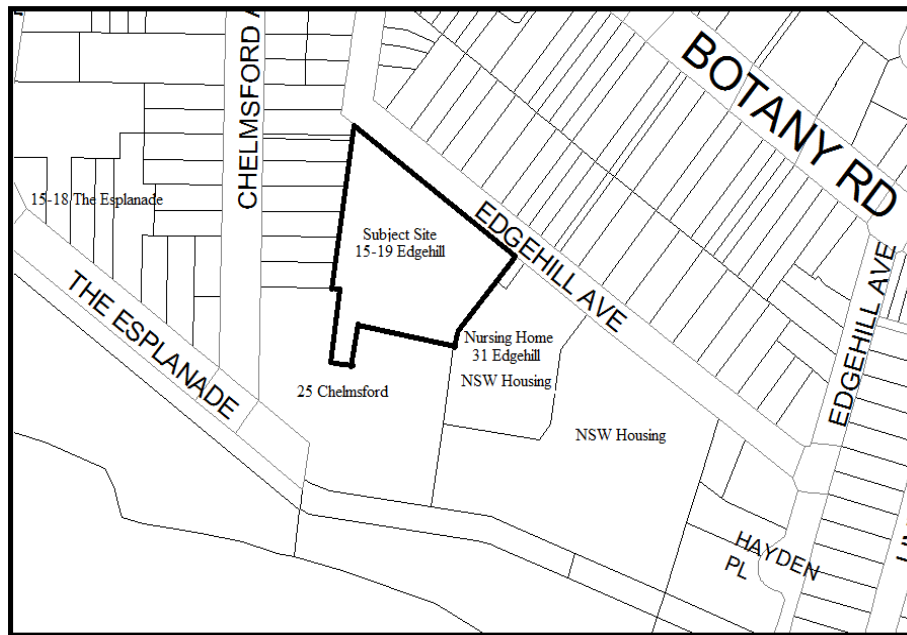


Figure 1 – Location Plan



Figure 2 – Aerial photo of subject site and surrounding locality

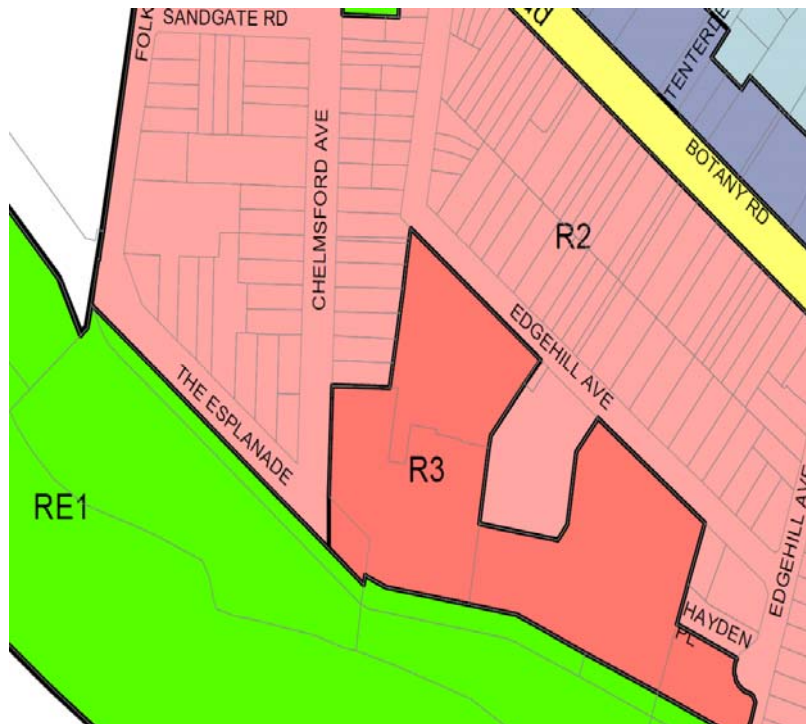


Figure 3 - Land Zoning Map (BBLEP 2013)





Photo 1 – Views of subject site with Sir Joseph Banks Nursing Home, the new four storey flat building at No. 15-18 The Esplanade, and three storey flat building at No. 25 Chelmsford Avenue visible in the background



Photo 2 – Single and two storey dwelling on Edgehill Avenue directly opposite the subject site



Photo 3 –Adjoining two storey Sir Joseph Banks Nursing Home at No. 31-33 Edgehill Avenue



Photo 4 – Two to Three storey flats and multi-dwelling housing owned by NSW Housing at No. 35 Edgehill Avenue



Photo 5 – Four storey flat building at No. 52 Edgehill Avenue



Photo 6 - Four story flat buildings at Hayden place



Photo 7 – Four storey flat building at No. 23 Chelmsford Avenue



Photo 8 – Flat building under construction at No. 15-18 The Esplanade



Photo 9 – Flat building at No. 32-36 The Esplanade

Development History of the Site

- On 19 December 2000, Council approved Development Application No. 00/196 for the expansion of the bowling club use onto the balance of Lot 3 DP 229538 not presently used for that purpose, and for a change of use of such part of Lot 3, DP 229538 (onto which the Bowling Club use is so expanded) from Bowling Club to multi-unit and townhouse residential development comprising of (22) townhouses and a residential flat building consisting of (14) units.

This consent relates to the existing residential flat building at No. 25 Chelmsford Avenue to the south, which previously formed part of the bowling club site.

Description of Development

The proposed development (as amended 18 August and 12 September 2014) is for the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of three residential flat buildings as follows:
 - Three (3) storey building containing 9 townhouses.
 - Four (4) storey building containing 29 units.

- Part three (3) and six (6) storey building containing 51 units.
- Total of 89 units.
- Total floor space ratio of 1.5:1 and a maximum building height of 20 metres.
- Two basement parking levels to accommodate 162 vehicles.

The development is designed as three separate buildings with nine townhouses fronting Edgehill Avenue, a four storey residential flat building behind (West Block) and a six storey residential flat building with a three storey podium presenting to Edgehill Avenue. Each of the townhouses and street facing apartments are provided with separate street access and private open space areas in the form of front or rear courtyards and roof terraces. The two residential flat buildings are separated by a central courtyard featuring landscaping, communal open space, community room and gardens for the use of residents.

The application proposes two basement levels to accommodate 162 vehicles with access from Edgehill Avenue. No loading/service bays are provided within the development as it is proposed that garbage collection and servicing (i.e. removalists, deliveries, etc.) occur from street frontage on Edgehill Avenue. The vehicle access to the basement level is provided from the north east of the site from Edgehill Avenue where the road curves.

The apartments comprise the following:

- 2 x studio apartments
- 32 x one bedroom apartments
- 46 x two bedroom apartments
- 9 x three bedroom townhouses
- Total of 89 dwellings

Note: A copy of the Unit Schedule is provided within the Statement of Environmental Effects attached to this report.

Compliance with Key Provisions:

Control	Required	Proposal	Complies
FSR	1.5:1 (Cl. 4.4(2A) BBLEP 2013)	Site Area = 5,937m ² GFA = 8,980m ² 1.5:1	Yes (See Note 1 - Discussion of objectives)
Height	22 metres (Cl. 4.3(2A) BBLEP 2013)	East Block = 18.2 metres (20m to overruns) West Block = 12.37 metres (13.87m to overruns) Townhouses = 9.68 metres	Yes (See Note 1 - Discussion of objectives)
Car Parking	<i>Residential</i> Studio = 2 x 1 = 2 1 bedroom = 32 x 1 = 32 2 bedroom = 46 x 2 = 92 3 bedroom = 9 x 2 = 18 Residential Total = 144 Visitor = 18	<i>Residential</i> Studio = 2 1 bedroom = 32 2 bedroom = 92 3 bedroom = 18 Residential Total = 144 Visitor = 18	Yes

	<u>Total Required</u> = 162 spaces (BBDCP 2013)	<u>Total Provided</u> = 162 spaces	
Unit Sizes	Studios 60m ² 1 Bedroom 75m ² 2 Bedroom 100m ² 3 Bedroom 130m ² (BBDCP 2013)	Studios 62-65m ² 1 Bedroom 75m ² 2 Bedroom 100-104m ² 3 Bedroom 147-159m ²	Yes
Unit Mix	Total number of studio/one bedroom = Maximum of 25 % (BBDCP 2013)	38 %	No
Building Separation	<4 storeys/12 metres - 12 metres between habitable rooms - 9 metres habitable to non-habitable - 6 metres between non-habitable rooms (RFDC)	<i>East Block to Townhouses</i> Level 2 to 3 = 12m (habitable to habitable)	Yes
		<i>East Block to Nursing Home (No. 31 Edgehill Ave)</i> Level 2 - Unit E208 to Nursing Ward = 9-10m (habitable to habitable)	Generally complies (See Note 2)
		<i>East Block to West Block</i> Level 2 to 4 = 12m (habitable to habitable)	Yes
		<i>East Block to Flat Building (No. 25 Chelmsford Ave)</i> Level 2 = 12m Level 3 = 14m (habitable to habitable)	Yes
		<i>West Block to Townhouses</i> Level 2 to 3 = 14.36m (habitable to habitable)	Yes
		<i>West Block to Flat Building (No. 25 Chelmsford Ave)</i> Level 2 to Level 3 = >21m (habitable to habitable)	Yes
		<i>West Block to Single Dwellings (west)</i> Level 2 = >25m (habitable to habitable)	Yes
Solar Access	70% of apartments to receive 3 hours midwinter reduced to 2	74% receive minimum 2 hours	Yes

	hours for higher densities (BBDCP 2013, RFDC)		
Cross Ventilation	70% of apartments (BBDCP 2013, RFDC)	74%	Yes
Communal Open Space	25-30% (RFDC)	22% (1306m ²)	No (See Note 3)
Landscaping	35% (BBDCP 2013)	30% (1822m ²)	No (See Note 4)
Deep Soil	25% (RFDC)	28% (1671m ²)	Yes
Site Coverage	40% (BBDCP 2013, 4C.7 – Large Sites) 45% (BBDCP, 4C.2.6)	50% 66% (including basement)	No (See Note 5)
Unbuilt Area	20% large sites	18.34%	No (See Note 4)
Building Depth	18m (RFDC)	18-24m	No (Satisfactory due to larger unit size requirements)



Figure 4 - Proposed Site Plan



Figure 5 - Proposed Northern Elevation (View from Edgehill Avenue)

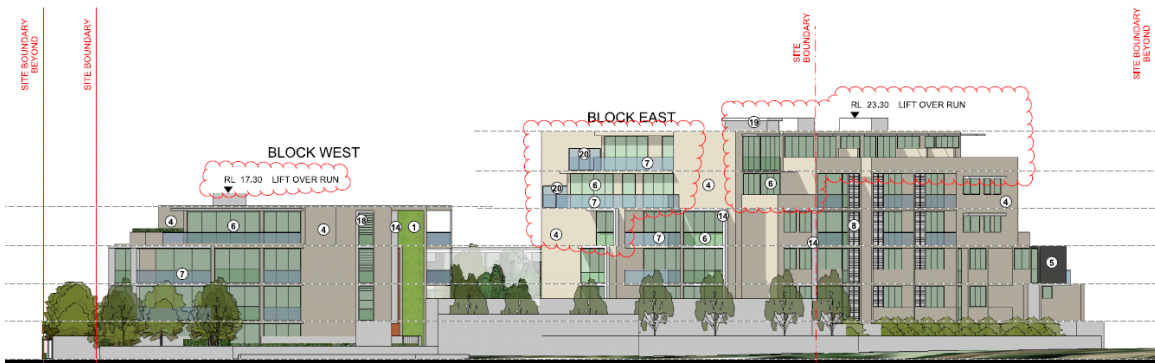


Figure 6 - Proposed South Elevation (View from 25 Chelmsford Avenue)



Figure 7 - Proposed East Elevation (View from adjoining Sir Joseph Banks Nursing Home to East Block)



Figure 8 - Proposed West Elevation (View from adjoining residential dwelling to West Block)

SECTION 79C CONSIDERATIONS

In considering the Development Application, the matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration in the preparation of this report and are as follows:

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

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

Groundwater was encountered across the site at depths varying from 1.65 to 2.7 metres below natural ground level. Therefore, the basement structure will penetrate the water table of the locality and as such, the application is classified as Integrated Development in accordance with the *Water Management Act 2000* as the development involves temporary construction dewatering activities.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the development application was referred to the NSW Office of Water. On 3 April 2014, the NSW Office of Water issued Council with a letter providing General Terms of Approval for the proposed development, which are included in the recommended Schedule of Consent Conditions.

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. On 6 March 2014 the applicant submitted a Detailed Environmental Assessment Report and a Remedial Action Plan prepared by JBS&G, dated 28 February 2014. The documentation was supported by a Site Audit Report prepared by Environ, dated March 2014.

The findings of the investigation are that the site contains contamination, namely fill (0.5m depth below ground level) with elevated levels of lead, heavy metals, PAHs and Benzo(a)pyrene.

The report concludes that the site can be remediated with most of (if not all) the fill removed from the site during excavation works. Any contaminated areas outside of the basement envelope will require remediation works.

The report also concludes that acid sulphate soils are not present on the site and therefore a management plan is not required. An assessment of groundwater on the site found elevated concentrations of copper and zinc at several locations however this is most likely to be a regional issue rather than site specific.

Council's Environmental Scientist has reviewed the submitted reports and has advised that there is no objection to the development in respect of contamination. Appropriate conditions have been recommended in the conditions of consent.

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. Therefore it is considered that the applicant has adequately demonstrated that the site can be made suitable to accommodate the intended use and it satisfies the provisions of SEPP No. 55.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales.

The provisions of SEPP No. 65 have been considered in the assessment of the development application. An Architectural Design Statement, a SEPP 65 Assessment and an assessment against the Residential Flat Design Code accompany the application. A design verification statement prepared by Krikis Tayler Architects, dated 12 September 2014, was also submitted to verify that the plans submitted were drawn by a registered Architect.

Compliance with the Residential Flat Design Code is provided within Appendix A attached to this report.

The Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgement of the application on 18 July 2013.

It should be noted that the initial proposal presented to the DRP was a single 7 storey residential flat building in a 'T' shaped configuration, with the long edge of the building extending across the street frontage and a total of 102 apartments. The DRP raised concerns in regards to visual dominance of the development and its integration with the character of the streetscape and lower scale residential dwellings. It was recommended that the design be amended to implement a two/three storey podium form comprising street facing townhouses or apartments with the taller building elements set back behind in order to reduce the dominance of the building in relation to its neighbours. It was further advised that support would not be given to the application without the issues relating to Scale and Built Form being satisfactorily addressed through a redesign of the proposal.

The specific recommendations of the Panel made at the meeting are:

- *Under the provisions of the BBLEP a potential development would qualify for the substantial bonus provisions, namely a density up to 1.65:1 and a height of 22m, subject to satisfying the necessary conditions.*
- *Context: Edgehill Avenue is a relatively quiet low-scale residential street. To the east the subject site adjoins a nursing home, to the south low-scale residential units and to the west are existing residential dwellings. It is in walking distance from Botany Road and close to Sir Joseph Banks Park. As such the site is suitable in principle for medium-density residential. The main challenge is for this to be achieved without compromising the amenity of surrounding development and the character of the immediate neighbourhood.*

- *Scale: The proposed seven storey building would contrast significantly in scale with its lower neighbours and with the streetscape. Since the height is permissible then the key issue is to determine whether the interface between the new and existing development can be suitably resolved. The Panel has strong reservations about the relation of the building in particular to the nursing home and to the low-scale dwellings in Edgehill Avenue.*
- *Built Form: The new building as proposed would have little formal relationship to Edgehill Avenue and would be extremely dominant perceived from the east and from the nursing home and its front garden and entry area. It is considered that addressing Edgehill Avenue there should be a two/three-storey modulated 'podium' form parallel to the alignment of the street, with the taller building set back behind. There would be no issue with such a podium not being continuous, to provide for a central entry courtyard, as in the present plan. It should be returned along the eastern side to similarly result in an acceptable interface with the nursing home site, and could well link with a form similar to that expressed by the communal facilities in the submitted scheme. The objective should be to minimize the dominance/visual assertiveness of the new building in relation to its neighbours utilizing a combination of measures, building form and setbacks, materials, landscape, colours and finishes. It may well be that this approach could produce an acceptable outcome without excessive loss of yield, although the achievement of the allowable FSR is conditional in the BLEP 2013 upon a number of important criteria relating to the character of the area being satisfied.*
- *Density: Proposed density of 1.6:1 would be within the 1.65:1 permissible under the new LEP for large sites, and could be supported subject to the issues raised above being resolved.*
- *Landscaping: The preliminary design appears satisfactory in principle, and the concentration on native species selection is supported. Given the long frontage to Edgehill Avenue there is a significant*
- *Amenity: The general level of amenity should be of good standard. The following issues should be addressed as the design is developed:*
 - *Allow access between lift cores, at least on upper level(s) to accommodate residents when a lift in out of service.*
 - *Provide seating adjacent to elevators in the light bay, which might be marginally extended.*
 - *Ensure that main entry lobbies at ground level legible from the street and are reasonably generous in area with access to natural light, seating, access to mail boxes etc.*
 - *Ensure that all balconies, particularly those on corners, have adequate wind protection and privacy screening.*
- *Social Dimensions: The provision of generous communal areas is commended, but their design will need further development to ensure that they achieve their potential:*
 - *The communal room is somewhat isolated and requires better access.*
 - *The communal roof area could be an excellent amenity if better connected to other spaces*

- *The lower southern communal landscape and garden area is potentially an attractive asset but needs to be obvious and easily accessible from the deck area.*
- *Conclusion: Whilst the design has various positive features, the issues raised above, particularly those related to Scale and Built Form, need to be addressed before it could be supported.*

In response to the recommendations made by the DRP, the applicant subsequently amended the design to include townhouses along the site frontage and two residential flat buildings comprising a 7 storey building with a 3 storey podium to the street (East Block) and a 4 storey building (West Block). Following pre-DA discussions, Council expressed concerns regarding the proposed 7 storey East Block and in response the design was amended further to lower the height of East Block to 6 storeys. This scheme was submitted to Council under the current application dated 6 March 2014.

The proposal currently before the JRPP is an elaboration of the initial design presented to the DRP in July 2013. The proposal as amended has incorporated the comments provided by the DRP and addresses the crucial issues relating to building interface and integration with streetscape character, by adopting the specific recommendation made by the Panel for the implementation of a 2 to 3 storey podium with taller elements set back behind the main facade.

Each stage of the amendments is shown in Appendix B attached to this report.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The development application was accompanied by a BASIX Certificate committing to environmental sustainable measures.

Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	N/A	The site is zoned R3 Medium Density Residential under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed <i>residential flat building</i> is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013: • <i>To provide for the housing needs of the community within a medium density residential environment.</i> • <i>To provide a variety of housing types within a medium density residential environment.</i>
Does Clause 2.5 and Schedule 1 –	N/A	Clause 2.5 does not apply to the proposal.

Additional Permitted Uses apply to the site?		
What is the height of the building? Is the height of the building below the maximum building height?	Yes (See Note 1)	Max. Height = 22m (Cl.4.3 2A) East Block = 18.2 metres (19.2 to overruns) West Block = 12.1 metres (13.2 to overruns) Townhouses = 9 metres
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	Yes (See Note 1)	Max. FSR = 1.5:1 (Cl.4.4 2A) The proposed FSR is 1.5:1.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m ² min and maximum height of 22 metres and maximum FSR of 1.5:1?	Yes	The subject site is located within an R3 zone and has a site area of 5,937m ² .
Is the site within land marked "Area 3" on the FSR Map	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening?	Yes	The subject site is not affected by the road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
6.1 – Acid sulfate soils	Yes	Clause 6.1 – Acid Sulfate Soils. The subject site is affected by Class 2 Acid Sulfate Soils and requires an Acid Sulphate Soils Management Plan to be submitted prior to the issue of the Construction Certificate. The development is considered to be consistent with Clause 6.1 of BBLEP 2013.
6.2 – Earthworks	Yes	Clause 6.2 – Earthworks. The proposed development involves bulk excavation to accommodate 2 basement levels. The development application has been accompanied by a Geotechnical Assessment and was referred to the NSW Office of Water for concurrence. The NSW Office of Water has provided its General Terms of Approval for the proposed development. The development is considered to be consistent with Clause 6.2 of BBLEP 2013.
6.3 – Stormwater management	Yes	Clause 6.3 – Stormwater. The development application proposes an On Site Detention system (The site is not suitable for infiltration due to the depth of water table). The site (specifically the basement) is likely to be affected by the ingress of overland flooding from a trapped low point located on Edgehill Avenue at the proposed basement entry. It is recommended that a condition be imposed requiring an overland flow path/drainage easement to be created through the subject site to the existing drainage easement which exits the site to Chelmsford Avenue. This easement will become part of Council's stormwater infrastructure and will provide permanent relief to residents currently affected by flooding on Edgehill Avenue. Subject to this requirement, the development is considered to be consistent with Clause 6.3.
6.8 - Airspace operations	Yes	Clause 6.8 – Airspace Operations. The subject

		<p>site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. In a letter dated 28 March 2014, SACL raised no objections to the proposed maximum height of 23.8 metres (AHD). The development is considered to be consistent with Clause 6.8 of BBLEP 2013.</p>
6.9 – Development in areas subject to aircraft noise	Yes	<p>Clause 6.9 – Aircraft Noise. The subject site is affected by the 20-25 and 25-30 ANEF contour. An acoustic report has been submitted with the development application which recommends acoustic measures to be implemented in the design and construction of the building to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.</p>
6.16 – Design excellence	Yes	<p>Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel. The recommendations of the DRP have largely been incorporated into the current design.</p> <p>The proposal complies with the maximum height and FSR controls under the BBLEP.</p> <p>The bulk and scale of the proposed development is considered to be satisfactory and the building is generally compliant with building separation requirements under the RFDC.</p> <p>The built form is contemporary in nature and presents an articulated/modulated façade, resulting in a satisfactory presentation to the street. The design provides ample landscaping and communal/private open space which is expected to provide a good level of amenity to future residents.</p> <p>On this basis, it is considered that the development application is consistent with Clause 6.16 of BBLEP 2013.</p>

BBLEP 2013 Compliance Table

The objectives and provisions of BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the BBLEP 2013

Note 1 - Height and FSR

Clause 4.3(2A) and Clause 4.4(2A) of the BBLEP 2013 provide for a maximum height of 22m and an FSR of 1.5:1 for large sites over 2,000m². The application proposes a height of 20m and an FSR of 1.5:1 and therefore complies with the numerical requirements of this standard.

The objectives of these provisions are addressed as follows:

Maximum Height - Clause 4.3 (2A)

The objectives of Clause 4.3 (2A) are:

- (a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- (b) to ensure that taller buildings are appropriately located,*
- (c) to ensure that building height is consistent with the desired future character of an area,*
- (d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- (e) 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.*

- Objectives (a) and (b)

The distribution of building heights across the site is shown in Figure 9 below.

Sections depicting the height transitions provided to the development are contained within Appendix B attached to this report.

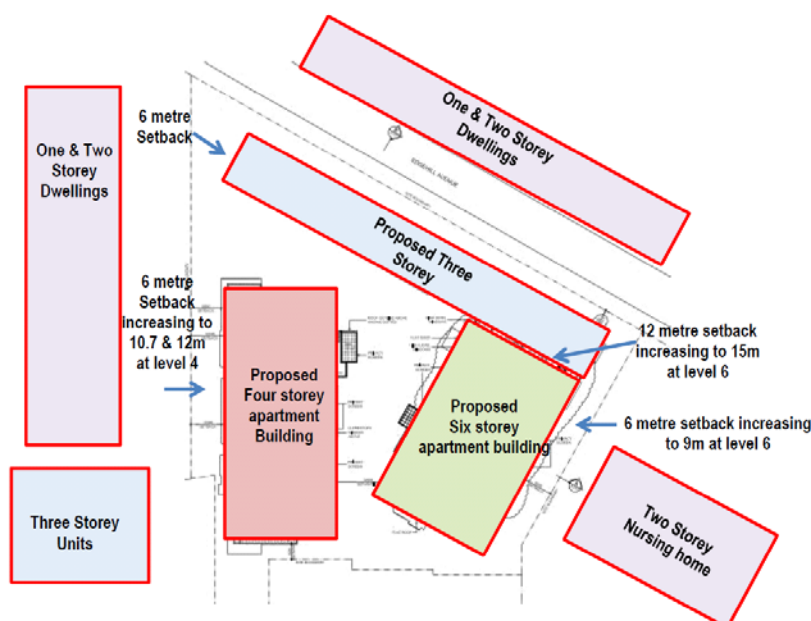


Figure 9 – Distribution of heights (LJB Urban Planning 2014)

The proposal is substantially lower than the 22 metre height limit provided by the LEP as shown in the table below (i.e. East Block is 18.5m or one storey below the 22m limit not including lift overrun). The 2 to 3 storey townhouses and podium to East Block provide a suitable interface to lower scale development on Edgehill Avenue. In addition East Block has been amended with further upper level setbacks to step away from the street with taller elements of the building positioned behind the podium towards the rear of the site.

Level 3 is provided with a 6m setback from the street, which doubles to 12m for Levels 4 to 5. Level 6 is provided as rooftop terrace apartments with a front setback of 15m and a side setback of 9m from the nursing home and therefore would not be visible from the street. Refer to the Tables below for information relating to the building height and setbacks.

West Block is a 4 storey building incorporating Level 4 as a rooftop terrace. As such the building has the presentation of a 3 storey building and provides a satisfactory height transition to 2 storey residential dwellings located to the west of the site. Comparably the 2 to 3 storey townhouses provide an interface with the 2 storey dwelling located opposite the site on Edgehill Avenue.

The building heights provided by the proposal are considered to be appropriately located in relation to the lower scale buildings adjoining the development.

Building	Height (m)	Height (Lift Overruns)
Townhouses	9.68	-
East Block	18.5	20
West Block	12.37	13.87

Table – Building Heights

East Block Level	Setbacks (from front boundary)	Setbacks (from side boundary)
Level 1-2	3m	6m
Level 3	6m	6m
Level 4-5	12m	6m
Level 6	15m	9m

Table - Setbacks to East Block

- Objective (c)

The lower scale townhouse development along Edgehill Avenue combined with the three storey podium form of the East Block building to Edgehill Avenue ensures that the visible bulk and scale of the development as seen from the street is reduced. Higher building elements are set back from the street frontage and side boundaries to minimise the visual impact of the buildings. The buildings are highly articulated and will provide visual interest when viewed from the public and private domain.

The proposal has incorporated the specific recommendations of the DRP to result the crucial issues relating to building interface and character of the street, which was to create a 2 to 3 storey podium level. While the application does not provide multi-unit housing across the entire frontage of the site as preferred by the DCP provisions, the proposal meets the intent of the DCP which is to provide lower building elements to the street frontage and locate higher buildings away from the street.

The subject site and land to the east have been rezoned to R3 Medium Density under the BBLEP 2013, from 2(a) Residential A under BBLEP 1995 to permit residential flat buildings and allow for higher building densities up to a height of 22 metres (6) storeys. The site is recognised by the controls as a large infill redevelopment site and therefore the proposed form of development is anticipated by the planning controls and permissible uses that apply to the site.

It is noted that land to the west was previously zoned 2(b) Residential B under BBLEP 1995 which allowed residential flat buildings. As shown in Figures 10 and 11 below, the land was rezoned to R2 Low Density Residential and therefore the densities, built form and heights within the locality are varied by lower scale residential dwellings and flat buildings on larger allotments approved under the BBLEP 1995. Higher density developments that are present within the locality such as the 4 storey flat building under construction at No. 15-18 The Esplanade (now a prohibited under the new zoning) are representative of the changing strategic direction and varied character of the locality.

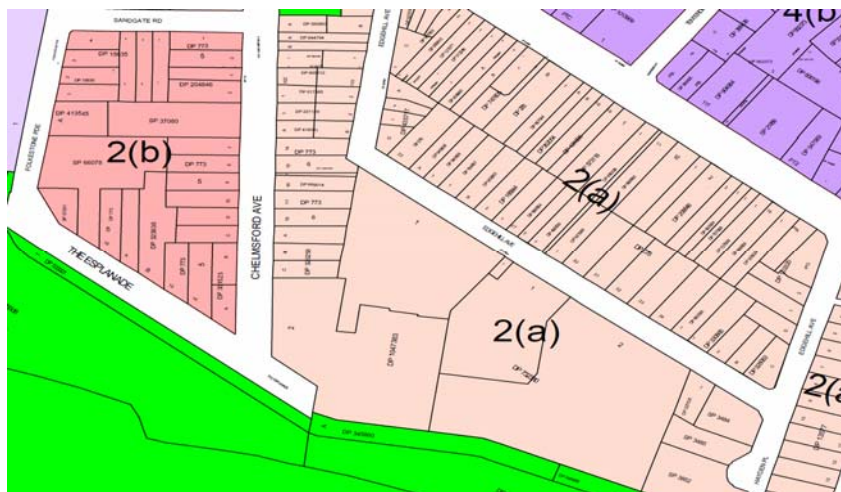


Figure 10 - Land zoning (BBLEP 1995)

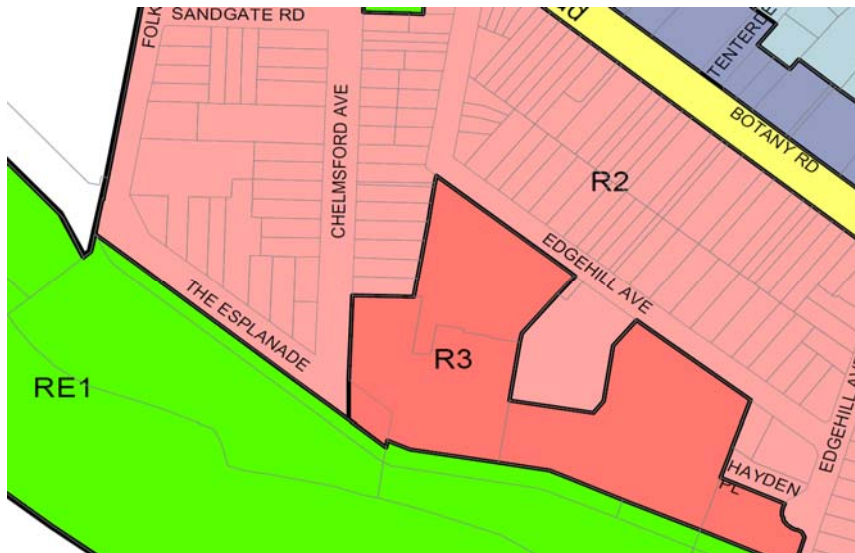


Figure 11 - Land zoning (BBLEP 2013)

- Objective (d)

As discussed above, the visual impact of the building is minimised by the presentation of a 2 to 3 storey podium to the street, and building heights that step away from the street and adjoining lower scale development. Further, proposal complies with building separation under SEPP 65 and suitable privacy measures are implemented into the design to minimise overlooking to adjoining properties.

The buildings are sited to minimise overshadowing to surrounding development, and adjoining dwellings receive a minimum of 2-3 hours of solar access daily during midwinter. The proposal is unlikely to result in adverse impacts to the amenity of surrounding development and therefore the proposed heights are appropriate in relation to existing development.

- Objective (e)

Bulk and scale to the street are minimised by the proposed podium form, setbacks and rooftop terraces. The building will appear to have a smaller height when viewed by pedestrians using Edgehill Avenue and the development will be ameliorated by the planting of new street trees to improve the streetscape. In addition, the building facade is articulated and maintains separate entries to the street facing apartments from Edgehill Avenue to provide a domestic scale to the development.

Floor Space Ratio - Clause 4.4 (2A)

The objectives of Clause 4.3 (2A) are:

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*

(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,
(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,
(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
(g) to facilitate development that contributes to the economic growth of Botany Bay.

- Objective (a)

The proposal complies with the maximum FSR of 1.5:1 provided to the site under subclause 2A. The proposed FSR is associated with a compliant building envelope and height. Further, the proposal complies with the car parking requirements and is unlikely to generate significant traffic impacts. Therefore the proposal does not constitute an overdevelopment and achieves a reasonable density and intensity of use for the site.

- Objective (b)

Other residential flat buildings are present within the locality and are within the visual catchment of Edgehill Avenue. The proposed heights are significantly lower than the maximum height of 22m under the LEP and the bulk and scale of the development is reduced by the podium and stepped form of the building.

The subject site is recognised as a large infill redevelopment afforded by the planning controls and bonus height and FSR provisions that are applicable to the site. Adjoining sites also benefit from the bonus provisions, however are owned by NSW Housing and are not expected to be redeveloped in the near future. The resultant form of development is considered to be consistent with the character of the area which includes a range of housing types from low density dwellings to medium/high density residential flat buildings on larger allotments. The proposal is for a modern building that responds to the surrounding lower scale development. The design is expected to provide a good level of internal amenity to future residents and is unlikely to result in significant adverse impacts to the residential amenity of the street.

- Objective (c)

The adjoining sites are large allotments zoned for higher densities and benefit from the bonus height and FSR afforded by the BBLEP 2013 provisions. These sites are owned by NSW Housing and are already occupied by multi-unit development. It is considered unlikely that these sites will be redeveloped in the near future and the proposal has responded accordingly by providing for adequate height transitions and building separation to adjoining development. In achieving this objective, the proposal is significantly below the 22 metre height limit allowable under the LEP.

- Objective (d)

As discussed above, the proposal is considered unlikely to result in adverse visual impacts to the streetscape. The proposal contribute to significant public domain works to improve Edgehill Avenue and substantial landscaping and tree planting is proposed to soften the appearance of the development from the street.

- Objective (e)

The proposed development does not have significant adverse impacts to adjoining properties resulting from overshadowing, loss of views or overlooking. The application complies with the minimum setbacks and building separation to adjoining development. Further the modulated building facade provides a satisfactory presentation to the street and separate entries to the street from street level apartments will maintain the domestic quality of the street.

- Objective (f)

The subject site is a large infill redevelopment site that is capable of supporting the proposed density without resulting in adverse impacts to adjoining development. The proposal complies with car parking, traffic generation, and setbacks and deep soil zones with suitable landscaping is provided within the central courtyard and to the boundaries of the site. The lack of any external impacts identified within the detailed assessment demonstrates that the site is capable of accommodating the proposed development.

- Objective (g)

The proposal will facilitate economic development within the City of Botany Bay and provide new housing within the local area to cater for a variety of different household types, closer to the city and major employment opportunities such as Sydney Airport and Port Botany.

The development standards applicable to the site allow for the redevelopment of the site for higher densities and building heights than what is presented by the current building forms within the surrounding locality. Notwithstanding this the proposed development achieves a compliant building envelope that minimises bulk and scale, a reasonable streetscape presentation and responds to the desired future character by minimising the height of the development to the street, resulting in building heights significantly below the allowable 22m height limit. In addition, the proposal does not result in any adverse impacts to residential amenity and will contribute to significant public domain improvements to Edgehill Avenue. On the basis of these comments, the proposal is considered to be generally consistent with the height and FSR objectives.

Building Form and Scale - Draft Clause 4.4C

Council at its Meeting on 11 December 2013 resolved to prepare a Planning Proposal to delete subclause 4.3 (2A) and 4.4B pertaining to the bonus height and FSR provisions under the BBLEP for large development sites (over 2,000m²). The resolution came about as a result

of impacts from multi-unit residential developments in the R3 and R4 zones where the bonus provisions have applied.

On 18 March 2014 the NSW Department of Planning and Environment issued a Gateway Determination which required the two clauses to be retained, but required Council to insert a clause addressing transition principles for urban form and urban design between low density development and medium/high density development. The draft clause has been prepared by Council and was referred to the Department for consideration on 5 June 2014 and is reproduced as follows:

Draft Clause 4.4C Building Form and Scale

- (1) *This clause applies to land to which clause 4.3(2A) and clause 4.4(8) applies.*
 (2) *Development consent must not be granted to development on land of which this clause applies, unless the consent authority is satisfied:*
 (a) *The building form and scale at property boundaries achieve acceptable amenity outcomes, to adjoining land and buildings,*
 (b) *The building form provides adequate landscape setback to lower scale built forms,*
 (c) *A transition in building scale is achieved at property boundaries, and zone interface,*
 (d) *The development will be compatible with the character of the area in terms of bulk and scale, and*
 (e) *The objectives of clause 4.3 and 4.4B have been met.*

The draft clause currently falls outside of Section 79C of the EP&A Act 1979 and for the purpose of assessing this proposal. Notwithstanding this, the applicant was requested to test the proposal against the draft clause. The JRPP is requested to consider the applicant's response to the draft Clause 4.4C detailed within the submitted Statement of Environmental Effects.

Botany Bay Development Control Plan (BBDPC) 2013

BBLEP 2013 is the comprehensive development guideline for the City of Botany Bay. The most relevant and applicable clauses of the DCP are considered in the assessment of this development proposal and are provided below:

Part	Control	Proposed	Complies
3A.2 Parking Provisions	34 x studio/1bed x 1space = 34spaces 55 x 2/3 bed = 110spaces Visitor 1 per 5dwgs = 18spaces Total = 162 spaces	162 spaces	Yes
3J.2 Aircraft Noise Exposure Forecast	C3 In certain circumstances, and subject to Council discretion, Council may grant consent to development where the building site has been classified as "unacceptable" under Table 2.1 of AS2021-2000. For Council to be able to consider such applications for development, the following factors must be complied with:	The site is located partly within the 20-25 and 25-30 ANEF Contours. An acoustic report has been submitted with the development application which indicates that the design of the building can comply with the requirements of AS2021-2000.	Yes

	<p>(i) Submission of specialist acoustic advice by an accredited acoustical consultant certifying full compliance with the requirements of Table 3.3 of AS2021-2000;</p> <p>(ii) Submission of plans and documentation indicating the subject premises will be fully air-conditioned or mechanically ventilated in accordance with Council guidelines; and</p> <p>(iii) Any additional information considered necessary by Council to enable it to make a decision.</p>		
4C.6.1 Adaptable Housing	<p>C3 - Disabled access to all common areas shall be provided even if the development has less than five (5) dwellings and does not contain an adaptable dwelling.</p> <p>C4 - Where a development includes five (5) or more dwellings at least one (1) dwelling must be constructed to meet either Class A or B adaptable housing standards under AS 4299-1995 Adaptable Housing.</p>	<p>The DA has been accompanied by an Access Report and can provide for at least 9 adaptable units.</p> <p>A condition of consent can be imposed to ensure compliance with this requirement.</p>	Yes
3A.3.1 Car Park Design	<p>C1 – C41 Comply with AS2890.1 and AS2890.6; entry/exit forwards; Stormwater to comply with Council's Guidelines; Pedestrian routes delineated; Location; Access; Landscaping; Basement Parking; Residential; Non-Residential; Pavement; Lighting; Accessible Parking; Waste Collection Points</p>	<p>Traffic Assessment provided; Stormwater plans provided; Pedestrian access easily identifiable; All parking in basement; 1 vehicular access point from Edgehill Ave; Landscaping complies with Part 3L; Parking rates comply;</p> <p>Waste collection and servicing from Edgehill Ave is not supported. It is recommended that a condition be imposed requiring the provision of an onsite service bay for waste collection and design of the vehicle access to accommodate service vehicles to comply with AS2890.1.</p>	No – Conditioned to comply
3A.3.2 Bicycle Parking	C1-C5 To comply with AS2890.3 & AUSTROADS.	Bicycle parking provided & complies with relevant AS.	Yes

3A.3.4 On-site Loading & Unloading	C1-C11 1 service bay/50dwgs (50% to be Medium Rigid Vehicle (MRV) or larger)	<p>At least 1 service bay (MRV) is required to be provided onsite.</p> <p>No provision for an onsite service bay is provided. The application proposes all waste collection and deliveries/removals to occur from Edgehill Ave.</p> <p>Given the size of the proposed development and the local traffic conditions (i.e. narrow width of Edgehill Avenue, availability of car parking and proximity to nursing home) the development must have provision for onsite servicing.</p> <p>A condition shall be imposed requiring provision of an onsite service bay, designed for MRV and the basement access shall be designed in accordance with AS2890.2 to accommodate service vehicles.</p>	No – Conditioned to comply
3B Heritage	Development in vicinity of heritage item or HCA	N/A	N/A
3C Access, Mobility & Adaptability	C1-C4 Compliance with DDA, AS4299.	Access Report submitted; 9 adaptable units provided & an accessible parking space to each.	Yes
3G.2 Stormwater Management	C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	Stormwater plans submitted and reviewed by Council's Development Engineer.	Yes
3H Sustainable Design	C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate provided.	Yes
3I Crime Prevention Safety & Security	Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	Comments received from NSW Police & may be included as conditions of consent.	Yes
3J Aircraft Noise & OLS	ANEF; Aircraft height limits in prescribed zones.	SACL comments received – no objection.	Yes
3K Contamination	Consider SEPP 55 & Contaminated Land Management Act 1997.	Contamination Report, RAP and Site Audit submitted.	Yes

		Site will be remediated in accordance with of SEPP 55.	
3L Landscaping	General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	No significant trees exist on site; Landscape plan submitted & reviewed by Council's Landscape Architect.	Yes
3N Waste Minimisation & Management	General Requirements; Residential Development; Mixed Use Development.	A WMP has been submitted for ongoing use of site & removal of waste.	Yes
4C Residential Flat Buildings		See below	
4C.2.1 Site Analysis	Site Analysis Plan required.	Site Analysis Plan submitted & SEPP 65 assessment undertaken.	Yes
4C.2.2 Local Character – Botany	Desired Future Character Statement; Part 8-Character Precincts	8.4.2 Desired Future Character objectives provided in SoEE. Two to three storey townhouses and podium form to East Block are consistent with character objectives and recommendations provided by Design Review Panel.	Yes (See Note 1 above)
4C.2.3 Streetscape Presentation	Compatible with bulk & scale of adjoining residential developments; Max building length 24m; Walls >12m must be articulated; Street presentation.	Building length 23m & suitably articulated with a modulated podium form. Buildings have a satisfactory presentation to the street.	Yes
4C.2.4 Height	Comply with Cl.4.3 (2A) of BBLEP 2013; Buildings to respond to character of neighbourhood; Height & bulk must be distributed to ensure no significant loss of amenity to adjacent sites. Height limit = 22 metres	Height transition is provided from two to three storey dwellings to the west to West Block. There is a large height difference between the adjoining two storey nursing home to East Block which is 6 storeys in height; however the building has a 2-3 storey podium form with upper levels set back from the street. The 6 th storey incorporates a roof terrace to minimise visual impact.	Yes
4C.2.5 Floor Space Ratio	Compliance with cl.4.4, 4.4A & 4.4B of BBLEP 2013. FSR = 1:5:1	1.5:1 (or 8,980m ²)	Yes

4C.2.6 & 4C.7 Site Coverage	Max site cover 45% (4C.2.6) Max site cover 40% (4C.7 – Large Sites)	50%	No (See Note 5)
4C.2.7 Landscaped Area and Deep Soil Planting	Landscaped area = 35% (min) Unbuilt upon area = 20% (max) Deep soil = 25% (50% at rear; 30% within front setback; 2m wide landscaping along one side boundary).	Landscaping 30% Unbuilt area = 18.34% Deep soil = 28%	No (See Note 4) No (See note 5) Yes
4C.2.8 Private & Communal Open Space	Studio & 1bed = 12m ² 2 bed = 15m ² 3 bed = 19m ² 4 bed = 24m ² Min depth of balconies = 3m (or adequate useable space). Min. communal open space = 30% >3hrs sunlight on 21 June	Minimum private open space provided for each unit type. Adequate useable private open space provided. Approx. 22% of site area provided as communal open space. At least 3hrs of direct sunlight available	Yes No (See Note 3)
4C.2.9 Setbacks	Comply with SEPP 65; Front & side setbacks to provide deep soil; Front setback consistent with existing; 3m side setback (min); Basement car parking min 1.5m from side boundaries.	3m front setback consistent with the streetscape; Side setbacks are 6m however narrows to 1 m in one section to the south west. This area adjoins vehicular access/parking to neighbouring residential flat building and is considered to be a minor and acceptable departure. Rear setback is 6m. Basement setback from side boundaries. Side front and rear setbacks are fully deep soil.	Yes No Satisfactory Yes
4C.2.10 Through Site Links & View Corridors	Existing view retained; View corridors integrated.	Existing views will be maintained through the central courtyard. Through site links not required as site only has one street frontage.	Yes
4C.3.1 Design Excellence	Excellence in urban design; Design principles; Daylight & ventilation to dwellings.	Building façade highly articulated; Basement car park appropriately designed; 74% units = 2hrs sunlight; 74% cross ventilation.	Yes

4C.3.2 Corner Buildings	To align & reflect corner conditions; Reflect architecture & street characteristics.	Building not located on a corner site.	Yes
4C.3.3 Building Entries	Compliance with SEPP 65 for entry & pedestrian access; shelter & well-lit; pedestrian access separated from car parks.	Building entry easily identifiable. Separate entries to street facing apartments and access to communal open space from ground floor apartments.	Yes
4C.3.6 Materials & Finishes	Schedule of finishes; Consistent with Part 8; long-wearing materials.	Sample board provided & considered are satisfactory.	Yes
4C.5.1 Dwelling Mix, room size & layout	Studio – 60m ² 1 bed – 75m ² 2 bed – 100m ² 3 bed – 130m ² 4 bed – 160m ² 25% max no. of 1bed units.	Min. unit sizes comply. 34 x studio/1bed units = 38% of total. Apartment schedule indicates good mix of dwelling types.	Yes No (See Note 6)
4C.5.2 Internal Circulation	2m min. corridors; Articulate long corridors.	Corridor widths 1.6m – 3m; Articulation provided. Corridors service no more than 3-4 apartments.	Yes
4C.5.3 Building Depth	Max depth = 18m Max habitable room = 10m Single aspect units = 8m Min apartment width = 4m	Max building depth 18-24m (minor variation); Units are individually stepped to improve light & ventilation; Unit sizes generally larger than required by RFDC; Double fronted units greater than 4m width.	Noted (Satisfactory due to larger unit size requirements)
4C.5.4 Balconies in RFBs	Differing styles; Min. 12m ² ; Provides for privacy & visual surveillance; Not continuous across facade.	All units provide for min. 12m ² of balcony. Majority of apartment are dual aspect with a mix of balconies and roof terraces provided.	Yes
4C.5.5 Ground Floor Apartment in Residential Flat Developments	Active street edge; Individual entries; Privacy to be increased by providing gardens & terraces as a transition zone.	Individual entries provided from street facing apartments/townhouses to Edgehill Ave.	
4C.5.6 Natural Ventilation	Comply with SEPP 65 & RFDC.	RFDC assessment table provides 60% of units cross-ventilated.	Yes
4C.5.7 Ceiling heights	3m for shops; 2.7m for habitable units.	Min 2.7m floor to ceiling heights provided.	Yes
4C.5.8 Solar Access	SEPP 65 & RFDC compliance; 70% of units receive 2-3 hrs direct sunlight on June 21; Minimal impact upon adjoining properties.	74% receive 2hrs of direct sunlight; Neighbouring dwellings	Yes (RFDC) Yes (See Note 7 for discussion)

	Neighbouring dwellings receive 2 hours sunlight to 50% of private open space and living room windows.	receive minimum 2 hours sunlight to POS and living room windows resulting in minimal impact upon adjoining properties. See assessment of shadow analysis below.	
4C.5.9 Visual Privacy	SEPP 65 & RFDC; No direct views into windows of other dwellings; Attic windows shall not overlook.	Separation distances generally comply; windows designed not to overlook, fixed screens provided to the West Block, western elevation to minimise overlooking into private open space.	Yes
4C.5.10 Building Separation	SEPP 65 & RFDC; and Table 5 of DCP.	9-11m separation from East Block (Unit E208 study room) to nursing home does not comply with 12m separation between habitable rooms.	No (See Note 2)
4C.5.11 Views	Preserve significant features; View sharing; Create new view corridors.	Upper level apartments will have views towards Botany Bay. No major view corridors are affected and the buildings are separated by an internal courtyard.	No
4C.5.12 Acoustic Privacy	Table 6 of DCP; Multiple dwellings to be designed & constructed to comply with BCA.	Acoustic Report submitted. All units capable of complying.	Yes
4C.5.14 Storage	Studio – 6m ² 1 bed – 8m ² 2 bed – 10m ² 3+ bed – 12m ²	Schedule of storage provided & demonstrates compliance.	Yes
4C.5.15 Site Facilities	1 lift per 40 units; Garbage storage; Sunlight available to clothes drying area; Undergrounding of major infrastructure.	2 lifts provided to each building; Communal clothes drying provided; AC to be designed not to be visible from street/public domain. Undergrounding of services within the street shall be conditioned. Servicing and garbage collection from the Edgehill Avenue is not supported and it shall be conditioned that an onsite service bay be provided and vehicle access designed to accommodate service vehicles.	Yes
4C.5.16 Safety &	Comply with Part 3I Crime	DA considered by NSW	Yes

Security	Prevention, Safety & Security; SEPP 65 & RFDC in terms of site amenity & safety.	Police in terms of CPTED design principles & appropriately conditioned.	
4C.5.17 Car Parking & Vehicle Access	Pat 3A compliance; Basement car parking <1.2m out of ground.	Parking spaces comply; Basement protrudes less than 1.2m above ground and is contained within the building footprint.	Yes
4C.6.1 Adaptable Housing	Part 3C; Provide all access to common areas in accordance with DDA & BCA; Compliance with adaptable housing standards AS4299-1995.	Access Report submitted; Part 3C complies.	Yes
4C.7 Large Development Sites (2,000m²)			
4C.7 Design and Siting	Development along the street frontage must consist of multi-unit dwellings (2 storeys plus attic). Residential flat buildings must be positioned to the rear of the site to minimize bulk and scale and visual impact to the street	Development consists of 9 x 2-3 storey townhouses fronting the street and a residential flat building with a 2-3 storey podium with the upper levels stepping back from the street frontage.	No (See Note 1 above)
4C.7.2 Height	Max height for buildings along the street frontage is two storeys plus attic. Residential flat buildings to have a maximum height of six storeys with the top 2 storeys set back.	Townhouses are two storeys in height with the third storey set back. East Block has a 2 to 3 storey podium with taller elements set back behind the facade away from the street.	Yes
8.4 Botany Character Precinct	Existing Local Character; Desired Future Character.	Proposal is consistent with character objectives relating to form, massing, scale & streetscape; solar access and views.	Yes (See Note 1 above)

Note 2 – Building Separation

A summary of compliance for the proposal against the building separation requirements of the RFDC is shown within the table below:

Building Separation		
<4 storeys/12 metres <ul style="list-style-type: none"> 12 metres between habitable rooms 9 metres habitable to non-habitable 6 metres 	<i>East Block to Townhouses</i> Level 2 to 3 = 12m (habitable to habitable)	Yes
	<i>East Block to Nursing Home (No. 31 Edgehill Ave)</i> Level 2 - E208 to Nursing Ward = 9-10m (habitable to habitable)	No
	<i>East Block to West Block</i> Level 2 to 4 = 12m (habitable to habitable)	Yes
	<i>East Block to Flat Building (No. 25 Chelmsford Ave, RFB)</i> Level 2 = 12m Level 3 = 14m	Yes

between non-habitable rooms	(habitable to habitable)	
	<i>West Block to Townhouses</i> Level 2 to 3 = 14.36m (habitable to habitable)	Yes
	<i>West Block to Flat Building (No. 25 Chelmsford Ave)</i> Level 2 to Level 3 = >21m (habitable to habitable)	Yes
	<i>West Block to Single Dwellings (west)</i> Level 2 = > 25m (habitable to habitable)	Yes

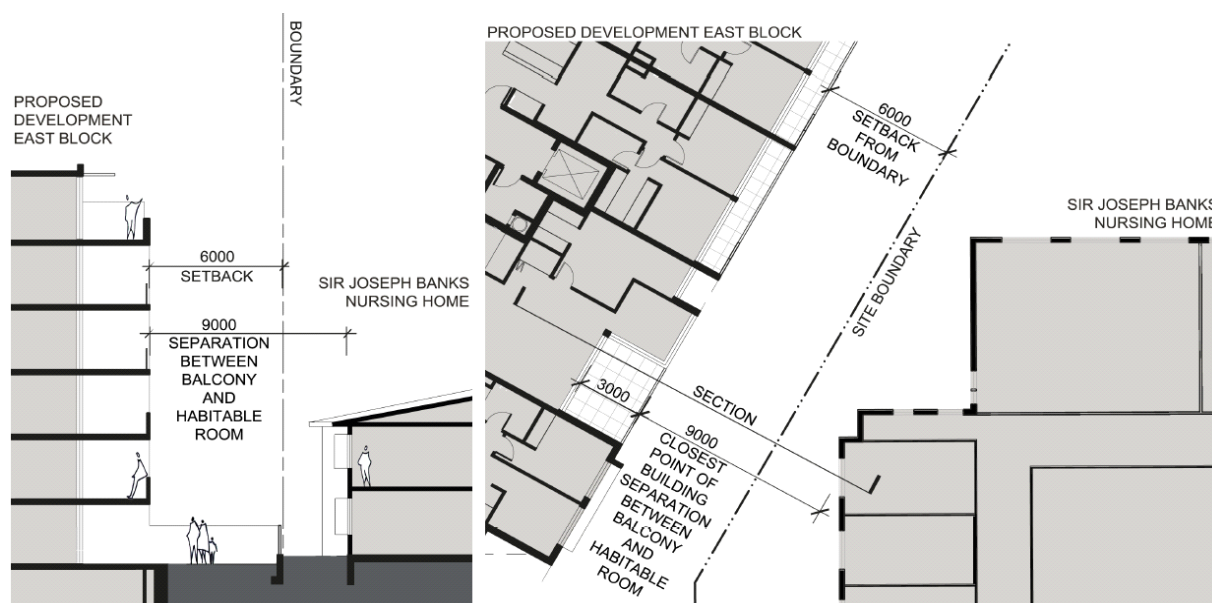


Figure 12 – Building separation to adjoining nursing home

As indicated within the table and Figure 12 above, Unit E208 within East Block (Level 2) have a separation of 9-10m to the adjoining nursing home, which is below the 12m separation requirement.

The proposed East Block building is aligned to the boundary of the site and provides a 6 metre setback (half of the required 12m SEPP 65 setback) to the common boundary. The departure results from the close proximity of the nursing home to the common boundary and occurs fully on the adjoining site. Therefore, the proposal is compliant with the building separation requirements under the RFDC.

The departure is unlikely to result in privacy impacts to either the nursing home or proposed development as the position of the nursing home offers a diagonal view to the development and can be further supplemented by privacy screens or other such measures.

Note 3 – Communal Open Space

In accordance with the RFDC rules of thumb, 25-30% of the site area should be provided as communal open space. Where development cannot achieve compliance, applications must demonstrate that suitable amenity is achieved through increased provision of private open space and/or contribution to public open space.

The proposal provides 22% (1306m²) of the site, which is equivalent to 178m² less than recommended by the RFDC guidelines.

It is noted that the shape of the subject site is fairly irregular and therefore a considerable proportion of the land is given to comply with the 6m setback requirement, resulting in a small proportion of communal open space. Notwithstanding this, the provision of communal open space includes a common room with BBQ facilities and a communal garden for the use of residents. While proposal does not strictly comply with the numerical provision, the proposal meets the objectives of the RFDC in that the provision of communal open space is highly useable and is expected to provide a good level of amenity to future residents. In addition, the proposed development provides private open space in excess of Council's DCP requirements, with many apartments having access to at least two private courtyards, balconies or roof terraces, in preference over communal areas.

The subject site is in close proximity (approximately 100m walking distance) from Sir Joseph Banks Park, and future residents will benefit from this local facility. The development will be levied an Open Space Contribution under Council's Section 94 Plan, which will be allocated to the improvement of public open space facilities within the locality.

Based on the above, the provision of communal open space is considered to be reasonable and not inconsistent with the objectives of the RFDC and DCP.

Note 4 – Landscaping

In accordance with Clause 4C.2.7, a minimum of 35% of the site area shall be provided as landscaped area. The proposal provides 30.7% (1822m²) of the site as landscaping and therefore does not comply with this provision.

As discussed above, the reduction in the height to reduce the scale of the development results in larger site coverage and a reduced provision of landscaping. Notwithstanding this, the proposal maintains 28.2% of the site as deep soil, with the majority of landscaped areas being provided as deep soil zones. The proposal also complies with the minimum setback requirements.

The concept landscape plan submitted for the development proposes a suitable number of plantings including many new trees to be planted around the site, to ameliorate the development. As per the recommendation of Council's Landscape Architect a condition shall be imposed to require the planting of additional trees within the central courtyard and within the setbacks on the site periphery. Through conditions, there is also the option to reduce the paved areas around the site such as the seating area adjacent to the common room. As such, the communal open space will be highly attractive and useable for future residents.

The proposal will provide significant public domain improvements to Edgehill Avenue including new street tree planting, landscaping, street lighting, undergrounding of existing services (i.e. power lines/poles), and the construction of a new pedestrian footpath along the frontage of the site which will provide a benefit to the adjoining nursing home.

Notwithstanding the departure from the numerical requirement for landscaping, on balance the proposal will provide a high level of amenity to future residents and will be suitably ameliorated by deep soil planting provided onsite and significant public domain improvements to Edgehill Avenue as well as contribution to the improvement public open space facilities within the locality.

Note 5 – Site Coverage

In accordance with 4C.2.6, the maximum site coverage is 45% of the subject site. Conversely 4C.7 of the BBDCP applicable to larger sites (over 2000m²) specifies a site coverage of 40%. The proposed development has a site coverage of 50% and therefore exceeds both 4C.2.6 and 4C.7 by 5% and 10% respectively. The objectives of Clause 4C.2.6 are as follows:

- *01 To ensure that new development is consistent with the Desired Future Character of the area;*
- *02 To ensure site coverage creates a development that provides a balance between built form, landscaped area and private open space; and*
- *03 To control site density.*

The applicant states that the site coverage is due to the site specific height controls within the DCP 2013 (i.e. requirements for a 2-3 storey built form to the street frontage under Part 4C.7 Large Sites & Part 8.4 Botany Precinct) and therefore compliance with the streetscape/desired character criteria results in a larger building footprint that exceeds the site coverage provisions.

The proposal originally presented to Council and the DRP was for a single 7 storey flat building which, while likely to have been compliant with the site coverage, was completely unacceptable with regard to bulk and scale, desired future character and streetscape presentation. In response to the concerns expressed by Council and DRP, the proposal was amended to include 9 townhouses along the street frontage, reduce East Block from 7 storeys to 6 storeys, with a 2-3 storey component presenting to the street, and lower the height of West Block to create a 3-4 storey height transition to the 2 storey dwellings to the west. Further amendments were also made to increase the upper level setbacks to East Block, to minimise the visual appearance of the 5th and 6th storey to the street. As shown in the table below, the resultant building heights are significantly lower than the 22m height limit under the LEP. In addition, it should be noted that the shape of the site is fairly irregular. On this basis, the applicant's justification for the departure is considered to be reasonable in the circumstances.

Building	Height (m)	Height (Lift Overruns)	LEP/DCP Height
Townhouses	9.68	-	2-3 storeys
East Block	18.5	20	22m
West Block	12.37	13.87	22m

Table – Building Heights

Three potential options are available to achieve compliance with the site coverage:

1. Transfer floor area from the lower levels of East Block to form a 7th storey; or
2. Transfer floor area from East Block to West Block; or
3. Reduce the floor area to achieve a smaller building footprint.

In considering these options, the first and second option would result in an undesirable streetscape outcome in terms of increased bulk and scale to the development, and would compromise the height transition provided to West Block, which arguably would be inconsistent with the objectives of the site coverage provision. The third and most effective option is likely to be opposed by the applicant on the basis that this would result in a

significant reduction to a compliant building envelope which achieves the FSR afforded to the site under the BBLEP 2013, which is the principal development standard for controlling development density.

On balance, the current proposal is considered to be satisfactory with regard to bulk and scale, desired future character and streetscape outcomes. The proposal provides private open space over the minimum requirement, and complies with FSR, height, setbacks, building separation and solar access/overshadowing. Therefore, the departure with the DCP requirement for site coverage is not considered to be significant enough on its own to warrant refusal of the application and is reasonable in the circumstances.

Note 6 – Unit Mix

In accordance with the BBDCP 2013, Part 4C.5.1, the total number of studio and one bedroom apartments must not exceed 25% of total apartments within the development. As indicated in the table below, the total number of studio and one bedroom apartments for the proposed development is 38%.

	TOTAL	Unit Mix
Studio/1 bedroom	34	38%
2 bedroom	46	52%
3 bedroom	9	10%
	89	100%

Table – Proposed Unit Mix

While the proposal does not comply with the unit mix under BBDCP 2013, the proposal delivers a range of apartment sizes to achieve Council's DCP requirements. The proposal also features a range of apartment styles and layouts including 9 townhouses, 4 split-level street facing apartments, 20 cross through apartments, and 33 apartments that either have a dual aspect or located on a corner or roof terrace. The remaining apartments within the development are one or two bedroom units with a single aspect.

The majority of apartments within the development (i.e. 62%) are two/three bedroom units and a range of dwelling types are provided to cater for a variety of different households. On balance, it is considered that the proposal achieves an acceptable unit mix of dwellings, including their configuration.

Note 7 – Overshadowing

In accordance with Clause 4C.5.8 of the BBDCP 2013, living rooms belonging to adjoining dwellings shall retain at least 2 hours of sunlight between 9.00am to 3.00pm midwinter to 50% of private open space and windows to living rooms. Based on a detailed assessment of the submitted shadow diagrams and elevations, the Panel is requested to consider the following conclusions:

- *Dwellings to the west:-* Private open space to the south west is affected from 9.00-10.00am in the morning, however would receive full sunlight for the remainder of the day. The rear living rooms are not impacted by the shadow created by the development.
- *Residential Flat Building (25 Chelmsford Ave) to the south:-* The majority of the shadow falls to the south and as such, the north facing units belonging to No. 25 Chelmsford Avenue receive the majority of shadow from the proposed development. In response, the

southern portion of the East and West Block were amended to create additional openings to allow more sunlight penetration to the south. As shown in Figure 13 and 14 below, these amendments result in all five of the north facing apartments achieving a minimum of 2 hours sunlight. The private open space belonging to the two ground floor units wrap around the sides of the building and while shadow the northern section of this area is significant, at least 50% of the private courtyards will achieve the minimum requirement.

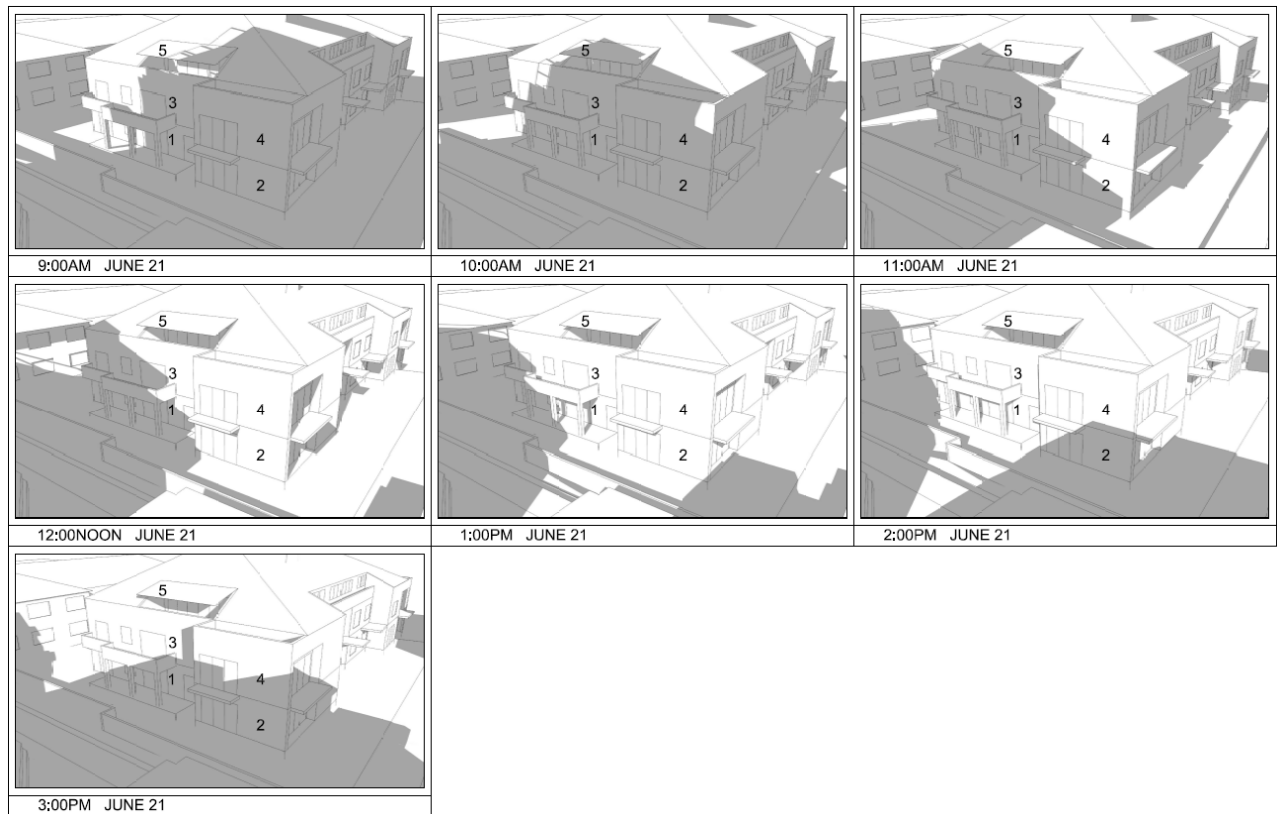


Figure 13 – Shadow elevations showing impact to No. 25 Chelmsford Avenue

SOLAR ACCESS			
	FROM	UNTIL	HOURS
1	12:35 PM	2:40 PM	2H & 5MINS
2	11:10 AM	2:15 PM	3H & 5MINS
3	11:55 AM	3:00 PM	3H & 5MINS
4	10:45 AM	3:00 PM	4H & 15MINS
5	10:45 AM	3:00 PM	4H & 15MINS

Figure 14 – Shadow analysis for 25 Chelmsford Avenue north-facing apartments

- *Nursing Home (31-33 Edgehill Avenue):-* The adjoining nursing home receives overshadowing to several west facing wards during the afternoon period from 12.00pm to 3.00pm. While the wards are classified as habitable rooms, they are not considered to be living rooms for the purpose of this provision. The nursing home, being a health care facility provides communal living rooms and communal open space within the central courtyard of the building which are not impacted by overshadowing from the proposal.

Residents will still be able to resort to these communal areas and as such the proposal is not considered to result in unacceptable shadow impacts.

The design and siting of the development minimises overshadowing to adjoining properties wherever possible and also adequate setbacks and building separation have been incorporated into the design. Further, the proposal complies with the maximum height and FSR provisions of the LEP and therefore the resulting shadow from the development would not be unreasonable or unexpected.

The proposal is not considered to result in significant adverse impacts to the surrounding dwellings and is therefore compliant with the solar access provisions under Clause 4C.5.8 and SEPP 65.

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

These matters have been considered in the assessment of the application. It is considered that the proposal would be unlikely to result in significant adverse environmental, social or economic impacts in the locality.

(c) The suitability of the site for the development.

These matters have been considered in the assessment of the development application. The subject site has been used continuously for many years for a bowling club and has no known history of industrial uses. Pockets of contamination have been identified on site and within the groundwater, however adequate information has been submitted to confirm that the site can be made suitable for the proposed residential development. In addition, an acoustic report has been submitted to demonstrate that the development can meet the acoustic requirements of sites affected by aircraft noise (ANEF 20-25 and 25-30). Accordingly, it is considered that the site is suitable for the proposed development.

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

The application was first notified for a period of 30 days from 7 April to 12 May 2014 in accordance with Council's Notifications Policy together with the Integrated Development provisions under the EP&A Act 1979. A total of 15 individual submissions and one petition letter containing 427 signatures were received.

The amended proposal was re-notified from 24 September to 25 October 2014. A total of 5 individual submissions and one petition letter containing 126 signatures were received.

Issues raised within submissions relating to building design, desired future character, site coverage, building length/depth, building separation, landscaping, communal open space, unit mix and solar access/overshadowing have been addressed in this report as part of the detailed assessment. Other matters raised within the submissions are summarised and addressed as follows:

- *Submission from NSW Land and Housing Corporation - Family and Community Services (Sir Joseph Banks Nursing Home)*

The submission from NSW FACS raises concerns in relation to the proposed building separation and resulting amenity impacts to the adjoining nursing home at No. 31-33 Edgehill Avenue, including loss of visual and acoustic privacy and loss of daylight to apartments.

As discussed above, the proposal complies with the provisions for maximum height, setbacks and building separation. As such, any overshadowing impacts resulting from the proposal are attributed to complying building elements and would not be unforeseen or unexpected given the orientation and irregular shape of the site, the irregular position/orientation of the nursing home which does not align with the street frontage and the planning controls afforded to the nursing home site under the LEP.

Notwithstanding the above, it is considered that residents of the nursing home would still be able to resort to communal living areas and open space provided within the central courtyard which is not impacted by overshadowing from the proposal.

In respect to potential impacts to any future redevelopment resulting from the proposed building separation, Council must consider the planning controls applicable to the site in question. The site occupied by the nursing home is zoned R2 Low Density Residential and residential flat buildings are a prohibited form of development under this zoning (except for warehouse conversions). Contrary to this statement, Clause 5.3 of the BBLEP 2013, relating to development near zone boundaries, affords the nursing home the same permitted uses as the adjoining R3 Medium Density Residential zone. However, the same does not apply to the standards for FSR or building height. On this basis any future redevelopment of the nursing home would be subject to a maximum height of 8.5 metres and an FSR of 0.8 (multi-unit) to 1:1 (residential flat building). Hence, the RFDC building separation provisions for the redevelopment of a residential flat building over 4 storeys are not applicable under the current planning controls for the nursing home.

The proposed development provides a 6 metre setback to the common boundary which comprises half of the required building separation for a building under 4 storeys. On this basis, the application will comply with the building separation should the nursing be redeveloped in the future.

- ***Traffic and car parking - The increased traffic volume is likely to exacerbate already restricted accessibility on the street and the potential for accidents at the blind corner where there has already been an incident.***

The Traffic Impact Statement submitted in support of the application concludes that the traffic generated by the development will not result in significant traffic impacts to Edgehill Avenue. Council's Traffic Engineer has reviewed the Traffic Report and concurs with the findings, subject to recommended conditions.

It is recognised that there are potential safety issues concerning the location of the vehicular access point near the road bend and therefore the developer will be required to construct traffic calming measures on the northern approach to the development. These works could potentially ease local parking restrictions imposed under no stopping signs close to the bend. Further, the access point shall be restricted to left-in,

left-out only to prevent vehicles from cutting through the corner to access the basement.

With regard to parking availability, the proposal fully complies with Council's residential and visitor car parking rates and therefore satisfies the requirements for off-street parking.

- ***The proposal is not of appropriate form or scale for the site, nor is it in keeping with the character of surrounding residences.***

As discussed within the assessment, the proposal complies with the maximum height and FSR standards under the BBLEP 2013. The design has implemented amendments to the design such as the 2 to 3 storey podium recommended by the DRP to resolve the crucial issues relating to building interface and streetscape character. The proposal meets the intent of the BBDCP 2013 by locating higher building elements away from the street and providing height transitions to lower scale development on Edgehill Avenue. The front façade is modulated to replicate the appearance of townhouse style development along the street frontage of the site.

The subject site is identified as a large infill redevelopment site and as such the resulting form of development is consistent with the desired future character and is anticipated by the planning controls that apply to the site which allows for higher densities.

- ***The proposal is deficient in parking for services and deliveries.***

Council's DCP requires the provision of at least one onsite service bay for a Medium Rigid Vehicle (MRV) based on the size of the development. It is recognised that the proposal does not provide onsite servicing and all servicing including garbage collection is proposed from Edgehill Avenue.

Edgehill Avenue is a narrow road and it is considered the street would be unlikely to meet the servicing demands for a development comprising 89 apartments without resulting in weekly impacts to on street parking, which does not taking into account the need to provide for deliveries and removals. It shall be conditioned that the development be provided with a minimum of one onsite service bay with the vehicle access designed to accommodate a MRV (i.e. Council garbage vehicle) in accordance with AS2890.2.

- ***The proposal will increase the density in this residential area and be in opposition of the DCP which aims to ensure that densities are not increased in such locations.***

Maximum site density is controlled by the maximum FSR standards under the LEP with consideration given to the performance criteria provided by the BBDCP 2013. In this regard, the proposed development for a residential flat building is permitted under the R3 Medium Density zone and the proposal complies with the maximum height and FSR controls applicable to the site.

The desired future character and consideration of the LEP objectives for the bonus provisions for height and FSR are discussed in detail within this report.

- *We do not agree with the bonus height and FSR provisions in the BBLEP and the application of them to this site. These provisions have done nothing but encouraged development applications of unacceptable magnitude such as this one.*

This concern is noted and forwarded to the JRPP for consideration.

(e) The public interest.

These matters have been considered in the assessment of the development application. It is considered that approval of the proposed development will have no significant adverse impacts on the public interest.

Other Matters

External Referrals

- *Ausgrid*

Ausgrid have by letter dated 4 April 2014 advised that a new substation is required to service the proposed development.

- *NSW Ports Corporation*

NSW Ports have by letter dated 28 March 2014, provided comment on the proposal. It was requested that the upper levels of the development be removed from the proposal to restrict line of site to Port activities in relation to noise impacts. Port noise is considered by the submitted Acoustic Report and appropriate attenuation measures will be implemented during construction. A positive covenant will be added to the Title of the Land noting that the land is impacted by aircraft and potentially Port noise due to the proximity to Port Botany and Sydney Airport.

- *NSW Office of Water*

The Office of Water in a letter dated 3 April 2014 has provided their General Terms of Approval to the proposed development.

- *NSW Police Service*

NSW Police in a letter dated 11 May 2014 have raised no objection to the proposed development, subject to conditions.

- *Sydney Airports Corporation Limited (SACL)*

SACL by letter dated 28 March 2014 confirmed that they raise no objections to the development to a maximum height of 23.8 metres (AHD) as shown on the plans. This does not include the height required for construction cranes, etc. and further approvals may be required prior to issue of a Construction Certificate.

Internal Referrals

The development application was referred to relevant internal departments within Council including the Development Engineer, Traffic Engineer, Landscape Officer, Environmental Scientist and Environmental Health Officer for consideration. Appropriate conditions are recommended to be imposed on any consent issued.

Section 94 Contributions

The Section 94 Contributions for the proposed development is calculated as follows:

- 89 units @ \$20,000.00 each = \$1,780,000.00

Community Facilities:	\$192,240.00
Administration:	\$7,120.00
Transport:	\$97,900.00
Open Space and Recreation:	\$1,482,740.00

Therefore a total Section 94 Contribution of \$1,780,000.00 is required to be paid to Council in accordance with the draft schedule of Conditions attached to this report.

Conclusion

Development Application No. 14/40 in its amended form seeks consent for the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of three residential flat buildings as follows:
 - Three (3) storey building containing 9 townhouses.
 - Four (4) storey building containing 29 units.
 - Part three (3) and six (6) storey building containing 51 units.
 - Total of 89 units.
- Total floor space ratio of 1.5:1 and a maximum building height of 20 metres.
- Two basement parking levels to accommodate 162 vehicles.

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. In determining the application, the Panel is requested to consider the content of the submissions received as a result of the public exhibition and the planning response to these submissions contained within the body of this report.

The application has been assessed against the development standards within the BBLEP 2013 and complies with the maximum FSR of 1.5:1 and is below the 22 metre height limit.

The application is considered to be consistent with the Ten Design Principles of SEPP 65 and achieves compliance with provisions relating to setbacks, building separation, private open space, solar access, car parking, unit sizes, cross ventilation and provision of deep soil. While there are non-compliances with communal open space, site coverage, landscaping, unit mix and building depth, these departures are addressed in the assessment and on balance are considered to be reasonable in the circumstances.

The design currently before the JRPP has been the subject to an extensive design review process and significant amendments to the design originally put to the DRP in July 2013. The amended design incorporates a 2 to 3 storey podium form which was a specific recommendation made by the DRP to resolve the crucial issues relating to building interface and streetscape character. Concerns were raised by Council in relation to overshadowing to the south, character/building interface and the height transitions. Subject to further amendments Council considers that these issues have been largely resolved and result in a proposal that is unlikely to result in external impacts to surrounding development or residential amenity.

The application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Local Environmental Plan 2013* and it is recommended to the Panel that the application be granted approval, subject to the conditions in the attached schedule.

RECOMMENDATION

In view of the preceding comments, it is RECOMMENDED that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the Consent Authority, resolve to:

- (1) Grant the approval Development Application No. 14/40 for the construction of a residential flat building at 15-19 Edgehill Avenue Botany, in the following manner: Demolition of all structures on site; site excavation and remediation; Construction of three residential flat buildings as follows: three (3) storey building containing 9 townhouses, four (4) storey building containing 29 units, part three (3) and six (6) storey building containing 51 units, total of 89 units; total floor space ratio of 1.5:1 and a maximum building height of 20 metres; and two basement parking levels to accommodate 162 vehicles.