

# BAYSIDE COUNCIL

## Planning Assessment Report

Application Details	
Panel Reference:	PPSSEC-114
DA Number:	DA-2021/1
Date of Receipt:	12 January 2021
Property:	128 Bunnerong Road and 120 Banks Avenue Eastgardens
Owner:	
Applicant:	
Applicant Address:	Level 11, 528 Kent Street, Sydney
Proposal:	BATA Stage 2 - Lot E - Construction of a mixed use development comprising two residential flat buildings up to 17 storeys in height containing 322 residential units, communal recreational facilities, ground floor residential and retail, basement car parking; Publicly accessible through site pedestrian link; removal of three trees, construction and embellishment of two private roads and a future public open space component.
Recommendation:	Approval subject to Conditions
Value:	\$114,992,428.00
No. of submissions:	Six (6)
Author:	Fiona Prodromou - Senior Assessment Planner
Date of Report:	September 2021

### Key Issues

Bayside Local Environmental Plan 2021 (BLEP 2021) commenced on 27 August 2021. Clause 1.8A of the BLEP 2021 states '*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*'.

The development application was submitted on 12 January 2021 and will thus be assessed against the provisions of Botany Bay LEP 2013.

The provisions of BLEP 2021 largely reflect the planning objectives, policies and controls contained within BBLEP 2013. The site is identified under BLEP 2021 as being included within the R4 High Density Residential Zone. The proposal is permissible and consistent with the future planning objectives for the area in BLEP 2021. The proposal is satisfactory in terms of BLEP 2021.

The subject site forms part of a larger property known as the BATA (British American Tobacco Australia) site, which was previously utilised for industrial purposes. The southern portion of the site is being redeveloped in line with the Stage 1 Masterplan approval granted by the Land and Environment Court on 7 August 2015. The consent is a concept approval for the southern portion of the site, with construction nearing completion.

On 22 November 2019, LEP Amendment 8 was notified by the NSW Department of Planning, Industry and the Environment. This LEP Amendment applies to the northern portion of the

site, colloquially known as BATA 2, of which Lot E is located within and is subject of this application.

LEP amendment 8 updated BBLEP 2013 (including relevant maps) to:

- Rezone the site from IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential;
- Amend Floor Space Ratio controls to 2.35:1;
- Amend Height of Building controls to 16.6m, 37m and 69m; and
- Include a Clause requiring the preparation of a Development Control Plan for the site.

On 26 November 2020, the Sydney Eastern City Planning Panel approved a Concept Plan (DA-2019/386), for future mixed-use development upon the subject site. As per Section 4.23 of the Environmental Planning and Assessment Act, the Concept DA now functions in lieu of a DCP for the site.

The Concept Plan established parameters for future development including numerical requirements and objectives and incorporated Torrens title subdivision of the site, creation of building envelopes, indicative heights, numerical setbacks, maximum gross floor area, materiality of building forms, public domain interface, concept landscaping and public domain provision, car parking rates, public open space and art provision in addition to a myriad of other design measures.

Lot E is located centrally on site, and comprises a total site area of 9,054sq/m. Lot E is of strategic importance within the overall site as it forms part of the Village Heart, in conjunction with Lot B directly to the south.

The eastern portion of Lot E comprising an area of 2,706sq/m, is proposed to be retained and embellished as a future community park and is subject to future dedication to Council, upon the finalisation of the current draft Planning Agreement associated with the site. The remaining 6,348sq/m of Lot E is proposed to be redeveloped as part of a mixed use development.

Final amended plans and information were submitted to Council on 27 August 2021, this assessment report is the subject of the submitted information.

The proposal as submitted was reviewed by the Design Excellence Panel on two occasions and deemed to achieve Design Excellence subject to design modifications which have been incorporated into the development and final submitted amended plans.

The subject site is;

- a) Flood affected and requires appropriate flood mitigation measures.
- b) Contaminated and subject to remediation
- c) Identified as a Key Site as per Botany Bay LEP 2013 and subject to the requirements of Clause 6.16 – Design Excellence

A total of six (6) submissions were received during the public notification of the proposal, issues raised have been considered in this assessment report.

The proposal is recommended for Approval subject to conditions.

## Recommendation

---

- A. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2021/1 for the construction of a mixed use development comprising two residential flat buildings up to 17 storeys in height containing 322 residential units, communal recreational facilities, ground floor residential and retail, basement car parking; Publicly accessible through site pedestrian link; removal of three trees, construction and embellishment of two private roads and a future public open space component at 128 Bunnerong Road, Eastgardens; pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- B. That the submitters be notified of the Regional Planning Panel's decision.

## Background

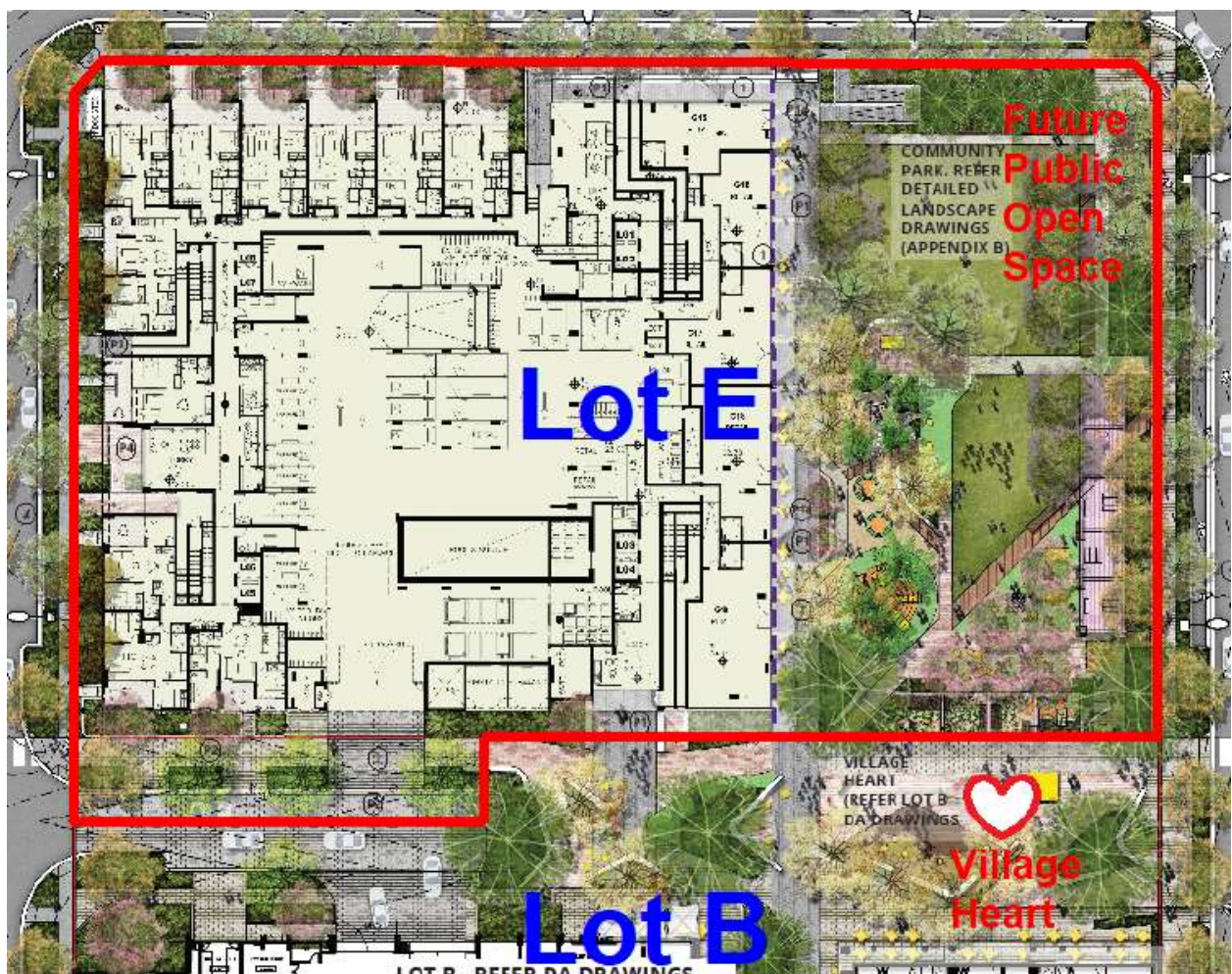
---

Application	Proposal	Consent Authority	Determined Date
DA-2019/387	Civil Works involving the construction of roads, sewer, stormwater, water supply infrastructure and public domain landscaping in preparation for the future mixed use concept development application	Sydney Eastern City Planning Panel	24 August 2020
DA-2019/387/A	Modification to amend Condition 10 regarding payment of bonds	Delegated Authority	7 October 2020
DA-2019/386	Integrated Development and Staged Concept Development - land subdivision; building envelopes / height / setbacks for 13 buildings of between 2 and 20 storeys to accommodate a variety of residential dwellings and a minimum of 5,000m <sup>2</sup> of non-residential land uses including child care centres, supermarket and other commercial uses; landscaping and public domain works; proposed road layout; basement and podium level car parking; and car parking rates; resulting in a total floor space ratio of 2.35:1	Sydney Eastern City Planning Panel	26 November 2020
DA-2019/426	Torrens title land subdivision comprising development lots, public open space lots and public roads.	Delegated Authority	13 January 2021
DA-2020/296	Excavation, shoring and piling to accommodate basement levels associated with future buildings within DA-2020/303	Delegated Authority	14 December 2020
DA-2020/408	Construction of basement slabs for Lot B in BATA 2	Delegated Authority	8 February 2021
DA-2019/387/B	Modification to amend the amount of the Builder's Damage Deposit and Performance Bond in Condition 10 of the consent to the negotiated amount agreed with Council.	Approved	13 May 2021
DA-2019/386/A	Modification to parking rates of concept plan	Approved Regional Panel	1 July 2021
DA-2020/296/A	Modification to change depth of excavation for shoring and piling	Delegated Authority	6 July 2021
DA-2020/408/A Lodged 6 May 2021	Modification to basement extent and provision of additional slab for new part basement level	Delegated Authority	12 July 2021

DA-2021/261 Lodged 3 June 2021	Integrated Development - BATA 2 - Lot E - Excavation, shoring and piling works to create three basement levels	Delegated Authority	23 September 2021
<b>Development Applications currently Under Assessment</b>			
DA-2020/303 (Lot B)  Lodged 17 September 2020	Construction of a mixed use development comprising two basement levels, two x 20 storey towers, two storey podium with communal facilities & connecting overhead pedestrian bridge, incorporating a total of 411 residential units, 3,406sq/m of commercial floor space, access road adjoining north western boundary of Lot & associated landscape and stormwater works.	Appeal to Land Environment Court  S34 Agreement Imminent as at October 2021	
DA-2019/386/B Lodged 22 April 2021	Modification to condition 16		

## Proposal

Construction of a mixed use development comprising two residential flat buildings of up 17 storeys in height containing 322 residential units (2 x 1 bed / 87 x 1 bed + study / 165 x 2 bed / 64 x 3 bed / 4 x 4 bed), communal recreational facilities, ground floor residential and retail and basement parking; Publicly accessible through site pedestrian link; removal of three trees and, construction and embellishment of two private roads and a future public open space component to be dedicated to Council post finalisation of the current draft planning agreement.





The proposal comprises as follows in more detail;

### Future Public Open Space

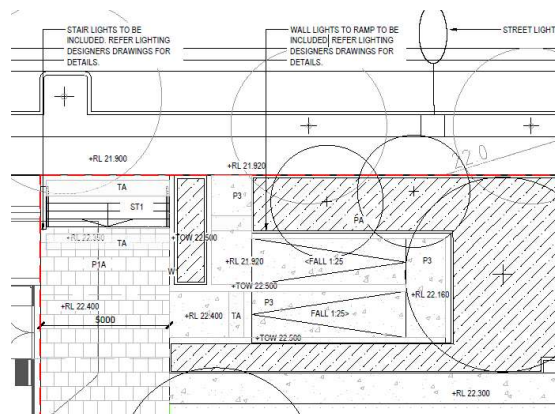
The eastern portion of Lot E comprising an area of 2,706sq/m, is proposed to be retained and embellished as a future community park. This park is subject to future dedication to Council, upon the finalisation of the current draft Planning Agreement associated with the site.

As designed, the park incorporates various active and passive recreation spaces within Lot E. Appropriate easements are proposed to facilitate public pedestrian access until such time that the community park is formally dedicated.

The future community park includes a range of active and passive spaces, including but not limited to children's play areas incorporating slides, trampolines, mounds, nature play, bbqs, seating, tables, ping pong tables, chess, work stations, shade structures, village lawn, decking and a range of landscaping including groundcovers, shrubs and trees. A total of 47 trees are proposed to be planted within the future community park, of which 41 are native species.



Stairs and an accessible ramp are provided to the northern end of the future community park, to provide direct and unobstructed access to the yet to be constructed footpath adjoining the northern edge of the site which is up to 0.4m lower than the village lawn.



#### Basement Level 3 (13RL)

128 car parking spaces (including 21 accessible & 25 electric charging stations), residential storage cages, 10 motorbike and 39 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plans / service rooms. Car park exhaust centred and adjoining southern boundary of site.

#### Basement Level 2 (16.2RL)

126 car parking spaces (including 23 accessible & 25 electric charging stations), 81 residential storage cages, 10 motorbike and 39 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plans / service rooms. Car park exhaust centred and adjoining southern boundary of site.

#### Basement Level 1 (19.4RL)

110 car parking spaces (including 21 accessible & 21 electric charging stations), 60 residential storage cages, 9 motorbike and 24 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plans / service rooms. Car park exhaust centred and adjoining southern boundary of site.

OSD tank, cold water / fire pump rooms & sprinkler hydrant tank in south western corner of basement. Grease arrestor in south eastern corner.

#### Ground Floor (11 residential units + 5 retail tenancies) (22.4RL – 23RL)

11 residential units, comprising 1 x 1 bed / 1 x 1 b + S / 3 x 2 bed & 6 x 3 bed single level and maisonette style units. Periphery landscaping is proposed to the northern, southern and western boundaries of the 'developable' portion of the lot. Residential units are proposed to comprise independent entry paths / gates, with fencing to 1.8m in height proposed forward of the building line to the west to units G.02 / G.03 & G.08.

Five retail tenancies ranging in size from 71sq/m to 138sq/m along the eastern periphery of the development facing east, with G15 oriented to the north and comprising an 'al fresco' paved dining area facing north towards the future park opposite.

Sleeved behind residential and retail uses are service corridors, carparking, loading and unloading areas, car wash bay, waste storage rooms, associated plant rooms, electric bicycle charging stations and internalised vehicular ramp to lower level basement floors. Car park exhaust centred and adjoining southern boundary of site.

Three (3) residential lobbies are provided, to the south, north and western sides of the development. All lobbies incorporate seating areas and a mail room, the western lobby incorporates a managers office with adjoining bathroom.

A fire booster cupboard enclosure is positioned adjoining the western wall of unit G.09, with car park exhaust, 2 x substations and a switch room adjoining the vehicular entrance to the south of the site.

#### Level 1 (17 units in both towers)

Tower A comprises a total of 7 units, being 3 x 1 bed + study / 2 x 2 bed / 2 x 3 bed

Tower B comprises a total of 10 units, being 1 x 1 bed / 5 x 1 bed + study / 4 x 2 bed

All units comprise associated adjoining private open space areas. Units are accessed via central communal lobbies and corridors with dual lift cores.

A central communal open space area is proposed centrally at this level which incorporates walkways, landscaped planters, swimming pool and spa, sauna, pool lawn and deck, gym and communal room. A community garden is also proposed.

A minimum 1.8m high wind screen is proposed along the southern side of the pool lawn area as identified in red below, to maximise residential amenity.



Level 2 (22 units in both towers (11 in each tower))

Tower A comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed.

Tower B comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed.

Units are accessed via central communal lobbies and corridors with dual lift cores.

Adjoining the balcony of unit 210 to the east is an area of non-trafficable roof space ,which comprises a green roof, incorporating dense planting to a maximum height of 2m.

Car park exhaust centred and adjoining southern boundary of site.

Levels 3-5 / 7 / 9-13 (22 units per floor (11 in each tower))

Towers each comprise a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed units.

Units are accessed via central communal lobbies and corridors with dual lift cores.

Corner units to levels 4 and above to both buildings, will be provided with additional shielding via full height balustrades, partial sliding shutters, pull down screens or other practical wind shielding measures as noted in the submitted Wind Report and circled in red below.



Level 6 (22 units in both towers (11 in each tower))

Tower A comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed.

Tower B comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed. Units

are accessed via central communal lobbies and corridors with dual lift cores.

Level 8

Tower A comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed.

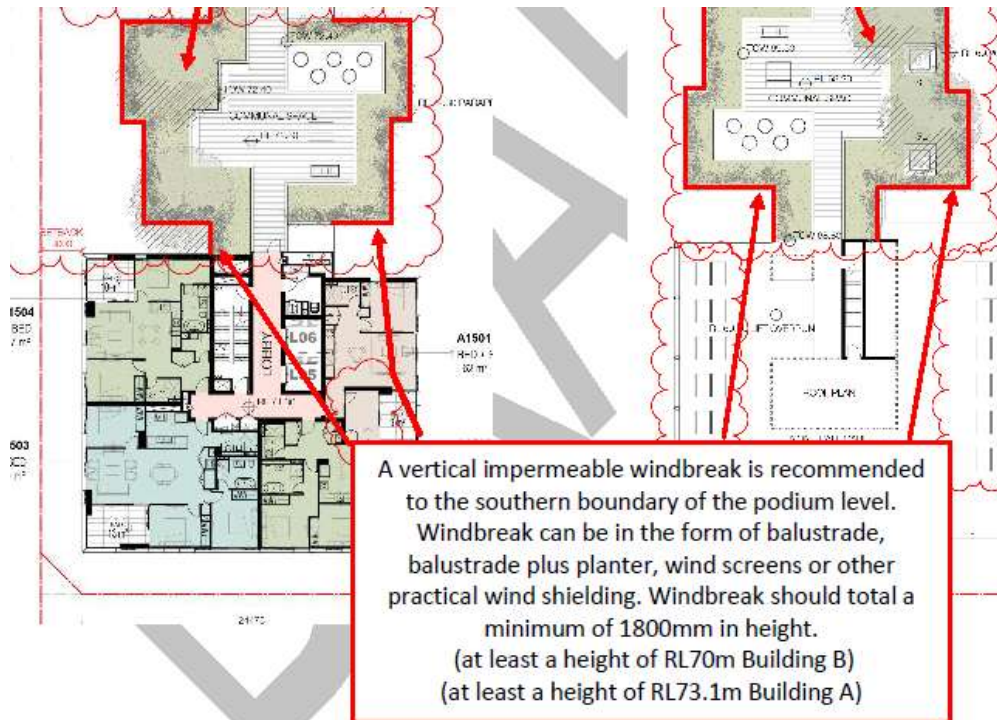
Tower B comprises a total of 11 units, being 3 x 1 bed + study / 6 x 2 bed / 2 x 3 bed. Units are accessed via central communal lobbies and corridors with dual lift cores.



#### Level 14 (14 units in both towers)

Tower A comprises 10 units, being 2 x 1 bed + study / 4 x 2 bed / 4 x 3 bed. Tower B comprises 4 units, being 1 x 1 bed + study / 2 x 2 bed / 1 x 3 bed. Units are accessed via central communal lobbies and corridors with dual lift cores.

Centrally positioned COS proposed to eastern tower on this level. A 1.8m high wind break is proposed along the southern boundary of the communal open space area as depicted below.



The rooftop level beyond the COS identified above to Tower B comprises a number of photovoltaic solar panels in addition to roof plant. This area is to be accessed only for maintenance.

#### Level 15 (10 units in both towers)

Tower A comprises 6 units, being 1 x 1 bed + study / 2 x 2 bed / 1 x 3 bed / 2 x 4 bed. The 2 x 4 bedroom units benefit from upper level private open space areas on level 16. Tower B comprises 4 units, 1 x 1 bed + study / 2 x 2 bed / 1 x 3 bed.

Centrally positioned COS proposed to western tower on this level. A 1.8m high wind break is proposed along the southern boundary of the communal open space area as depicted in the image above.

#### Level 16 (6 units)

Tower A comprises 4 units, being 1 x 1 bed + study / 2 x 2 bed / 1 x 3 bed. Tower B comprises 2 x 4 bedroom units. The 2 x 4 bedroom units benefit from upper level private open space areas on level 17. All units comprise private open space areas adjoining primarily living areas. Lift / stair cores, service rooms and waste chutes are positioned along the communal corridors.

The northern rooftop of tower A comprises roof plant and two private courtyards for units A1509 / A1510 below on level 15.

#### Level 17 (Rooftop)

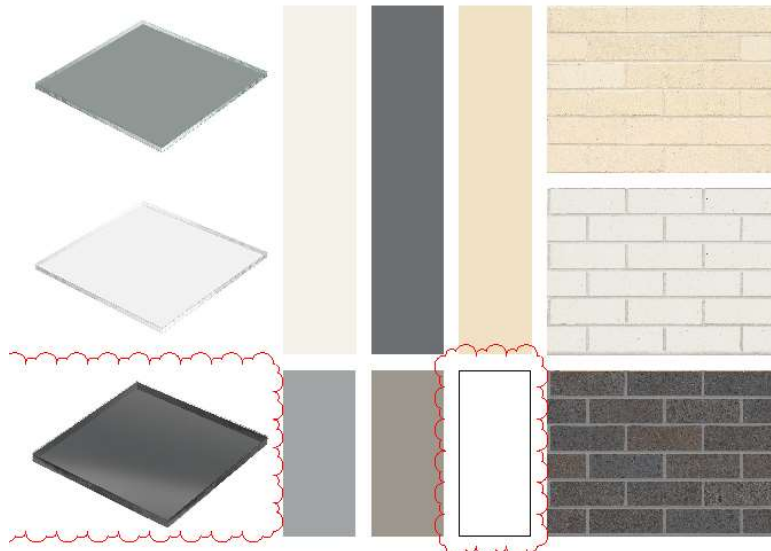
Solar Panels are proposed atop the southern portion of the roof level of Tower A, in addition to roof plant screened with metal louvres. The northern portion of Tower B comprises 2 x



private courtyard spaces to units A1601 / A1602 to level 16 below, in addition to screened roof plant.

### Colours, Finishes & Materials

The proposal incorporates a range of contemporary materials to provide colour, texture and visual interest to the proposed development. Colours, finishes and treatments are depicted in the image below.



*View from West*



4.2m corner splays to the NE, NW and SW. A service road is proposed to adjoin a portion of the southern boundary of the site, accessed from the west of the property.

Lot E is currently vacant, with buildings on site having been demolished under a separate consent. DA-11/272/6 - Removal of all buildings and structures. Lot E is generally flat and sandy with a level of 22RL generally across the lot. Lot E comprises three trees adjoining the western boundary of the lot which are proposed to be removed.

Whilst existing, telegraph poles, power lines, Telstra pits and a substation along Bunnerong Road adjoin the frontages of the overall site, Lot E is centralised within the site, nil services or public access affect Lot E at present.

Directly south of proposed Lot E, is proposed Lot B. This property is the subject of DA-2020/303 - Integrated Development - construction of a mixed use development comprising three basement levels with a total of 558 car spaces (maximum 451 residential spaces / 19 visitor parking spaces, 15 car share bays and 73 retail parking spaces) one x 20 storey and one 21 storey tower, one and two storey podiums with communal facilities and connecting overhead pedestrian bridge, incorporating a total of 376 units (83 x 1 bed / 218 x 2 bed / 64 x 3 bed / 11 x 4 bed) 3,504sq/m of commercial floor space, parking, rainwater tankage, central boiler system, air conditioning, new access roads, associated landscape and stormwater works. Approval for this DA is imminent, post s34 agreement by parties.

Further to the south is BATA 1, which is the site of a number of multi storey residential / mixed use buildings and a public open space area. This area was developed by the applicant as part of the Stage 1 Master Plan for the BATA site and is characterised by a mix of land uses and building forms of varying heights from 6-21 storeys. This redevelopment is nearing completion.

Directly to the north of the entire site, opposite Heffron Road are a row of single and two storey detached dwelling houses, numbered 1 to 47. These properties are zoned R2 – Low Density Residential, comprise vehicular access via Heffron Road and street trees, power poles and street lights exist within the nature strip in front of these properties.

Adjoining the site to the west lies 120 Banks Avenue, which forms part of the overall BATA 2 property yet is not subject of this application as it is a separate legally identified lot. This property is currently vacant.

Further to the west and north west across Banks Avenue lies the Boonie Doon Golf Club (BDGC), as outlined in green below. The subject site is outlined in orange. The golf course properties are zoned SP1 - Special Activities.



The BDGC is an 18 hole course with a number of buildings including a Clubhouse which is listed as a heritage item, scattered across upon the property. The golf club operates over two parcels of land, north and south, which are physically separated by Heffron Road.



The clubhouse, practice driving range and 13 golf holes (plus a spare hole) are situated on the northern parcel and 5 holes and the course maintenance facility (identified with a red X above), positioned within the property at the junction of Banks Avenue and Heffron Road, are situated on the southern parcel. BATA 2 adjoins the southern parcel of the golf course to the west.

Opposite the BATA 2 site to the east on the opposite side of Bunnerong Road are a mix of building forms, including a service station at the junction of Bunnerong and Heffron Roads, 4 storey shop top housing development adjoining, older style 2 storey flat buildings, single and two storey detached dwelling houses. These properties are located within the Randwick Council local government area.

Council records identify that the subject site is affected by;

- Potential contamination
- 15-20 ANEF
- 1% AEP Flood affected
- Heritage items nearby (I155 and I66 – Local parkland)
- Road widening affectations along Tingwell Boulevard and the junction of Bunnerong and Heffron Roads

## **Statutory Considerations**

---

### ***Environmental Planning and Assessment Act, 1979***

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.4.23 - Concept Development Applications as Alternative to DCP required by Environmental Planning Instruments**

As per the provisions of this part, a Concept DA may take the place of a DCP which may be required by a relevant environmental planning instrument.

Lot E forms part of an overall larger site / property which is subject of a Concept Plan approved on 26 November 2020 by the Sydney Eastern City Regional Planning Panel.

An assessment of the proposal against the relevant requirements of the Concept Plan has been undertaken throughout this report.

The concept plan contains the relevant information required to be included as required by clause 6.18(4) of Botany Bay LEP 2013 and the Regulations. An assessment of the Concept plan has been carried out and forms the basis of this report. The proposal is therefore consistent with this part of the Act.

An assessment against the relevant conditions of the Approved Concept Plan is provided below;

### **Concept Plan Conditions**

#### **a) Condition 9 – Design Excellence**

The proposal was peer reviewed by the Design Excellence Panel and deemed to achieve Design Excellence.

b) Condition 16 – Landscape and Design Objectives for Village Heart

Condition 16 of the Concept Plan consent specifies Landscape and Design Objectives for Lots B and E, which form and adjoin the Village Heart within the overall site.

Lot E is positioned directly north of the primary Village Heart and will comprise a future Community Park, for future residents, visitors and the general public which is accessible, well designed, spacious and inviting.

The proposal has been peer reviewed by the Design Excellence Panel and as designed ensures the prominence of the primary village heart is maintained and remains clearly identifiable, incorporates high quality materials i.e. granite pavers, elements to draw interest i.e. alfresco dining areas and the integration of public art subject to consent at a later date.

The proposed future public open space is designed akin to a village square, as intended by Condition 16. The future Community Park transitions from the primary village heart to a well landscaped open space, whose spatial arrangement is designed in a manner which incorporates a range of areas that shall facilitate active and passive recreation opportunities.

The Community Park is designed to incorporate a range of zones for various age brackets, including but not limited to children's play areas, ping pong tables, chess board, chill out seating, picnic areas, work stations and the like. The concept for the community park is depicted below.



The edges of the future community park are designed to accommodate a range of seating which facilitates passive surveillance. A range of landscaping including large and deciduous trees, will ensure the availability of shade with groundcovers, shrubs and small trees providing visual amenity. Given that the future community park is entirely a deep soil zone the longevity and health of landscaping and trees will be ensured into the future.

The proposal as designed is consistent with the objectives of Condition 16 of the Concept Plan and satisfactory in this regard.

c) Condition 17 – Sample Boards

As per the requirements of 17(b), *‘two (2) sample boards containing original samples and swatches of all external materials and colours’* shall be submitted. Physical samples of proposed colours, finishes and materials are required to be submitted to Council for assessment, this has not been provided given COVID 19 restrictions and difficulties in obtaining physical samples.

Notwithstanding digital sample boards have been provided which are satisfactory with respect of this condition.

d) Condition 20 – Finished Ground Floor Level

Proposed finished ground floor levels are positioned slightly above existing natural ground level (i.e. maximum 1m) to ensure the development is safeguarded against any potential future flooding inundation. The proposed development does not incorporate any subterranean spaces and floor levels as proposed are satisfactory with respect of this condition.

e) Condition 21 – Height of Buildings

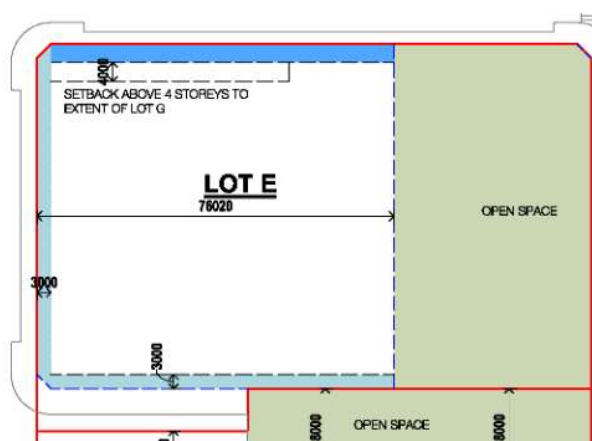
The proposed development adheres to the maximum height standard permitted for the site. i.e. 69m maximum. The development has a maximum height of 58.4m.

f) Condition 22 – Floor to Floor Heights

This condition requires compliance with ADG floor to floor heights. The proposal adheres to and exceeds the minimum floor to floor heights nominated in the ADG. i.e. 3.1m to residential levels, 3.55m to level 1 (in lieu of 3.3m required by ADG) and 4.25m at ground floor level (in lieu of 4m required by ADG). The proposal is satisfactory in this regard.

g) Condition 23(b)(c) – Basement Levels / 42(a) – Landscape Setbacks / Deep Soil Zones

As per the requirements of this condition, basement levels must not encroach into street setback areas as depicted in various shades of blue within A0105 Rev 14— Site Setbacks Plan as approved in the Concept Plan and illustrated below. i.e. 4m to north, 3m to west and south.



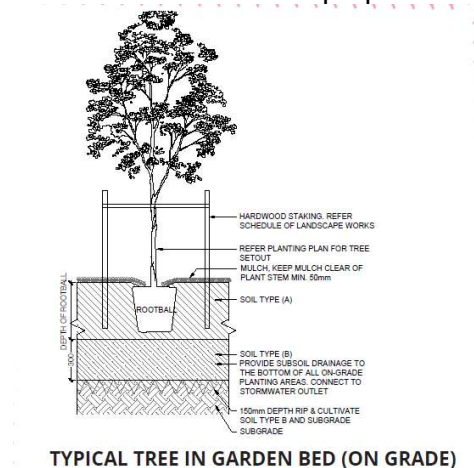
The proposal complies with the aforementioned and provides appropriate deep soil zones along the frontages of the developable lot to facilitate appropriate landscaped planting and ensure its longevity into the future. Hard paving at ground level within these deep soil zones is minimised and basement levels are positioned beyond these deep soil zones as required. Whilst fencing is proposed to the northern and western sides of the development



within the deep soil zone, this is discussed further in Condition 42(a) and (b) – Deep Soil Zones below.

Further to the above, and as required by 23(c), specific detail and sections regarding ‘tree wells’ within the spur roads within Lot E shall be detailed.

The submitted Landscape Report, depicts the provision of tree wells with a soil depth of 0.3m at grade which is accommodated within an area of deep soil area to the south of the site, beyond the extent of basement levels. The proposal satisfies this condition.



h) Condition 25 – Wind Report

A wind report prepared by SLR Ref No: 610.13932-R24-v2.0.docx, dated August 2021 2020 was submitted with the application. Table 2 of the report nominates recommended wind mitigation measures. The proposal has been conditioned appropriately to ensure amelioration measures are implemented during construction and is satisfactory in this regard.

i) Condition 26 – Reflectivity Report

An environmental glare and reflectivity assessment prepared by SLR dated 21 December 2020 was submitted with the application. The report provides an assessment of the reflectivity and glare of the proposed development to both traffic and pedestrians.

Recommendations of the report, proposed to be implemented in the design of the development to minimise glare and reflectivity are summarised follows:

- *Additional mullion protrusions to the northern and southern facades of the development in order to obscure glazing from Angles of Incidence associated with adverse glare conditions.*
- *Glazing with a reflectivity coefficient of less than 10% be applied to all eastern and western aspect glazing.*
- *Proposed landscaping is to be retained to the surrounds of the proposed development.*
- *Façade elements including setbacks, building orientations, screens, privacy fins and mullion protrusions are to be applied as specified unless otherwise stated within the report.*
- *The development is to retain current proportions and orientation of glazing.*

The aforementioned report concluded as follows;

*“The TI Value analysis shows that the development did have some potential for pedestrian discomfort glare, however mitigating measures proposed when assessing glare to motorists has removed the potential for these reflections. On the basis of the above, the detailed reflectivity analysis undertaken in this study shows that the proposed development will cause neither traffic disability glare nor pedestrian discomfort glare on surrounding public areas.”*

The proposal has been conditioned to ensure the recommendations of the report are adhered to. The proposal is therefore satisfactory in this regard.

j) Condition 27 – Emergency Services Access and Egress

A plan prepared by ARUP, dated 09/12/2020 was submitted, which confirms the potential location of fire boosters and further that emergency service vehicles can access the site in the event of an emergency situation. Sufficient turning areas and circles are provided within the site to facilitate access for such vehicles. The proposal is satisfactory in this regard.

k) Condition 28 – CPTED

The proposal was accompanied by a CPTED Assessment prepared by APP Corporation Pty Limited and dated December 2020. The report identifies potential opportunities for crime and the perceived fear of crime resulting from the design of the development. It considers the proposed built form, land uses and their relationship with the surrounding environment.

The aforementioned report provides the following recommendations with respect of the proposed development.

Surveillance

- *Ensure opportunities for natural and passive surveillance are maintained.*
- *Where possible, use glazing in the lobby spaces and semi-public interfaces to the public domain.*
- *Limit any opportunities for concealment in designing the built form including car parking.*
- *Ensure buildings and interfaces at the lower levels are well lit.*
- *Ensure that an effective CCTV strategy is developed in collaboration with a suitably qualified security consultant. CCTV should cover blind spots, be discreet and maximise opportunities for facial recognition.*
- *Use of convex mirrors in recessed spaces or around corners.*
- *Ensure that vegetation is maintained to minimise potential visual obstructions.*

Territorial Reinforcement

- *Establish clear delineation and transition between private and public spaces.*
- *Maintain clear identification of ownership and management of space.*
- *Provide wayfinding and security signage to enforce feelings of safety and legibility. This is particularly important for delineating the residential spaces from retail areas of the development.*
- *Utilise visual cues in the streetscape and building facades to delineate elements of the public domain from private spaces.*

Environmental Maintenance

- *Ensure that any landscaping is well maintained.*
- *Use high quality materials that don't require a lot of maintenance.*

- *Implement procedures to promptly remove graffiti or evidence of vandalism if such does occur.*
- *Frequently maintain publicly accessible areas of the development.*
- *Consider implementation of plans of management for retail operators positioned adjoining the future park land and encourage outdoor seating for further activation.*

#### Access Control

- *Provide separate controlled access - particularly to ensure security of apartments.*
- *Consider increased security measures between ground level private courtyards / terraces and the public domain.*
- *Residential lobbies to be monitored by security and staff of the development.*

The proposal has been designed in accordance with the recommendations above and will further be conditioned appropriately to ensure the safety and security of future residents, visitors and users of the development and community park within the overall site. The proposal is satisfactory with respect of CPTED and condition 28 of the Concept Plan.

#### l) Condition 29 – Public Domain

The location of proposed future public domain as detailed in the subject application for Proposed Lot E, is consistent with the approved Public Domain Plan A0104 Rev 14, forming part of the concept plan consent. The proposal is satisfactory in this regard.

#### m) Condition 30 – Public Open Space / Public Access / Through Site Links

This condition requires the creation of appropriate legal mechanisms for creating rights of public access to all publicly accessible areas of open space, drainage reserves and through site links.

The proposal was accompanied by an 88B instrument which provides details of numerous proposed easements to facilitate pedestrian and vehicular access for the public on site. i.e. to local roads, community park, retail areas and walkways.

Councils Development Engineer reviewed the aforementioned documents and appropriate conditions of consent are imposed to ensure publicly accessible through site links and access is provided on site where necessary. The proposal is satisfactory in this regard.

#### n) Condition 32 – Services

This condition requires that utility services be provided onsite and further that hydrants, substations and the like be provided within the building footprint. The proposal is capable of providing relevant utility services for the development and services including but not limited to substations, fire services and the like are integrated into the building form. The proposal is satisfactory in this regard.

#### o) Condition 33 – Public Art

Nil public art is proposed as part of this application. Relevant public art will be the subject of future applications.

#### p) Condition 34 – Wayfinding Signage Strategy

Nil detail is required as part of this application with respect of this condition. Detail shall be submitted to Council for approval prior to the occupation of the second building in proposed Lot E, as required by this condition.



q) Condition 35 – Public Domain Bicycle Parking

The proposed future public park directly adjoining the proposed development to the east will form part of a separate future development application. The relevant detail required by this condition shall be detailed within a future DA.

r) Landscaping - Conditions 39, 40, 43, 44.

Councils Landscape Architect has reviewed the proposal in relation to the conditions of the concept plan referred to above.

The proposal complies with the intent and requirements of the above concept plan conditions, providing 30% tree canopy cover, of which 50% are endemic trees, to public domain landscaped areas, ensuring all landscaped areas on site facilitate accessible paths of travel, a cohesive mix of Australian endemic, native and low water use plant material are incorporated and that 50% of shrubs and groundcovers used in landscaped areas comprise native vegetation. Trees and species selected are proven to perform well in the locality.

As designed, the landscape concept positively contributes to the proposed building form and enhances environmental performance. Accessible private and public landscaped areas are provided as are opportunities for interaction and recreation for a diverse community.

The proposal provides a variety of pavement treatments, including pervious surfaces, granite pavers, washed in situ concrete, decking and soft fall within children's play areas etc. Water sensitive urban design elements are incorporated, for example rain gardens within the eastern periphery of the community park which incorporate low water and low maintenance plant species.

The proposal complies with and is satisfactory with regards to the subject conditions.

s) Condition 42(a) and (b) – Deep Soil Zones

Condition 42(a) and (b) stipulates as follows;

- a. *All site setbacks as depicted in various shades of blue within A0105 Rev 14 — Site Setbacks Plan, with the exception of the 3m setback adjoining Lot J to the west and those identified in Green within A0109 Rev 14— Deep Soil Plan prepared by SJB Architects, shall comprise deep soil zones.*
- b. *Soft landscape treatment with canopy cover is to be maximized within deep soil zones. Deep soil zones shall not be covered by buildings, hard surfacing or structures, except for footpaths / driveways / fire egress leading into / from buildings, plant / services required by relevant service providers and the like, of whose extent shall be minimized. Details shall be determined in Stage 2 Development Applications.*

The above requires the retention of ground level building setbacks as deep soil zones, with such areas not to include hard surfacing or structures, with the exception of areas providing access.

Plans as submitted depict both solid and open form fencing to a height of 1.8m – 2m, forward of the building line at ground level, to the northern and western facades of the development, within the required deep soil zones as follows.

i. Ground Level to the West

1.8m high open form fencing, forward of the building line, 1m from western property boundary. Such fencing is proposed to provide courtyards to units G02/G03/G07/G08 and is circled in blue below.



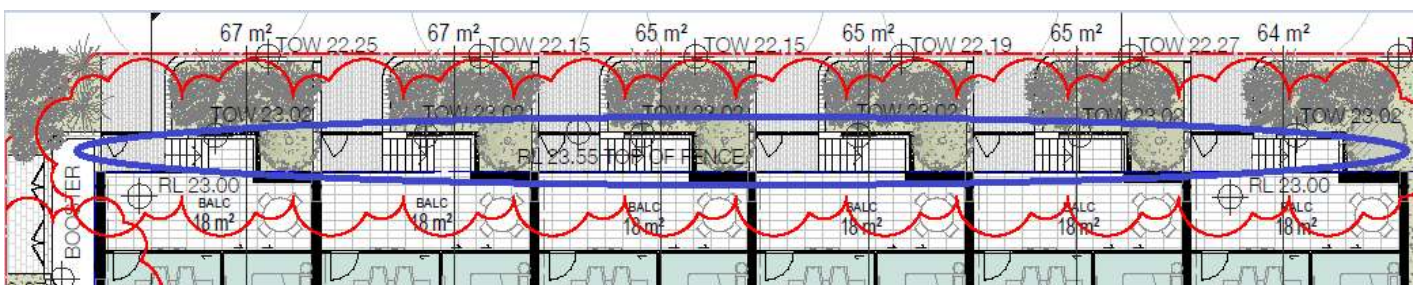
The provision of fencing forward of the building line to west facing units G02/ G03/ G07/ G08, in order to facilitate courtyards for these dwellings is not supported. The subject dwellings comprise sufficiently sized private open space areas adjoining habitable rooms and the enclosure of a portion of the deep soil zone forward of the building line is unnecessary in this regard.

Fencing in this area will conflict with proposed tree planting depicted within the Landscape plan, excerpt illustrated above, and should this area be strata subdivided and sold, it could potentially be modified with paving provided in future, thus reducing deep soil provision on site.

Given the above, the proposal has been conditioned to require that fencing within the deep soil zone along the western front building setback to units G02/G03/G07/G08 be deleted and remain in common ownership.

ii. Ground Level to the North

2m high fencing, forward of the building line, setback 2.6m from the northern property boundary. Such fencing is proposed to provide a secure residential entry and obscure the stairs to units G09- G14 and is circled in blue below.



With respect of the above, the provision of the stairs / landing and fencing to units G09- G14 is necessary in order to facilitate independent pedestrian entries to ground level units, given there is a level change between the public domain and finished ground floor level of units, as a consequence of the flooding affectation of the site. In this regard, the limited paved area and stairs/landing and fencing within the deep soil zone are satisfactory and supported, albeit subject to a reduction in height to 1.5m maximum as discussed in 3C – Public Domain Interface of this report.

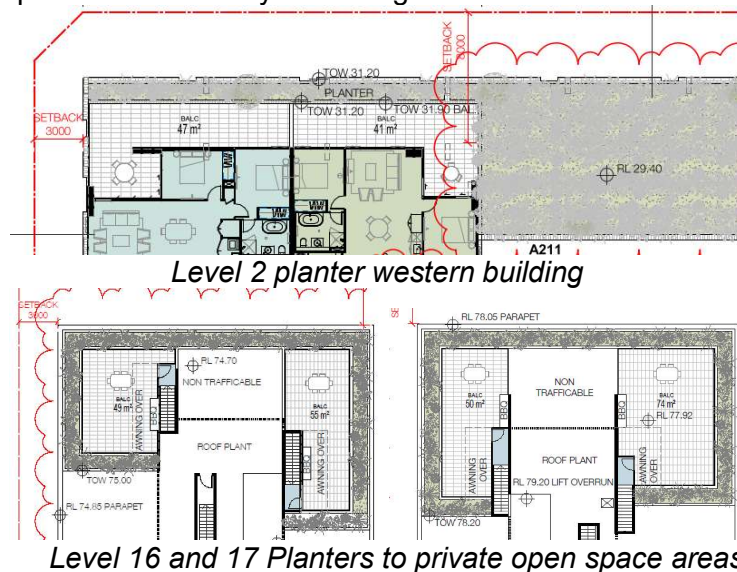
As conditioned the proposal is satisfactory with respect of this concept plan condition.

j. Condition 42(c) - Planter Boxes to Balconies

The intent of Condition 42(c) is the incorporation of planter boxes to upper levels of towers above 2-4 storey podium setbacks. The condition reads as follows;

*'Setbacks above 2 or 4 storey podiums shall include soft landscape treatments in the form of built in planter boxes to soften building forms. Built in planters are to be designed to provide soft landscape treatment to improve the general streetscape.'*

Plans illustrate the provision of a planter at level 2 along the northern façade of the western tower adjoining balconies of units A210 and A211, an expansive planter adjoining the eastern wall of unit 211 at level 2 and perimeter planters to the rooftop private open space on level 16 of the western tower and level 17 of the eastern tower as illustrated below. The proposal is satisfactory in this regard.



k. Condition 45 – ESD

A revised ESD report prepared by Efficient Living dated 10 August 2021 was submitted for review. This report is consistent with and prepared by the same consultancy which prepared the ESD report approved as part of the Concept Plan DA.

The report confirms ESD commitments proposed on site as follows for the proposed development.

No.	Initiative	Commitment
1	Community Vegetable Garden	Garden bed for resident use to be provided within podium level communal open space.
2	Composting Facilities	Worm farm available for resident use to be provided within podium communal open space
3	Electric Vehicles	100 charging spaces to be provided for resident use 2 fast charge spaces to be provided for retail use
4	Car Share	8 car share spaces will be provided at ground level within the development
5	Bicycle Facilities	167 bike racks are provided for resident and visitor use at ground level within the development
6	Open Space	Community Park proposed
7	Green Roof	Podium rooftop will be planted



8	WSUD	Stormwater run-off will be treated with permeable paving, road swales, car park WSUD bays and share-way WSUD bioretention links
9	Fauna and Flora	Appropriate species will be chosen for the planting on site.
10	30% Tree Canopy Cover	A minimum of 30% of the site will have large canopy tree cover.
11	Solar Power	Solar panels will be provided to the roof of buildings to serve the common area demand
12	Rainwater	Rainwater tanks will be connected to the irrigation system to enable watering of gardens
13	Embedded Energy Network	Embedded electrical networks are privately owned and operated metering networks that allow high-rise residential buildings to pool their electricity purchasing power and share in discounted electricity prices. Origin Energy has been signed up to provide an embedded energy network.
14	Building Management System	Lot E will have a Building Management System (BMS) connected to all major energy consuming systems with-in the common areas. Most of the strata's energy is consumed in the lifts, lighting and ventilations systems. This BMS will feed real-time data to building managers and allow them to optimise and control energy efficiencies on a daily basis.

The proposal is satisfactory with respect of this condition and has further been conditioned to ensure the above ESD commitments are delivered as part of the redevelopment of the site.

**l. Condition 46 – Site Specific Sustainable Travel Plan**

A Green Travel Plan and Transport Access Guide is to be provided for each building proposed on site. The subject application was accompanied by a 'Green Travel Plan' (GTP) prepared by ARUP, dated 24 March 2021.

*A GTP as defined in the report is a 'package of measures put in place by a building manager or developer to encourage more sustainable travel whilst travelling to and from a development. It is a means for an organisation to demonstrate a commitment to and take a proactive step towards improving the environmental sustainability of its activities.'*

The submitted GTP identifies and proposes initiatives for the development which aim to influence the behaviour of residents and visitors to the site and of which seek to encourage sustainable transport options and patterns. i.e. identification of public transport links, bicycle routes, car share options, electric vehicle charging stations etc. The proposal is satisfactory with respect of this condition.

**m. Condition 47 - Car Parking**

The proposal complies in full with the maximum car parking rates specified within this condition of the concept plan consent and provides suitable carparking numbers on site for the proposed development.

A total of 390 car parking spaces are provided on site and are proposed to be allocated as follows;

- 366 residential spaces
- 9 residential visitor (including 2 car wash)
- 7 retail spaces
- 8 car share spaces

n. Condition 48 – Loading / Unloading

Plans identify appropriately sized and located loading and unloading areas for the development at ground floor level. Sufficient head height clearance is provided in order to enable waste collection on site. The proposal is satisfactory in this regard and the proposal has been conditioned to require the provision of a Loading Dock Plan of Management prior to the issue of any Occupation Certificate.

o. Condition 49 – Car Wash Bays

This condition requires the provision of 1 car wash space per 200 car spaces provided. Given a total of 390 car spaces are proposed, a minimum of two (2) car wash bays are required. Plans indicate the provision of 2 car wash bays at ground level. The proposal is satisfactory in this regard.

p. Condition 50 – Car Share

8 car share spaces are required to be provided by the requirements of this condition. The proposal indicates the provision of 8 car share spaces at ground level within the development of which 3 are designated fast charge spaces. The proposal is satisfactory in this regard.

q. Condition 51 - Electric Vehicle Charging

A minimum of 78 EV charging stations are required by this condition. Plans indicate the provision of 96 EV charging stations which is well in excess of the minimum required. The proposal is compliant in this regard.

r. Condition 52 – Bicycle Facilities

A total of 167 bicycle spaces are required for the development of which 17 shall be fitted to accommodate electric bicycles.

Plans illustrate the provision of 167 spaces with 17 accommodating electric bicycles. It is noted that the 20 required publicly accessible bicycle spaces will be provided within the future community park. The proposal is satisfactory in this regard.

s. Condition 53 – Motorbike Facilities

This Condition requires the provision of 26 motorbike spaces for the development. Plans illustrate 29 car spaces, and the proposal is satisfactory in this regard.

t. Condition 54 – Unit Mix / Dual Key / Aging in Place

The intent of this condition is to ensure a range of housing options are provided within the development, in order to accommodate various household types i.e. single, couple, family, extended family etc and facilitate aging in place allowing residents to stay living in their own homes for as long as possible.

The development incorporates 322 residential units, being 2 x 1 bed / 87 x 1 bed + study / 165 x 2 bed / 64 x 3 bed / 4 x 4 bed dwellings. Of the mix provided, 28 units within the development are provided as adaptable, with level transition between indoor / outdoor areas and sufficient circulation space to accommodate mobility aids.

Further to the above, one unit (A1105) within the development is designed as Platinum level as per the Liveable Housing Design Guidelines and 80 silver level units are provided. Silver and platinum level units incorporate design elements which accommodate ageing

in place and people with higher mobility needs. i.e. more generous dimensions, benches to enable future adaptation, windows sills installed at a height that enables home occupants to view the outdoor space from either a seated or standing position etc. The proposal as designed is satisfactory with respect of this condition.

u. Condition 55 – Residential Amenity

An assessment against the relevant requirements of the Apartment Design Guide and SEPP 65 – Design Quality of Residential Flat Buildings has been undertaken further in this report. The proposal is satisfactory in this regard.

**S4.37 – Staged State Significant Development**

As per the provisions of this section;

*If a concept development application is made in respect of State significant development -*

- a. the consent authority may determine that a subsequent stage of the development is to be determined by the relevant council as consent authority, and*
- b. that stage of the development ceases to be State significant development and that council becomes the consent authority for that stage of the development.*

The proposal is linked to a concept plan approval on the site and cost of works exceed \$30M. As such the proposal triggers the requirements of this part and is required to be determined by the regional panel.

**S7.4 - Planning Agreements**

Regional Panel Operational Procedures require Council to detail any proposed Planning Agreement (PA) and its relationship to the application under assessment.

In accordance with the provisions of Section 7.4 of the EPA Act 1979 (as amended), the developer has proposed a draft Planning Agreement (PA) upon the subject site, with the following community benefits.

- i. Dedication of 45 Affordable Housing Units (AHU's), with a total of 100 bedrooms.
- ii. Embellishment and dedication for public use of over 20,000sqm of open space.
- iii. Dedication of public roads.
- iv. Monetary contribution of \$23,900,000 (GST exclusive), over three payments.
- v. Monetary contribution that was part of the BATA I VPA but was not realised due to the development payment trigger being deferred to the BATA II development which consists of \$2,478,000 indexed in accordance with CPI from 2 March 2018.
- vi. Payment of local Infrastructure contributions.

As the PA remains in draft form at the time of finalising this assessment, this application has been conditioned to ensure the consent operates in conjunction with any future executed Planning Agreement for the subject site. The proposal is satisfactory in this regard.

**S.4.15(1) - Matters for Consideration – General**

**S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

In accordance with Schedule 7, subclause (2) of the SEPP, as the proposed development has a capital investment value of greater than \$30 million and is the subject of a concept plan, it is referred to the Regional Planning Panel for determination.

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

The applicant has submitted a BASIX Certificate for the proposed development, being certificate number 1163038M\_04. Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been imposed on the consent to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

## **State Environmental Planning Policy No. 55 – Remediation of Land**

The property is not identified in Council's records as being potentially contaminated. Notwithstanding, the subject site has a history of industrial land uses i.e. tobacco factory and as such given the history of the site, it is prudent to ensure the requirements of SEPP 55 are taken into consideration.

The site has a long industrial history with the General Motors Holden (GMH) manufacturing facility opening in 1940 and operating until 1982. Following this time, the site was owned and operated by British American Tobacco (BATA) until July 2014 for the manufacture of cigarettes.

GMH manufacturing was concentrated largely in the north eastern portion of the site. Areas of environmental concern include, filling, underground storage tanks, above ground storage tanks, solvent use, electrical substations, former spray painting booths, former engine and car assembly works, battery storage / disposal, soldering booths, dangerous and hazardous goods storage areas, former bus depot and former hazardous building materials.

Previous intrusive investigations have been completed on site by Douglas Partners, which have concluded that the site can be made suitable for the proposed mixed use development contingent on the following additional investigations and documents being prepared and provided to Council and the Site Auditor:

- *Additional soil, groundwater and soil vapour investigations to meet the NSW EPA sampling guidelines, with reference to the intended site use, and to supplement the previous works undertaken from 2011-2013;*
- *Preparation of a Remediation Action Plan (RAP);*
- *Preparation of an Asbestos Management Plan (AMP);*
- *Site remediation and validation reporting; and*
- *Preparation of a Site Audit Statement (Part A).*

Mr Jason Clay (Senversa) has been engaged as the NSW EPA Accredited Site Auditor for Stage 2 of the BATA – Pagewood Green development.

The subject application was accompanied by the following documents;

- a) Detailed Site Investigation for Contamination: Pagewood Green Stage 2, 120 Banks Avenue and 128 Bunnerong Road, Eastgardens', Report 85009.03.R.002.Rev 0, by Douglas Partners dated 11 September 2020 (DSI).
- b) 'Remediation Action Plan: Area 3, Pagewood Green Stage 2, 120 Banks Avenue and 128 Bunnerong Road, Eastgardens', Report 85009.03.R.011.Rev 0, by Douglas Partners dated 3 November 2020 (RAP).

The submitted RAP notes the following in relation to the site:

*Concentrations of trichloroethene have been reported in soil vapour in both of these Lots at levels above national guidelines which may require remediation or mitigation. Further assessment of the extent of contamination and remediation is required. Section 8 of the RAP*



*provides information about how such an investigation should be undertaken and includes requirements for more groundwater and soil vapour measurements*

Given that Council has not received any additional testing results and that shoring / excavation works were occurring on site at the time of finalising this report, it remains unclear whether vapour mitigation measures are required for the development.

In order to ascertain whether vapour mitigation measures are required, testing is required on site following excavation. Such testing is required in order to ascertain if there is residual vapour risk from soil or groundwater that needs to be managed, and if this was the case a Remediation Action Plan with passive control measures to mitigate this risk i.e. lateral or vertical migration of vapours into the basement carpark, would be required. This could be in the form of an impervious vapour barrier below the basement slab, an active ventilation system i.e. fans or otherwise.

In order to ensure the above occurs, and any potential vapour risk is mitigated and managed, conditions of consent have been imposed which require the submission of further investigations and the preparation of a revised Remediation Action Plan to Council for review and approval, prior to any construction certificate being issued, to manage any residual risk.

Any remediation that utilises a containment strategy for contaminants on site shall be accompanied by a Long-term Environmental Management Plan (LTEMP) which shall be added to the title of the property under the Conveyancing Act.

As conditioned, it can be confirmed that the site is suitable for the proposal and the development is satisfactory with the requirements of the SEPP.

**State Environmental Planning Policy (Infrastructure) 2007**

**Clause 101 Development with Frontage to Classified Road**

The proposed development is located on land with two street frontages to classified roads i.e. Bunnerong and Heffron Roads. In this regard, clause 101 of the SEPP must be considered before consent can be granted.

The proposed development involves vehicular access to and from the site from Tingwell Boulevard which is a local road and has since been established as part of the approval for the southern portion of the site, BATA 1.

Notwithstanding, given the frontages of the site to Heffron and Bunnerong Roads, the proposal was sent to Transport for NSW (TfNSW). The Authority responded to Council, confirming nil objection to the proposed redevelopment of Lot E, number of car spaces proposed to be provided or traffic likely to be generated by the development.

The proposal has been conditioned appropriately, the application is consistent with the provisions of the SEPP and is acceptable in this regard.

**Clause 102 - Impact of Road Noise or Vibration on Non Road Development**

The proposed development is a mixed use development incorporating substantial residential uses on site, on land in or adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles (*based on the traffic volume data published on the website of the RMS*) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Whilst proposed Lot E is centrally located on site and does not directly adjoin a classified road, consideration was given nonetheless to the acoustic amenity of residential dwellings, to ensure road noise or vibration was not likely to adversely impact future occupants.

An acoustic assessment prepared by Acoustic Logic and dated 4 December 2020, was submitted with the application which provides recommendations with respect of construction to maximise acoustic amenity for residential dwellings proposed. i.e. glazed windows and doors with acoustic seals, concrete walls / roof and the like.

Provided that the recommendations stipulated in Section 5.3 of the Acoustic Report are adopted, internal noise levels for the development will comply with the relevant acoustic requirements.

The proposal has been conditioned to ensure the recommendations of the report are adopted and implemented on site. The proposal is satisfactory with regards to the provisions of this clause of the SEPP.

#### Clause 104 - Traffic Generating Development

The proposal is classified as 'traffic generating development' under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, as the site seeks to incorporate 50 or more car parking spaces and access to these spaces is via a road that is within 90m of a classified road.

In accordance with clause 104(3) of the SEPP, TfNSW were advised of the proposed development. TfNSW did not raise any objection to the development within 21 days after the notice was given, in accordance with clause 104(3) of the SEPP. TfNSW specifically stated;

*"TfNSW has reviewed the revised documentation and advises that the proposed changes in parking rates will have a negligible impact to the surrounding classified network. As such, TfNSW raises no objection to the modification and raises no further comments"*

The proposal was accompanied by a Traffic and Parking Statement prepared by TTPP dated 23 December 2020 and further correspondence dated 30 August 2021 which confirmed;

- a) *The proposal complies in full with the relevant car parking requirements for the site.*
- b) *The proposed redevelopment will generate 131 vehicle trips in the AM peak, 147 vehicle trips in the PM peak and to a maximum of 163 vehicle trips during the busiest peak hour on a weekend.*
- c) *Traffic modelling was undertaken which assessed future year 2031 with development traffic, background traffic growth, surrounding key approved developments and a number of road infrastructure improvements which has been completed. The modelling assessment indicated that the masterplan development yields would cause minor impacts on the surrounding road network.*

Given the above, the proposal is satisfactory with respect of the provisions of this clause and is unlikely to result in adverse traffic generation impacts.

#### Clause 45 - Works within the Vicinity of Electricity Infrastructure

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure, being power poles along the periphery of the site and a substation along the Bunnerong Road frontage of the property.

In accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Accordingly, the proposal was sent to Ausgrid. The authority has responded granting approval for the development subject to conditions of consent, which have been imposed on the draft

Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

### **State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017**

SEPP (Vegetation in Non Rural Areas) 2017 (Vegetation SEPP) applies to the proposal. Lot E comprises a total of three (3) trees (2 x Red Bloodwood and 1 x Tallowwood) referred to below which are required to be removed in order to facilitate the proposed redevelopment of Lot E.

Tree No	Botanical Name	Age Class	Height (m)	Spread (m)	D.B.H. (cm)	D.R.B. (cm)	TPZ (radius m)	SRZ (radius m)	Condition comments as seen on site	ULE
159	<i>Corymbia gummifera</i>	M	14	10	45	55	5.4	2.6	G vitality	2a
160	<i>Corymbia gummifera</i>	M	16	12	50	62	6.0	2.7	G vitality	2a
161	<i>Eucalyptus microcorys</i>	SM	6	2	12, 14	22	2.2	1.8	G vitality	2a



The removal of the three trees referred to above is necessary in order to facilitate the proposed development.

The redevelopment of the site provides for significant areas of deep soil planning, including the provision of a future community park with a minimum of 30% canopy cover as required by the concept plan consent. A range of shrubs, trees and groundcovers are proposed within a suitably designed landscape plan for incorporation on site. The proposal is thus satisfactory with respect of the provisions of the SEPP and the removal of the 3 existing trees is supported.

### **State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

#### ***a. The advice of the Design Review Panel (DRP)***

The proposal was referred to the Design Excellence Review Panel (DERP) on 23 April, with amended plans reviewed on 14 July. Post second review by the Design Excellence Panel, the Panel supported the application subject to a number of design refinements referred to below.

The Panel confirmed that subject to the implementation of the stated design refinements, the application would achieve Design Excellence in accordance with Clause 6.14 of the Clause 6.16(4) of BBLP 2013.

The relevant design refinements were undertaken by the Applicant, with amended plans submitted being reviewed by the assessing officer. Further detail is provided below.

*b. The design quality of the development when evaluated in accordance with the design quality principles.*

Documentation submitted by the applicant has addressed the relevant design quality principles of the SEPP. An assessment of the proposal against nine design quality principles of the SEPP has been detailed below;

#### Principle 1 - Context and Neighbourhood Character

The subject site benefits from an R4 high density residential zoning, a 69m height limit and 2.35:1 FSR. Lot E forms part of a larger overall site, of which a Concept Plan was recently approved.

It is reiterated that the Concept Plan established parameters for the future development of the entire site, including numerical requirements and objectives and incorporated building envelopes, indicative heights, numerical setbacks, maximum gross floor area, materiality of building forms, public domain interface, concept landscaping / public domain provision, car parking rates, public open space and a myriad of other design measures to facilitate the achievement of the future desired character for the site.

The proposed development has been designed in accordance with the requirements of the aforementioned Concept Plan and complies in full with regards to the relevant concept plan conditions as previously referred to in this report.

The proposed development provides for a mixed use development in the heart of the site, with retail tenancies at ground level, a primary pedestrian desire line to the east and future community park adjoining the development.

The Design Excellence Panel noted as follows;

- *“The Panel is of the view that the design can contribute to the desirable outcome of a neighbourhood village character once the relationship of the building to the public park satisfactorily resolves accessible pedestrian connectivity to the “key pedestrian through link” across the shopfronts west of the park”.*

In response to the above, the future community park, whilst not originally forming part of this application, is now included. Design considerations for future community use have been undertaken and accessibility given the difference in levels to adjoining future public footpaths along the periphery of the future park are now resolved.

The provision of a ramp at the northern end of the park ensures level and direct access whilst ramped walkways and level access from the southern boundary and adjoining the retail tenancies within the development on site facilitate accessibility.

The proposal is consistent with the future desired character of the site as envisaged by the approved Concept Plan and seeks to deliver an extensive quantum of public open space for the community within Lot E.



The relevant planning controls applicable to adjoining lots within the site permit a range of uses and development forms, of a height, bulk, mass and scale commensurate to the proposal, albeit reduced in building height along Bunnerong Road.

The proposal as designed contributes to and is consistent with the future desired character of the BATA 2 precinct, as envisaged by the applicable planning controls.

The Design Excellence Panel stated *"The lot forms an extension of the Village Heart and generally conforms to the desired character of a neighbourhood village and provides pedestrian connectivity sought by the master plan."* The Design Excellence Panel confirmed that *"the scheme adopts a set thoughtful and of successful design decisions. It responds to the master plan and responds to the planned public domain setting"*.

The proposal is satisfactory with regards to this principle

#### Principle 2 - Built Form and Scale

The design of development is consistent with the objectives and design guidance of the approved Stage 1 Design Report prepared by SJB which forms part of the Concept Plan consent for the site

The bulk, form, massing, scale, height and setbacks of the proposed development are consistent with the numerical requirements and objectives established by the Concept Plan approval for the site.

Deep soil setbacks to the north, south and west of the development are provided as required by the Concept Plan approval, facilitating the planting of trees and landscaping in these locations at ground level which will aid in softening the development in these locations.

The development presents a street wall building with variation in height, variation in materiality at level 7, setbacks to central building elements to break the bulk / length of the towers and reduce their visual prominence. The development is appropriately modulated and articulated with varying elements in the facade design which provide visual interest. Appropriate building separation is provided between towers on site and the southern neighbouring development upon Lot B within the precinct.

The Design Excellence Panel stated as follows;

*"The design achieves an appropriate built form for a site. The central bay of the western building has been reduced by two levels (14 storeys), and this has been offset with an additional level to the northern bay on the western and eastern towers, which are 17 storeys. The Panel supports the building height articulation. The location of additional height does not increase overshadowing to Lot B"*.

The proposal as designed is consistent with the requirements of the concept plan and general principles of this part and is therefore satisfactory in this regard.

#### Principle 3 – Density

The subject site benefits from a maximum FSR of 2:35:1 which equates to a maximum gross floor area of 210,520sq/m. At Concept Plan stage, an indicative GFA of 28,600sq/m was noted for Lot E. The subject DA proposes 32,165sq/m proposed GFA which equates to an FSR of 0.53:1 across the site.

Whilst the 'indicative GFA' for Lot E as proposed by this DA is 3,565sq/m greater than that anticipated in the concept plan, the development adheres to the FSR standard for the site.

The Design Excellence Panel raised concern that *‘by providing additional GFA on Lot E within approved building envelopes, the situation could arise in the final stages of the master plan that the allowable building envelopes could be used to justify a Clause 4.6 variation to increase the maximum total GFA for the concept masterplan’*.

The Panel recommended that *‘an agreement to provide a commensurate reduction in GFA elsewhere in the site is submitted. To ensure the intended effect of well-designed development enabled by building envelopes that are of a scale to provide design flexibility and variation in built form.’*

The applicant was formally requested to provide further detail to confirm how GFA is proposed to be distributed across the entire precinct, given the above discrepancy between the GFA of this DA and that identified as indicative within the concept plan for Lot E.

In order to ensure GFA is equitably distributed across the site and potential future FSR variations avoided, the applicant has provided Council with an indicative breakdown of GFA allocation across the entire precinct. This is detailed below.

GFA RECONCILIATION							
PHASE	LOT	SITE AREA	INDICATIVE GFA (CONCEPT PLAN)	INDICATIVE GFA (AMENDED)	GFA AS LODGED	BALANCE	
	1	B	10372	38700	38776	38697	-79
	2	E	9054	28600	32400	32165	-235
	3	A	9203	38900	38900	0	-38900
	4	D	9290	38500	36500	0	-36500
	5	J	4891	11000	10964	0	-10964
	6	F	10702	24010	22500	0	-22500
	7	C	8529	21900	21600	0	-21600
Townhouse 1	G	9671	6300	5934	5934	0	0
Townhouse 2	H	4170	2480	2926	0	2926	2926
			210390	210500	76796		
MAXIMUM GFA PERMITTED			210520	-20		133724	

The above calculations indicate that allowable GFA is to be accommodated across the precinct.

The quantum of gross floor area sought to be achieved as part of this application, complies with the FSR standard for the overall site and Condition 1 of the Concept plan which restricts the overall extent of GFA across the precinct.

Council is maintaining a register of GFA utilized on site to date to ensure the appropriate redevelopment of the precinct. The proposed density of the development is appropriate. The proposal is satisfactory with regards to density.

#### Principle 4 – Sustainability

As noted in ‘Condition 45 – ESD’ previously within this report, a revised ESD report prepared by Efficient Living dated 10 August 2021 was submitted as part of this application. This report is consistent with and prepared by the same consultancy which prepared the ESD report approved as part of the Concept Plan DA.

The report confirms the proposed ESD commitments sought to be provided on site. The subject commitments are detailed in 'Condition 45 – ESD' previously within this report.

The proposal was reviewed by the Panel who noted as follows;

- i. *The Panel does not support the provision of additional car parking above maximum approved levels in Condition 47 and those stated in Section 9.1 of the approved ESD Report (9 June 2021). The Panel was advised that an application that included the concept of 'utility lots' to increase parking numbers has been submitted to the Sydney Eastern Regional Planning Panel. This Panel is of the view that the utility lot concept if approved, makes more sense if those spaces are in a consolidated position, retained in owner's corporation ownership and long term leased to resident owners rather than sold off. This enables the long-term prospect of decoupling car spaces for future alternative uses such as music spaces, workshops and the like.*

Comment: Modification application DA-2019/386/A referred to by the Panel above has since been approved. This application resulted in a slight increase to residential car parking rates on site, with 50% of car parking spaces provided within each building within the BATA 2 Precinct, to be provided as 'unbundled'.

The "unbundled" residential car spaces will be provided as utility lots on any future strata/stratum subdivision plan and can only be leased to residents in the building, or sold separately to other lot owners in the same building in which these unbundled parking spaces are located. These utility lots will not be permanently allocated to any residential unit.

The proposal is therefore in line with the above comments of the panel and satisfactory in this regard.

- ii. *The revised ESD Report in Section 7.7 still states, "high roof areas will have space dedicated to the installation of Photovoltaic panels where practical". The Panel notes that in the schedule of commitments, solar panels will be provided on rooftops to serve common area demand. The Panel recommends that Council require the location and capacity of solar panels to be shown and quantified prior to approval. The Panel notes that 50% of the roof at Level 15 of the western bay receives 6 hours of solar access between 9am, and 3pm in mid-winter in addition to the higher rooftops, and the extent of PV cells should be maximised.*

Comment: Revised plans confirm the provision of solar panels at rooftop level. The submitted ESD report states that the 'design size and location of the system will be developed with the service provider'. As such details in relation to the capacity of the system are not clarified as part of this application.

Given the above, the proposal has been conditioned to ensure that the provision of solar panels on site is maximised upon all non-trafficable roof areas.

Consideration has been given to ESD as part of this assessment, in order to ensure the development is sustainably designed, reduces reliance on technology, consequentially minimising operational costs for future occupants, encourages alternative transportation methods in lieu of private car ownership and provides extensive deep soil zones for groundwater recharge and vegetation. The proposal is satisfactory with regards to this principle.

## Principle 5 - Landscape

An indicative landscape plan was approved as part of the Concept Plan Consent for the site. Concept plan approval documents illustrate the provision of an extensive area of publicly accessible open space to a minimum quantum of 20,000sq.m to be distributed across the entire BATA 2 precinct.

As part of the proposed redevelopment of Lot E, 2,706sq/m will be provided as a future community park, adjoining the proposed development to the east. Details in relation to the park and associated landscaping have been previously discussed in Condition 16 – Landscape and Design Objectives for Village Heart of this report. It is reiterated that the proposal;

- Provides 30% tree canopy cover, of which 50% are endemic trees, to public domain landscaped areas,
- Ensures all landscaped areas on site facilitate accessible paths of travel,
- Provides a cohesive mix of Australian endemic, native and low water use plant material
- Ensures 50% of shrubs and groundcovers used in landscaped areas comprise native vegetation.
- Facilitates opportunities for interaction and recreation for a diverse community
- Delivers a variety of pavement treatments, including pervious surfaces, granite pavers, washed in situ concrete, decking and soft fall within children's play areas etc
- Incorporates water sensitive urban design elements i.e. rain gardens within the eastern periphery of the community park which incorporate low water and low maintenance plant species.

The proposed development incorporates podium level communal open space, a north facing mass planter adjoining unit 211 on level 2, level 14 communal open space on the eastern tower and communal open space on level 15 of the western tower.

Communal open space areas have been designed to incorporate a range of groundcovers, shrubs and trees, permeable pavers with suitably designed planters, subsurface drip systems, in built irrigation, automatic timers with rainwater / soil moisture sensor controls and appropriate soil depths.

Communal areas within the development are provided with community gardens and composting (worm farm) facilities for future residents, as required by Condition 45 – ESD of the Concept Plan Consent.

The Panel provided the following comments with respect of the proposal;

- *Pedestrian connectivity along the shopfronts - The Panel is of the view that the design does not resolve accessible pedestrian connectivity on the "key pedestrian through link" to Lot B across the Lot E shopfronts from the parts of the site such as Lot G and the public open space connecting to Banks Avenue north of Lot D. Stairs are proposed to descend 450mm from RL22.35 near Tenancy GL15 to the footpath at RL21.9. The Panel recommends the provision of max 1:20 ramp access to the north western part of the masterplan site that would enable connection to the through site link along the Lot E shopfronts without the need to double back from the easternmost pathway.*

Comment: Revised plans have resolved concerns with regards to accessibility, depicting the provision of a 1:21 accessible ramp to facilitate access between the future community park and adjoining public footpath to the north of the site.



- *Condition 39 Public Domain Canopy Cover / Condition 42 - Deep Soil / Condition 43 Tree Canopy Cover and Species Selection / Condition 44 – Shrubs and Ground Covers - Plans provide a graphical representation within section 3.3 Design Response but do not demonstrate numerical compliance. The applicant should demonstrate numerical compliance has been achieved within the lot boundaries.*

Comment: Revised plans submitted have been reviewed by Councils Landscape Architect. The revised submitted Landscape Report dated 1 September 2021, prepared by Scott Carver demonstrates and confirms compliance with conditions referred to above.

- *Condition 45 ESD - Provision is made for a communal garden. It is however in the most shaded section of the podium landscape. For usability this should be provided in a location that receives full sun. One of the rooftop locations may be appropriate for this use.*

Comment: Revised plans indicate the provision of two additional community gardens and worm farms within level 14 and 15 communal open space areas at rooftop level. Areas selected will benefit from full sun exposure facilitating future growth of selected species. Given the above, the proposal as revised is satisfactory with respect of this principle.

#### Principle 6 – Amenity

The proposal incorporates three well designed and oriented communal open space areas on site, which are attractively designed and landscaped so as to provide amenity for future occupants. i.e. visual amenity, shade, equitable access, opportunities for social interaction etc.

The primary communal open space area is provided at Podium level, this area incorporates a swimming pool with adjoining decking and lawn, spa, sauna, gym, indoor communal room, passive lawn, raised buffer/screen planters to private terraces with small to medium canopy trees, a BBQ pavilion, seating area and community/productive garden and worm farm.

Upper level communal open spaces are provided at levels 14 and 15. These areas accommodate a community garden and worm farm, small canopy trees, BBQ pavilion and seating areas. Aluminium framed awning structures are proposed above bbq areas, these comprise 45 degree angled louvres to provide a canopy for weather protection.



Further to the above, the Panel noted that the design achieves good amenity for the site subject to confirmation of the following items;

- *Design all the lobby fire stairs to encourage use, especially within the first three levels of the building and note design methods on revised DA plans. One recommendation is to provide enhanced finishes to the GF to Level 1 (communal spaces) so that the first level does not present as a fire stair.*

Comment: Lobbies have been designed to accommodate double wide doors to fire stairs, facilitating use for residents if sought.

- *Relocate the WC in the gym to be useable by people using common facilities without having to move through the gym area.*

Comment: The toilet within the gym has been relocated from within the gym and is now accessible via a communal pedestrian pathway.

- *Replan Unit A102 so that the high window becomes a secondary window to the second bedroom to prevent overlooking of the living area from the pool deck area and provide the kitchen with a direct view to outside. The landscape in this location should also be revised to achieve a greater depth of 3000mm min with layered planting to ensure occupant privacy.*

Comment: The above changes have been incorporated into plans, ensuring privacy to this unit.

- *Introduce windows to bathrooms to permit natural light and ventilation where possible. For example, the upper level of G12, G13 and G14.*

Comment: Windows to the bathrooms of these units have been incorporated.

- *Two units have direct communal open space access from POS that currently aligns with a bedroom. An access point from the POS is preferred to align with a living space to ensure maximum occupant privacy.*

Comment: All units at podium level are designed so as access to the COS area is via a POS which adjoins a study or habitable living area.

The above changes have been incorporated into revised plans as recommended by the Panel.

Further to the above, units as proposed comprise well designed layouts, spacious internal areas and compliant private open spaces. Some units, specifically larger dwellings at upper levels, benefit from secondary upper level terrace areas which function as an extension of living spaces. i.e. Units A1509 / A1510 / A1601 / A1602. Units as designed comply with the natural ventilation and solar access requirements of the ADG as detailed below

Residential amenity within the development is satisfactory with respect of this principle.

#### Principle 7 – Safety

The proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries and within basement levels and to require the provision of clear directional signage to advise user's of security measures in place. With respect to the development overall, the proposal provides for an identifiable and prominent lobbies, with

dwelling, communal open space and car parking areas on site to be accessible via a secure electronic system. Common areas will be well lit with clearly defined and legible pathways.

The Design Excellence Panel confirmed that the '*design achieves an appropriate level of safety for the site*'. In this regard, the proposal is satisfactory with respect of this principle.

#### Principle 8 - Housing Diversity and Social Interaction

The development incorporates an appropriate mix of residential units (2 x 1 bed / 87 x 1 bed + study / 165 x 2 bed / 64 x 3 bed / 4 x 4 bed) which are located within an accessible area close to public transport / facilities and are capable of accommodating a varied demographic and different household types. A total of 28 units within the development are provided as adaptable, with level transition between indoor / outdoor areas and sufficient circulation space to accommodate mobility aids.

Further to the above, 1 Platinum level, 1 Gold Level and 80 Silver Level units are provided, as per the Liveable Housing Design Guidelines. The proposal provides communal facilities on site which are designed to encourage social interaction i.e. gym, pool, community gardens, composting facilities and indoor communal room.

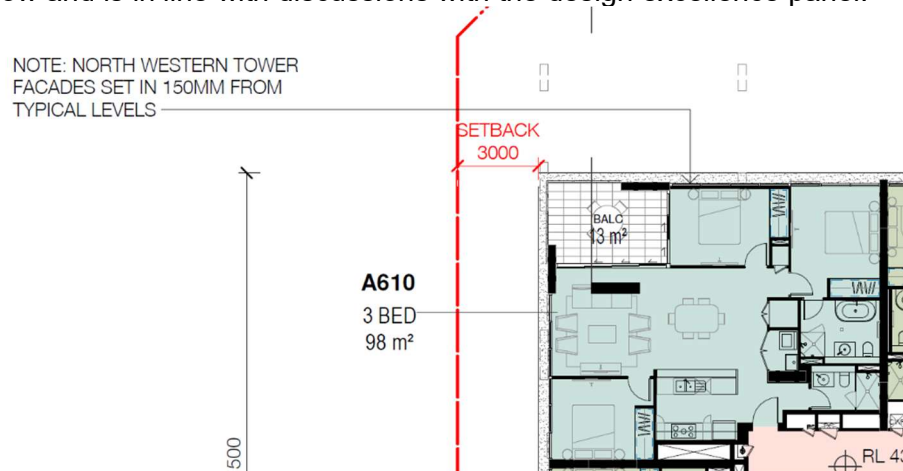
The Panel noted that an additional liveable apartment in accordance with Condition 54 of the Concept Plan has been provided and a more centralised communal room is provided on Level 1 which can open to the BBQ area and activate the lobby visually. The proposal is supported by the Design Excellence Panel. The proposal is satisfactory in regard to this Principle.

#### Principle 9 - Aesthetics.

The proposal incorporates a varied palette of colours and materials to including but not limited to face brickwork in a variety of grey and neutral shades, clear, frosted and grey glazing, grey and silver colour back glass, grey / champagne metal cladding, white louvred screens, white / grey and sand coloured render and metal screens in grey champagne and white pearl.

The Panel discussed alternatives with the architect to enhance the stacked façade articulation and to detail the slab edge so that a continuous soffit line is provided when viewed externally.

In response, revised plans indicate that the glass has been setback a further 150mm and the slab edge soffit detail is now depicted within the revised set of plans. The aforementioned is depicted below and is in line with discussions with the design excellence panel.



Materials as proposed are satisfactory, the aesthetic design of the proposal is well resolved and demonstrates design excellence as confirmed by the Design Excellence Panel. Materials as proposed will provide a modern, contemporary, high quality and visually appealing development on site.

The proposal is satisfactory in regards to this principle.

c. The Apartment Design Guide

The proposal has been assessed against the relevant criteria of the ADG as follows;

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3C – Public Domain Interface	Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface.	1m max above existing to ground level to proposed RL of dwellings and retail. Terraced periphery landscaping softens interface.	Yes
	Courtyard units to have direct street entry, where appropriate.	Ground level courtyard units have direct access from street level	Yes
	Front fences / walls along street frontage to be visually permeable and limited to 1m	<ul style="list-style-type: none"> <li>1.8m high visually permeable fencing to G02 / G03/G07/G08</li> <li>G09 – G14 recessed entry gate 2.05m in height, part masonry / visually permeable fencing</li> </ul>	<b>No</b> – refer to discussion below.
	Mailboxes located in lobbies or integrated into front fence	Mail rooms provided within lobbies of building	Yes
	On sloping sites protrusion of car parking above ground level to be minimised by using split levels to step underground car parking	Basement is primarily below ground with maximum protrusion of up to 0.75m to northern side of development. i.e. below units G09-G14	Yes
3D - Communal Open Space	25% (1,587sq/m) of Site Area <i>Site Area = 6,348sq/m as this is developable portion of Lot E and will be site area of development post subdivision of the community park</i>	1,670sq/m  26.3% of developable site area of Lot E	Yes
	50% (393.5sq/m) of principle useable area to receive 2 hours solar access in midwinter 9am - 3pm	446sq/m principle useable area receives 2 hours solar in midwinter	Yes
3E - Deep Soil Zone	7% (444sq/m) site area Minimum Dimensions 3m  <i>Site Area = 6,348sq/m as this is developable portion of Lot E and will be site area of development post subdivision of the community park</i>  <i>Park site area = 2,706sq/m</i>	310.8sq/m of deep soil within developable site area of Lot E.  A further 1,912sq/m deep soil is provided within the future community park excluding hard paved / decking areas.  Total = 2,222.8sq/m	Yes  Whilst a variation may be apparent within the developable portion of Lot E when deep soil provision is calculated separately, post subdivision of Lot E, overall the proposal complies, taking into consideration the combined extent of deep soil provision for the future community park also within Lot E.
3F Visual Privacy	Min separation - side and rear boundaries:		Yes



Buildings on same site combine required separation.  Gallery treated as habitable space.	<u>Up to 12m (4 storeys)</u> Hab. Rooms / Balconies – 6m Non Hab. Rooms – 3m	24m -27m building separation provided internally on site between towers from Level 2 to level 16 of the development.	
	<u>Up to 25m (5-8 Storeys)</u> Hab. Rooms / Balconies – 9m Non Hab. Rooms – 4.5m		
	<u>Over 25m (9+storeys)</u> Hab. Rooms / Balconies – 12m Non Hab. Rooms – 6m		
3G – Pedestrian Access and Entries	Multiple entries provided to activate street edge	Two residential lobbies provided in addition to multiple retail entries	Yes
	Building access clearly visible from public domain and communal spaces	Building access points are clearly identifiable	Yes
	Steps / ramps integrated into building and landscape design	Steps / ramps are integrated into design of development	Yes
	Electronic access to manage access	Electronic access to building is proposed	Yes
3H – Vehicular Access	Car park access integrated with building facade.	Car park access integrated and discrete	Yes
	Car park entries behind building line	Entry recessed behind primary building line to south of building	Yes
	Car park entry / access located on secondary street / lane where available	Proposed vehicular access via private service road to south of building.	Yes
	Garbage collection, loading and servicing areas screened	Waste collection, loading and unloading to be carried out internally within the development.	Yes
	Pedestrian / vehicle access separated and distinguishable.	Pedestrian and vehicular entries are clearly identifiable and physically separated.	Yes
3J - Bicycle and Car Parking	As per Concept Plan Parking Rates.	Refer to Condition 52 – Bicycle Facilities of this report.	Yes
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (225 of 322) of apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	225 of 322 (70%) units receive 2 hours in midwinter	Yes
	Max 15% (48 of 322) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	1 of 322 (0.3%)	Yes
4B – Natural Ventilation	Min 60% (110 of 182) of apartments are naturally cross ventilated in the first nine storeys of the building. <u>(182 units in first 9 storeys of building)</u>	135 of 182 units naturally cross ventilated 74% cross ventilation	Yes
	Ten storeys or > are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Balconies above Level 10 are not capable of being fully enclosed. Satisfactory.	Yes

	Depth of cross-over / cross-through 18m max., measured glass line to glass line.	18m maximum depth i.e. Unit 207 and above.	Yes
4C – Ceiling Heights	<u>Residential Floor To Floor</u> 3.3m – Ground / Level 1 3.1m – L2 and above	3.1m to 4.2m floor to floor	Yes
	<u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m Café / Restaurant – 4m	2.4m non habitable 2.7m habitable 4m ground floor retail	Yes
	<u>Two Storey</u> 2.7m main living 2.4m first floor, area < 50% of apartment area	3.1m ground 3.5m first floor	Yes Yes
	<u>Mixed Use</u> 3.3m for ground and first floor	4.2m	Yes
4D – Apartment Size and Layout	1 bed – 50sq/m	53sq/m – 55sq/m	Yes
	1 bed + Study	62sq/m – 68sq/m	Satisfactory on Merit given no minimum specified
	2 bed – 70sq/m	75sqm - 83sq/m	Yes
	3 bed – 90sq/m	99sq/m – 123sq/m	Yes
4E – Private Open Space and Balconies	1 bed – 8sq/m 2m min depth	8sq/m – 20sq/m	Yes
	2 bed – 10sq/m / 2m min depth	10sq/m – 41sq/m	Yes
	3 bed – 12sq/m / 2.4m min depth	13sq/m – 47sq/m	Yes
	Min balcony depth contributing to balcony area is 1m.	Balcony depth in excess of 1m	Yes
	Ground level /Podium - min 15m <sup>2</sup> / min depth 3m.	15sq/m - 18sq/m balcony sizes	Yes
4F – Common Circulation and Spaces	Max apartments off a circulation core on a single level is eight.	Six (6) maximum off a single core	Yes
	10 storeys + max units sharing a single lift is 40.	Tower A = 38 Tower B = 32	Yes
4G – Storage <i>50% is located within apartment</i>	1 bed - 6 cubic metres	Sufficient storage provided internally with supplementary at basement level.	Yes
	2 bed - 8 cubic metres		
	3 bed - 10 cubic metres		
4H – Acoustic Privacy	Noise sources i.e. driveways, service areas, plant rooms, communal open spaces located at least 3m away from bedrooms	Sufficiently separated via back of house corridors at ground level.	Yes
4J – Noise and Pollution	Non-residential uses located at lower levels separating residential from noise /pollution source.	Ground level non residential tenancies separated entirely from residential uses	Yes
4K – Apartment Mix	Variety of apartment types provided	Variety of unit sizes and layouts provided	Yes
	Flexible apartment configurations to support diverse household types and stages of life	Range of flexible apartment options provided	Yes
	Larger apartment types located on ground / roof level where there is potential for more open space and corners where more building frontage is available	Larger units located at ground level and across various levels of the development and at corner locations to facilitate greater POS to such units where possible	Yes

4L – Ground Floor Apartments	Direct street access to ground floor apartments	Direct access to units from street level provided	Yes
	Ground floor layout support SOHO use to enable future conversion	Ground floor units as designed, in particular maisonette units can facilitate future adaptation to SOHO if required	Yes
4Q – Universal Design	20% (64 of 322) apartments silver level universal design features	80 of 322 Silver Level	Yes

## **Discussion**

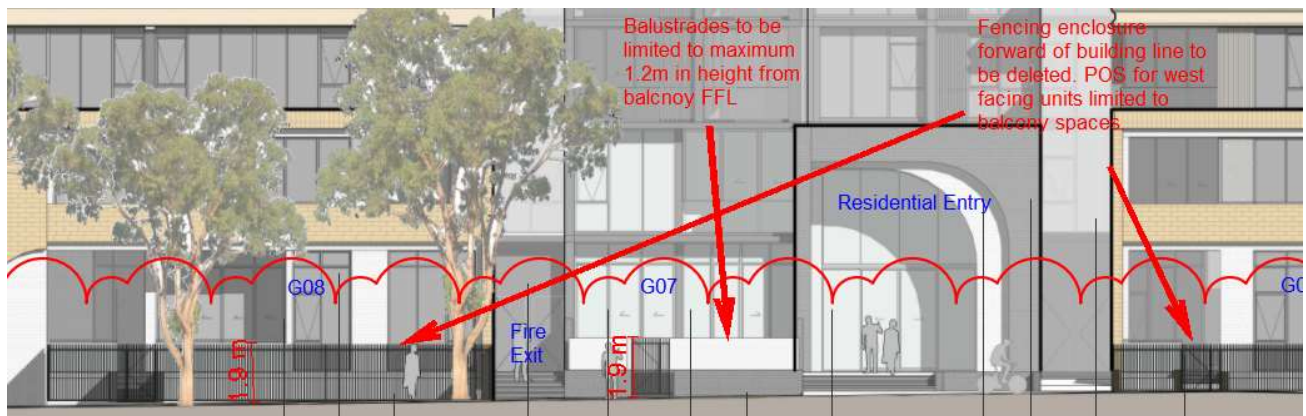
### **3C – Public Domain Interface**

The provisions of this part require that front fences / walls along street frontage are provided as visually permeable and limited to 1m in height.

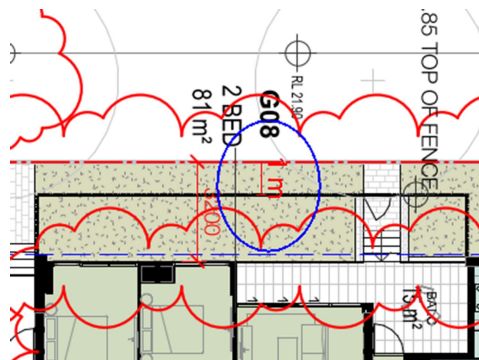
Plans indicate nil fencing directly upon the street frontage, however fencing is proposed slightly recessed from the northern and western site boundaries as follows;

#### **a) Ground Level to the West**

1.8m high open form fencing, forward of the building line, 1m from western property boundary. Such fencing is proposed to provide courtyards to units G02/G03/G07/G08.



*Fencing proposed to western elevation ground floor*

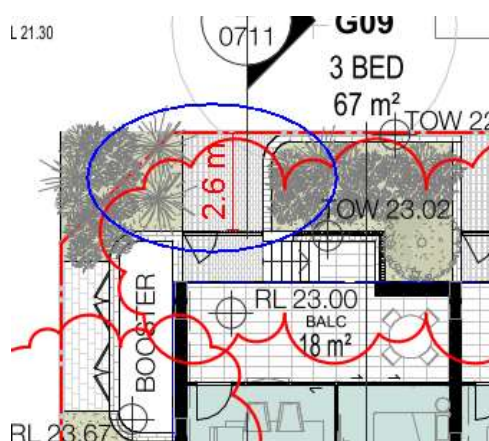


Such courtyards are in addition to the 15sq/m of private balcony space provided to these units. The courtyard spaces are unnecessary from a compliance perspective, and the addition of fencing forward of the building line within what should otherwise be communal landscaping adjoining the public domain is unwarranted.

The proposal has been conditioned to require the deletion of such fencing and to limit the private open space of the aforementioned units to balcony spaces only, with the landscaped area forward of the building line to remain in common ownership with nil fencing in order to facilitate tree planting.

b) Ground Level to the North

2m high fencing, forward of the building line, setback 2.6m from the northern property boundary. Such fencing is proposed to provide a secure residential entry and obscure the stairs to units G09- G14.



*Fencing proposed to northern elevation ground floor units*

The height of fencing as proposed above is not supported as it restricts passive surveillance and is not considered to provide an appropriate interface with the adjoining public domain.

Given the above, the proposal has been conditioned to require that fencing to the residential entry and stairwell of ground level dwellings G09 – G14 be a maximum of 1.5m in height from finished floor level, with the masonry component of the aforementioned fencing not to exceed 1m in height.

**Bayside Local Environmental Plan 2013 (BLEP 2013)**

Clause	Requirement	Proposal	Compliance
2.3 – Zone	R4 – High Density Residential	Residential / commercial uses	Yes <i>Note -commercial uses permitted as per Schedule 1.</i>



Clause	Requirement	Proposal	Compliance
4.3 – Height of Buildings	<b>AA</b> = 69m	Tower A = 58.4m Tower B = 55.3m	Yes Yes
4.4 – FSR	T1 = 2.35:1	32,165sq/m proposed GFA 0.53:1	Yes
5.10 – Heritage Conservation	To conserve the environmental heritage of Botany Bay.	Lot E is sufficiently distanced from the nearby heritage item i.e. Jellicoe Park. The northern boundary of the overall BATA 2 site which adjoins Heffron Road is 120m from this item, with Lot E being distanced a further 74m to its northern boundary. Given the aforementioned building forms on Lot E are unlikely to result in any adverse impact upon the item or its curtilage.	Yes
6.2 – Earthworks	Ensure earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposal involves extensive excavation within the site to accommodate basement levels.	Yes – Impacts of proposed earthworks have been considered. Conditions of consent have been imposed to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability.
6.3 - Stormwater Management	Minimise impacts of urban stormwater to adjoining properties, native bushland and receiving waters.	OSD system proposed, which controls and treats stormwater discharge prior to it entering the public stormwater system.	Yes
6.8 - Airspace Operations	The site is affected by the 51 Obstacle Limitation Surface.	SACL response pending, however 91AHD previously approved for entire site and development is below the 91AHD, at 78.91AHD maximum	Yes
6.16 - Design Excellence	<ol style="list-style-type: none"> <li>1) The objective of this clause is to deliver the highest standard of sustainable architectural and urban design.</li> <li>2) This clause applies the BATA</li> <li>3) Development consent must not be granted to development involving the construction of a new building or to external alterations to an existing building on land to which this clause applies unless</li> </ol>	Refer to discussion in SEPP 65 section of this report.	Yes

Clause	Requirement	Proposal	Compliance
	<p>the consent authority considers that the development exhibits design excellence.</p> <p>4) In considering whether the development exhibits design excellence, consent authority must have regard to;</p> <p>a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>c) whether the development detrimentally impacts on view corridors,</p> <p>d) the achievement of the principles of ecologically sustainable development.</p>		
6.16 – Development requiring preparation of DCP  <i>(LEP Amendment 8 notified 22 November 2019)</i>	(1) The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan.	Refer to discussion above in S4.23.	
	(2) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288		
	(3) Development consent must not be granted for development on land to which this clause applies unless;		
	(a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, or	Refer to discussion above in S4.23.	
	(b) guidelines and controls similar to those mentioned in subclause (4) already apply to the land, or		
	(c) the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated.		
	(4) The development control plan must provide for all of the following;		
	(a) design principles drawn from an analysis of the site and its context,	Submitted	Yes – due consideration given to site context, refer to discussion in Principle 1 - Context and Neighbourhood Character of SEPP 65 section of this report.

Clause	Requirement	Proposal	Compliance
	(b) the compatibility of the proposed development with the desired future character of the area,	Submitted	Yes – due consideration given to future desired character, refer to discussion in Principle 2 - Built Form and Scale of SEPP 65 section of this report.
	(c) the phasing of development and how it will provide for the social and recreational needs of a new community,	The adjoining eastern public open space component of the site forms part of this Development Application. Its delivery is conditioned via the Concept Plan consent and must be finalised prior to the issue of the Occupation Certificate for the final building in Lot E (the subject site).	Yes
	(d) distribution of land uses, including open space (its function and landscaping) and environment protection areas,	Distribution of land uses is consistent with approved Concept Plan.	Yes
	(e) the existing and proposed mix of land uses,		
	(f) subdivision pattern and provision of services,	Proposal seeks to develop 'Lot E'. Services are capable of being provided to this component of the site.	Yes – As conditioned
	(g) building envelopes and built form controls, including bulk, massing and modulation of buildings,	Plans submitted are consistent with approved building setbacks, heights, deep soil and envelope requirements of the Concept Plan.  Design of development is consistent with the objectives and design guidance of the approved Stage 1 Design Report prepared by SJB which forms part of the Concept Plan consent for the site.	Yes
	(h) housing mixes and tenure choices, including affordable and adaptable housing,	Appropriate unit mix and diversity proposed.	Yes
	(i) heritage conservation, including both Aboriginal and European heritage,	Nil heritage on site. Consideration given to heritage items in context of site.	Yes
	(j) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and appropriate car parking provision, including integrated options to reduce car use,	Various ESD commitments are proposed on site, refer to discussion in Principle 4 – Sustainability.	Yes
	(k) the overall transport hierarchy showing the major circulation routes and connections to achieve a simple and safe movement	The submitted context plan, site analysis and Traffic Report consider the surrounding road hierarchy and circulation routes. The redevelopment of lot E is	Yes

Clause	Requirement	Proposal	Compliance
	system for private vehicles, with particular regard to public transport, pedestrians and cyclists,	consistent with the approved concept plan.	
	(l) improvements to the public domain,	Works to the periphery of the 'developable' portion of Lot E will be undertaken, this includes landscaping adjoining the public domain, pedestrian and vehicular access ways, low level planter walls and fencing adjoining future public spaces. Awnings are proposed along the eastern edge of the development, adjacent to retail tenancies for weather protection.	Yes
	(m) minimising adverse impacts on adjoining buildings or the public domain,	Shadow diagrams submitted which confirm appropriate solar is achieved to the redevelopment of Lot B to the south of the site.	Yes
	(n) achieving appropriate interface at ground level between buildings and the public domain,	Ground level RL's depicted on plans to ensure appropriate interface on and within the site and adjoining public domain is achieved.	Yes
	(o) impacts on view corridors,	Detailed, negligible impact.	Yes
	(p) the application of the principles of ecologically sustainable development,	Various ESD commitments are proposed on site, refer to discussion in Principle 4 – Sustainability.	Yes
	(q) environmental impacts, such as overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	Detailed	Yes
	(r) environmental constraints, including acid sulfate soils, flooding, groundwater, stormwater, aircraft movement and noise, contamination and remediation,	Numerous reports submitted and considered in assessment of DA.	Yes – DA conditioned to ensure recommendations of relevant reports are adhered to and implemented on site.
	(s) opportunities to apply integrated water sensitive urban design,	Refer to 6.3 - Stormwater Management	Yes
	(t) no additional overshadowing to the residential buildings in Zone R2 on the eastern side of Bunnerong Road between 9 am and 3 pm on 21 June in each year	The proposal does not generate adverse overshadowing onto residential buildings on the eastern side of Bunnerong Road	Yes
6.19 - 128 Bunnerong Road, Pagewood and 120 Banks Avenue,	(1) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288		
	(2) The consent authority must not grant consent to development unless it is satisfied the development will	505sq/m non residential space proposed.	Yes

Clause	Requirement	Proposal	Compliance
Eastgardens – General (LEP Amendment 8 notified 22/11/19)	provide for a minimum of 5,000 square metres of gross floor area on the land for non-residential purposes, not including any of the following; (a) residential accommodation, (b) a car park, (c) a telecommunications facility.	<u>Total Across Overall BATA 2 Site</u> 3,428sq/m (Lot B) + 505sq/m (Lot E) = 3,933sq/m non residential GFA on site.  1,067sq/m remaining to be provided with future DA's.	
Schedule 1 – Additional Permitted Uses	(2) Development for the following purposes is permitted with development consent; ○ serviced apartments, ○ commercial premises, ○ recreation facilities (indoor).	Commercial premises proposed as part of this application.	Yes

#### **S.4.15(1)(a)(ii) - Provisions of any Draft EPI's**

##### **Draft Remediation of Land SEPP**

The draft SEPP was exhibited from 31 January to 13 April 2018 and seeks to;

- *Provide a state wide planning framework for the remediation of land;*
- *Maintain the objectives and reinforce those aspects of the existing framework that have worked well;*
- *Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;*
- *Clearly list the remediation works that require development consent;*
- *Introduce certification and operational requirements for remediation works that can be undertaken without development consent.*

The proposal is consistent with the provisions of the draft SEPP.

##### **Draft Local Character Clause**

The department has developed a draft Local Character Clause which is proposed to be included in the Standard Instrument Local Environmental Plan and was exhibited from 12/11/2020 - 29/01/2021.

The clause will allow council to adopt a map overlay which identifies the boundaries of a local character area and will require the council to consider its local character statement when addressing development applications.

The local character statement is to be developed in accordance with the Local Character and Place Guideline and will describe an area's existing character and detail its desired future character. It will also set out how future growth will be consistent with the identified character.

Whilst the above remains a draft, with nil further detail provided in relation to the subject site, the proposal is consistent with the future desired character of the overall site as envisaged by the approved Concept Plan. In this regard the proposal is satisfactory with regards to the intent of the draft.

#### **S.4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following is relevant to this application:



### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan (BBDCP) 2013 as follows:

#### **Part 3E – Subdivision**

The proposal does not seek the strata subdivision or otherwise of the development.

#### **Part 8.8 - Eastgardens Character Precinct**

The Desired Future Character of the precinct, as referenced in this part, was formulated prior to the rezoning of the subject site, its subsequent uplift and approval of the Concept Plan.

Notwithstanding, the sections within this part, with respect of diversity, function, form, massing, scale, streetscape, setbacks, landscape, subdivision, acoustics, solar access, transport etc are general broad based principles which in combination with the objectives and requirements set by the approved concept plan guide the desired future character of the site within the subject precinct.

The proposal as designed is consistent with the requirements of the concept plan and general principles of this part, and is therefore satisfactory in this regard.

#### **Part 9D – Key Sites** *(130-150 Bunnerong Road Eastgardens)*

This part is superseded given the rezoning of the site, uplift derived from the finalisation of LEP Amendment 8 and relevant clauses i.e. Clause 6.18 of BBLEP 2013 which require the preparation of a site specific DCP, albeit concept plan. It is reiterated that a concept plan for the site was approved on 26 November 2020 by the Regional Panel.

#### **S.4.15(1)(a)(iv) - Provisions of Regulations**

The relevant provisions of the Environmental Planning and Assessment Regulations 2000 have been considered in this assessment. The proposal is satisfactory in this regard.

#### **S.4.15(1)(b) - Likely Impacts of Development**

##### **Traffic / Car Parking**

As part of the assessment of previous development applications, including the original Concept Plan DA and DA-2019/386/A which increased residential car parking provision on site, the applicant has previously demonstrated through traffic modelling conducted by ARUP, that traffic modelling is not dependant upon parking provision, that traffic generation rates are overstated and the impact of the development upon the surrounding road network is minimal.

The aforementioned was subsequently confirmed by TfNSW who raised no objections to the development with respect of traffic generation.

The proposal is unlikely to result in a detrimental impact upon the existing operation of the road network surrounding the periphery of the overall site, which is comprised primarily of classified roads which accommodate a high level of vehicular movement.

The proposal is satisfactory with respect of traffic and car parking and is unlikely to generate adverse traffic or car parking impacts within the local and classified road network which surrounds the periphery of the overall site.

#### **S.4.15(1)(c) - Suitability of the Site**

The proposed development is permissible, satisfies the objectives of the R4 high density residential zone and is consistent with the relevant development standards. The proposal satisfies the objectives and requirements with respect of the relevant planning instruments

and there are no other known circumstances or site conditions which would deem the proposal unsuitable for the subject site.

#### **S.4.15(1)(d) - Public Submissions**

The proposal was publicly notified in accordance with the requirements of BBDCP 2013. Following the public notification of the proposal a total of six (6) submissions were received by Council. The following issues were raised;

*DA should cease pending finalisation of Randwick Council study on infrastructure, traffic and service impacts of the development onto Randwick LGA*

Comment: There is no mechanism available for Council to halt the assessment of the application on the above basis. It is important to note that the site was the subject of a planning proposal several years ago, and more recently the approval of a concept plan development application.

During these processes building envelopes, floor space, parking, traffic, infrastructure, community benefits, and other key aspects were assessed and established. Randwick Council took the opportunity to make submissions at both planning proposal and concept development application stage. The parameters for the assessment of the current development application have largely been determined through these earlier processes.

*Excessive bulk and scale / Increase to building envelope beyond concept plan / Randwick Council remains concerned about the cumulative impacts of any increase in the bulk and scale and how they will negatively affect the surrounding area / Inconsistent with character of surrounding low density area / Opposed to scale of development which is inconsistent with low density nature of area / scale is totally mis-aligned with the current local neighbourhood vicinity.*

Comment: It is reiterated that the site is zoned R4 high density residential and benefits from building envelope, setback and a myriad of other requirements by an approved Concept Plan for the site. The proposal is consistent with the bulk, scale, height and density envisaged for the site by the approved concept plan. The proposal adheres to the future desired character of the BATA 2 precinct and is satisfactory in this regard.

*Randwick Council is concerned that, if approved, the overall GFA figure afforded to the BATA 2 site could be significantly exceeded via a request for variation when the last remaining lots are developed.*

Comment: This issue has been addressed in Principle 3 – Density in the SEPP 65 section of this report.

*Non compliance with Unit Mix and potential negative flow-on impacts for Randwick City Council in terms of infrastructure, services, parking demand and traffic generation.*

Comment: The final amended scheme reduced the number of 1 bedroom units proposed within the development significantly i.e. from 244 to 89.

The provisions of 4C(C2) of BBDCP 2013 nominate that no greater than 25% of units within the development shall be 1 bedroom in type, i.e. 81 of 322. The proposal accommodates 89 x 1 bedroom units, which exceeds this requirement by 8 units overall.

Notwithstanding, of the 89 x 1 bed units proposed, these are provided as a mix of 2 x 1 bed and 87 x 1 bed + study, thus providing a suitable mix and variation of dwelling types. The

development further accommodates 165 x 2 bed, 64 x 3 bed and 4 x 4 bed dwellings within the development.

All 2 Bedroom apartments and above are satisfactory with regards to amenity controls for Family Apartments nominated by BBDCP 2013. i.e. 4C(4.2) and incorporate spacious living areas, primary bathroom with a bathtub etc.

With respect of potential impact upon infrastructure and services, it is reiterated that the site was the subject of a planning proposal several years ago, and more recently the approval of a concept plan development application. During these processes consideration was given to the aforementioned.

With regards to car parking demand and traffic generation this matter has been previously addressed in this report.

*This building (along with Lot D and F) are not sufficiently stepped down in height/floor levels from the much higher Lot A, B and C, creating a significant eye-sore on the local streetscapes as they blend into the existing single level residential dwellings surrounding the site. In effect, the development becomes an 'eye-sore' of towers amongst a once peaceful neighbourhood. The sheer density and height of hard surfaces across the site as viewed from adjacent residents properties is excessive and impedes on lines of sight / sunlight from and to surrounding properties.*

Comment: Lot E is centrally located within the overall BATA 2 site and as demonstrated by the submitted shadow diagrams will have nil adverse impact onto properties surrounding the boundaries of BATA 2. With respect of building heights, it is reiterated that the development complies with the height standard for the site as nominated by BLEP 2021.

It is noted that the proposal is consistent with the future desired character of the precinct as envisaged by the approved Concept Plan, which positions buildings of greatest height centrally within the site, with lower building forms to adjoin road frontages specifically to the north along Heffron Road and east along Bunnerong Road, where the site interfaces with established low to medium density residential areas.

*Traffic and Parking Impacts - Adverse parking issues. Banks Avenue is constantly parked out / Developer should include large outdoor space for parking of cars for visitors / There is evidence of pressure for parking in local streets from the builders onsite at the development each day / Randwick Council fails to see acknowledgement of traffic congestion that will occur at peak periods such as morning and afternoon as people leave and arrive home from work/school. Traffic already banks back along Heffron Rd in the mornings and evenings, and there have been numerous crashes along this road as a result. It can already take 2-3 sets of traffic light changes to get through from Banks Ave, up Heffron Rd and across Bunnerong Rd onto Maroubra Rd in today's peak hour traffic. / Car Parking and Traffic Impacts to Randwick LGA / Within the BATA 2 site, there are no new road intersections that adjoin with Bunnerong Road or any road under Council's care and control. Construction Traffic must use major roads and no construction traffic should use local roads within Randwick City Council area. / If this proposal results in increased traffic and parking demands over and above the original masterplan the consent authority must ensure that the level of service of intersections surrounding the development site are not adversely affected and that the parking provision is adequate / Adverse traffic impacts arising from development / only a matter of time before there is a serious traffic incident at corner of Tingwell Boulevard and Banks Avenue given number of vehicles and speed within Banks Avenue / Block E will have 383 new units, however only 286 residential parking spaces. This number is completely insufficient to support the new development*

Comment: The matter of traffic and car parking has been addressed previously in this report. It is reiterated that the proposal will have minimal adverse impact upon the road network, this was concurred by Transport for NSW.

With regards to car parking, the proposal provides for sufficient carparking for the development in full compliance with the car parking rates established in the Concept Plan approval.

The recent submissions have not indicated any plans for what will occur along an already busy and noisy Heffron Rd (such as road resurfacing to reduce road noise, adequate parking remaining available for local sporting communities at Jellicoe Park etc)

Comment: Nil works are proposed beyond the boundaries of Lot E as defined in this assessment and upon submitted plans. Further public domain works will be subject of a separate Roads Act application by the proponent. It is reiterated that the site is subject to a draft Planning Agreement of which provides community benefit, this is detailed previously in this report.

The submissions did not address the impact of the residents on local schooling and medical facility demands / availability. Getting children into local schools is already difficult enough without all the new residents across the new site / Overcrowding of site will create future social issues / Development will have significant flow on impact on local traffic, infrastructure, local parking, increased use in local parks and facilities.

Comment: The subject site was rezoned for high density development. The proposal has been designed in accordance with relevant legislative requirements. Consideration has been given to potential traffic and parking impacts previously within this report.

The proposal is located within close proximity to services, local schools, public transport, commercial and retail and will further accommodate additional retail and services on site as part of the redevelopment of the Precinct. Public open space is provided as part of the redevelopment of the site and exists in close proximity. The redevelopment of the site has been considered holistically and is satisfactory in this regard.

The imposing nature of the site will have a unwritten bearing on the property valuations of surrounding properties. No-one will ever want to pay to buy a property across from such a large and imposing set of towers, which is something that needs to be taken into consideration when approving for the height of these remaining Lot developments on the site.

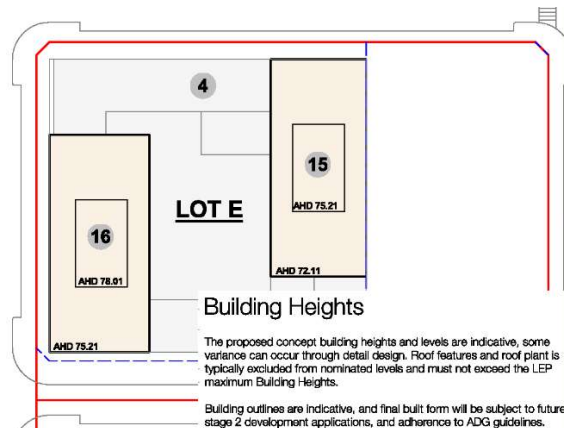
Comment: The matter of property devaluation is beyond the scope of this assessment. There has been no detailed analysis or otherwise submitted to substantiate this claim.

Car Share Spaces - The application proposes 9 car share spaces to be provided on-street. The Concept Approval stipulates that car share spaces can be shared with visitor spaces and shall be located in a publicly accessible area. Council is concerned that by providing these parking spaces on-street that it could create greater pressure on parking spaces within the BATA 2 site and cause increased demand for on-street parking within the surrounding streets in the Randwick Local Government Area.

Comment: Car share spaces are proposed to be located within the ground floor level of the development not on street as suggested. As such, car share spaces within the development will not compromise potential future on street parking capacity within BATA 2.

Lot E is 16 levels high, this is higher than concept plan / Meriton are increasing the height and number of units each time I read about this development. Why can they do this? It should not be allowed to be this high.

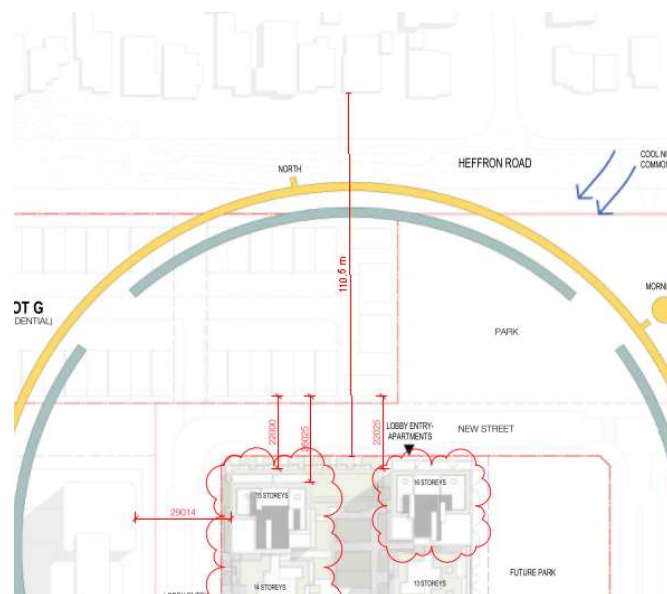
Comment: The number of storeys referenced in the Concept Plan was 'indicative only' and an excerpt from the Approved Concept Plan, depicting the indicative number of storeys is detailed below.



The relevant standard with respect of overall height is that nominated by Clause 4.3 – Height of Building. The site benefits from a 69m height limit. Both towers as proposed comply in full and are well below the permissible height standard. i.e. Tower A = 58.4m and Tower B = 55.3m.

Company did not undertake dilapidation reports to Heffron Road properties, and now all properties have some level of cracking and damage. A 3<sup>rd</sup> party engineer came to assess damage during construction, this is blatant disregard for residents.

Comment: The allegations referred to are beyond the scope of this application. The northern boundary of Lot E is positioned 110m from the front building line of dwellings on the northern side of Heffron Road. This is considered to be sufficient separation.



Pedestrian Safety - Adverse pedestrian safety issues to Bonnie Doon Golf Course from increase in traffic / Public and employee safety (Bonnie Doon Golf Club) on Heffron Road is significantly compromised by the increased traffic from the development / Bonnie Doon Golf Club would support the DA should there be funding provided to install additional traffic control signals at Heffron and Banks Avenue Pagewood / Danger to pedestrian and cyclist safety along Banks Ave bike route



Comment: The core issue for the golf club revolves around the fact that the golf course is physically bisected by Heffron Road, has buildings on both lots and that the club needs to use the public road network to traverse between the two parts of the golf course. As a result the club needs to drive golf carts, buggies, vehicles etc. across Heffron Road to conduct their business.

The issue of pedestrian safety has been continuously raised by the Bonnie Doon Golf Club following the signalised intersection upgrade of Banks Avenue and Heffron Road as per the conditions/VPA requirements of BATA 1.

This signalised intersection resulted in the golf club losing the ability to directly use a raised pedestrian crossing right in front of their building. This raised pedestrian crossing was relocated as part of the signalisation process.

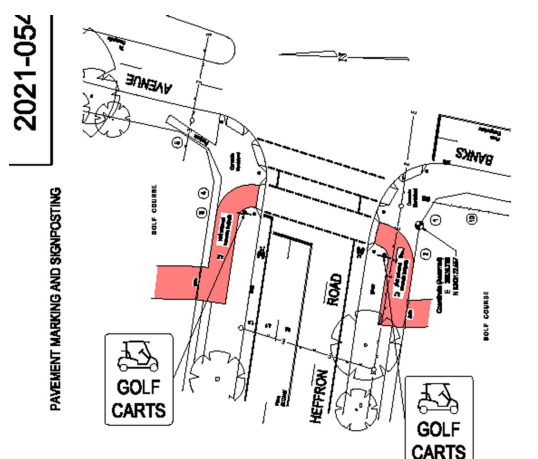
This issue in the end is inherently a private matter for the Golf Club, given they operate over two separate land parcels of land and seek to utilise Heffron Road and pedestrian footpaths in an improper way as part of their business.

Increased traffic volumes of vehicles using Heffron Road associated with the BATA site has been deemed acceptable through numerous traffic studies and assessments and confirmed by the RMS as an acceptable usage of a Regional road, which is intended to take a large volume of vehicular traffic.

The Clubs desired usage of the road inherently creates safety issues, however these are not an issue for the proponent to resolve.

Council and TfNSW have worked collaboratively with the golf club to seek to assist and resolve their concerns. A solution has been identified which involves modifying the signal phasing and pedestrian crossing design at Banks Ave / Heffron Road, to provide a dedicated crossing for the golf club and their carts/ buggies /vehicles, which minimises conflicts with pedestrians walking on the footpath.

The Golf club is imminently pursuing implementing this in collaboration with Council and TfNSW and they lodged an application to modify the intersection to accommodate a separate crossing for golf buggies.



Adverse congestion to public transport / ARUP report Issue 2 Sept 2020 acknowledges there may be capacity issues within the public transport system and 9 extra bus services are required during peak periods so that spare capacity is retained for existing routes further down the line / There will be a huge impact on public transport needs which will in turn have follow on effects to traffic on local roads (especially during peak hours) and increase travel times

Comment: There is limited ability by council to provide more bus services as the state government operates such services. The South East Sydney Transport Strategy dated August 2020 states as follows and is investigating rapid bus lines for the area;

*"The Strategy proposes a Metro station to serve the Eastgardens-Maroubra Junction strategic centre. For modelling and assessment the station has been located at Maroubra Junction, in the east of the strategic centre and connecting to Maroubra, Malabar and La Perouse to the south and Randwick, Zetland and the Harbour CBD to the north. The options for station location would be tested as part of further investigations to understand the alternative benefits from different solutions. In the long term there will be the opportunity to interchange at Randwick for Metro services to Kogarah and the airport. Rapid bus lines between Randwick and La Perouse, and Sydenham and Coogee will serve Maroubra Junction. Eastgardens will be served by rapid bus lines between Kingsford and La Perouse, and the Harbour CBD and La Perouse, providing connections to light rail services (at Kingsford) and rail (at Green Square)."*

*Aesthetics and clash of appearance with existing buildings*

Comment: The proposal was peer reviewed by the Design Excellence Panel which includes renowned architects and urban designers. The aesthetic appearance of the development demonstrates design excellence and is satisfactory in this regard.

*Overshadowing to 126 Banks Avenue, Pagewood (corner Banks Ave and Tingwell Boulevard).*

Comment: Shadow diagrams submitted with the application confirm nil adverse shadow impacts to the submitters building beyond 10am in midwinter of which this building currently receives full sun to its northern elevation.

*Dumped and abandoned shopping trolleys this situation will only get worse.*

Comment: This matter is beyond the scope of this application.

*Setback of the buildings from the boundary has been reduced from 4.0m in the initial Stage II plans to now only be 3.0m. It is these changes that will have significant impact on the overshadowing of buildings, and access to greenspace on the footpaths. This will create a ghetto like feel and look to the area which is not desirable.*

*Tree choices should be reviewed, i.e not planting large trees (Norfolk Pines) on the nature strip. These trees grow to over 90 cms in trunk width and over 30 meters high (over years) and will cause damage to the street, road and paths. Although beautiful, they do not belong in a suburban setting. In addition, gum trees planted within the property will present similar problems*

Comment: Councils Landscape Architect has reviewed the submitted landscape documentation and confirmed that the species referred to by the submitter do not form part of the planting schedule for the development or future community park.

The Norfolk island Pine (*Araucaria heterophylla*) is identified by Council as significant, given the length of time such existing planting has been evident within the LGA. This species has important community and heritage values. The Botany Bay Street Tree Master plan has selected the tree *Araucaria heterophylla* to be planted along Banks Avenue within the Public Domain akin to previous developments within the BATA precinct.

**S.4.15(1)(e) - Public Interest**

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

**S7.11**

The redevelopment of the site will increase demand for public amenities within the area, and in accordance with Council's Section 7.11 Contributions Plan 2016 (amendment 1).

Accordingly, development applications which increase the density of the site are subject to conditions of consent which require the payment of the aforementioned contributions.

The proposal is subject of a draft PA which once executed will require the payment of monetary contributions per dwelling equivalent to s7.11 contributions.

As the draft PA has not as yet been executed, in order to safeguard Council and ensure that relevant contributions can be levied the proposal has been conditioned accordingly to ensure that the relevant contributions remain payable to Council irrespective of the execution of the draft PA.

**Conclusion**

---

Development Application No. DA-2021/1 has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval, subject to the recommended conditions of consent.