

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Panel Reference:	
DA Number:	DA-2021/627
Date of Receipt:	22/12/2021
Property:	120 Banks Avenue Eastgardens
Owner:	Karimbla Construction Services NSW Pty Ltd
Applicant:	Karimbla Construction Services NSW Pty Ltd
Applicant Address:	Level 11, 528 Kent Street, Sydney
Proposal:	BATA Stage II – Integrated Development - Construction of two (2) mixed use buildings of 18 and 20 storeys accommodating 372 apartments, communal recreational facilities, child care centre (use subject to future application), four (4) levels of basement car parking, associated landscaping and construction and embellishment of a private road.
Recommendation:	Approval
Value:	\$156,199,894.00 (excluding GST)
No. of submissions:	Twelve (12)
Author:	Fiona Prodromou - Senior Assessment Planner
Date of Report:	November 2022

### Key Issues

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Bayside Local Environmental Plan 2021 (BLEP 2021) commenced on 27 August 2021. The proposal is thus subject to the relevant provisions 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.

The subject site was previously rezoned from IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential and granted substantial uplift in height and FSR. Lot A benefits from an FSR of 2.35:1 and height standard of 69m.

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.

A Planning Agreement for the subject site was executed on 28 October 2021. The benefits of the Planning Agreement are detailed in this report. The proposal has been conditioned to ensure any operational consent is consistent with the Planning Agreement for the site.

Lot A is located in the south western corner of the overall precinct and comprises a total site area of 9,203sq/m.

The BATA 2 Precinct currently benefits from numerous development approvals. Work is currently occurring on site to Lots B, E centrally located on site and Lot G at the junction of Heffron Road and Banks Avenue.

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

A total of twelve (12) submissions were received during the public notification of the proposal, issues raised have been considered in this assessment report.

Following a detailed assessment of the proposal, DA-2021/627 is recommended for Approval subject to the imposition of standard and specific conditions of consent.

## Recommendation

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1. That development application DA-2021/627 for the construction of two (2) mixed use buildings of 18 and 20 storeys accommodating 372 apartments, communal recreational facilities, child care centre (use subject to future application), four (4) levels of basement car parking, associated landscaping and construction and embellishment of a private road at 120 Banks Avenue Eastgardens be APPROVED 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.
2. That submitters be notified of the Sydney Eastern City Planning Panel's decision.

## Background

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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
MDA-2022/35	Modification to conditions 51 & 52 relating to electric vehicle & bicycle charging	Delegated Authority	22 August 2022
DA-2019/386/B	Modification to condition 16 of Concept Plan.	L&E Court S34 Agreement	15 October 2021
DA-2020/296/A	Modification to change depth of excavation for shoring and piling	Delegated Authority	6 July 2021
DA-2020/408/A	Modification to basement extent and provision of additional slab for new part basement level	Delegated Authority	12 July 2021
DA-2021/261	Integrated Development - BATA 2 - Lot E - Excavation, shoring and piling works to create three basement levels	Delegated Authority	23 September 2021
DA-2020/303 (Lot B)	Construction of two free standing buildings comprising tower forms above separate podium bases - including residential apartments (376) together with communal recreational facilities, a supermarket and other retail premises, excavation to create basement levels to accommodate car parking, associated landscaping and servicing infrastructure, a publicly accessible pedestrian through site link and construction and embellishment of private roads.	L&E Court S34 Agreement.	15 October 2021
DA-2021/1 (Lot E)	Construction of a mixed use development comprising two residential flat buildings of up to 16 and 17 storeys in height containing 322 residential units, communal recreational facilities, ground floor residential and retail, publicly accessible through site pedestrian link; construction and embellishment of two private roads and future public park	Regional Panel	28 October 2021
MDA-2022/80	Lot E - Modification including change to unit mix resulting in a reduction of units from 322 to 296, provision of adaptable units, changes to windows, changes to building and floor levels to incorporate structural and service requirements, and minor increase in building height.	Delegated Authority	24 October 2022
DA-2021/208 Lot G	Lot G - Construction of 42 x two (2) storey terraces with detached garages, eight (8) secondary dwellings, tree removal, landscaping and construction and embellishment of private access ways	Bayside Local Planning Panel	24 June 2022

## **Proposal**

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The proposal seeks to undertake the construction of two (2) mixed use buildings of 18 and 20 storeys in height, accommodating 372 apartments, communal recreational facilities, child care centre (use subject to future application), four (4) levels of basement car parking, associated landscaping and construction and embellishment of a private road. The proposal is described in more detail below.

### Basement 4

130 car parking spaces (including 9 accessible, 14 tandem), residential storage cages, 14 motorbike and 28 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plant / service rooms.

### Basement 3

130 car parking spaces (including 9 accessible, 14 tandem), residential storage cages, 8 motorbike and 28 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plant / service rooms.

### Basement 2

130 car parking spaces (including 10 accessible, 14 tandem), residential storage cages, 12 motorbike and 48 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plant / service rooms.

### Basement 1

121 car parking spaces (including 10 accessible, 12 tandem, 13 visitor – inclusive of 3 car wash and 2 car share), residential storage cages, 4 motorbike and 144 bicycle spaces. Associated vehicular and pedestrian circulation and 4 lift / stair cores with associated plant / service rooms.

### Ground Floor

#### a. Building

538sq/m internal area for future child care centre, with adjoining 539sq/m outdoor play area. Stepped periphery fencing to outdoor play area, varying in height up to 2.7m with vertical coloured slats and grey frosted panels. A signage zone is identified upon the awning structure covering the child care pedestrian entrance. The use of the facility is subject of a future development application.

Two double height residential lobbies, Tower A lobby to the west and Tower B lobby to the east. Both lobbies incorporate seating areas and a mail room, the eastern lobby incorporates a managers office and bathroom. Ramped accessible pedestrian entry is provided to residential lobbies. A hydrant booster enclosure is proposed adjoining the eastern residential entry and lot boundary.

Vehicular access via northern internal access road, carpark entry with gas meter / service rooms and inbuilt substations adjoining. Within is a car parking area with loading / unloading dock for 1 x SRV and 1 x MRV. 1 x car share space is provided adjoining the loading dock.

Waste rooms for the residential / child care centre component of the development are provided, in addition to visitor and additional car share spaces. 16 child care centre parking spaces are provided, with storage rooms for pool plant, OSD tank, car park exhaust, bicycle racks

14 residential units, comprising 2 x 1 bed / 8 x 2 bed / 4 x 3 bed units. Each unit benefits from access via an internal corridor and independent access via a pathway from the public domain. Units benefit from courtyards facing the landscaped zones forward of the building line, which incorporates a range of groundcovers, shrubs and trees as discussed below. Fencing to courtyards is 1.5m in overall height and comprised of aluminium slats.

b. Periphery of Development

A range of landscaping and public domain treatments are proposed within deep soil setbacks along the periphery of the development including.

- Mix of native and exotic tree and shrub / hedge planting forward of balconies to residential units. i.e. Lilly Pilly – 3m height / 2m spread, Spotted Gum (*Corymbia maculata*) – 30m height / 10m spread, Native Viola 0.15m height / spreading ground cover, *Alpinia Variegata* 1m height / 1m spread, Mexican Lily 1.5m Height / 1.5m spread etc.
- Smooth barked apple trees (*Angophora costata*) with a mature height of 20m and spread of 12m are proposed along Tingwell Bouleavrd beyond the southern boundary of Lot A within what will become the public footpath / domain.



*Angophora costata*



*Corymbia maculata*

- Grasscrete finish in front of substation location.



SUBSTATION ENTRANCE - GRASSCRETE

- Paved pathways to residential courtyards and fire egress pathways.
- Pole top lighting.

c. Access Road

- 3m width access road to the north of the site.
- Permeable paving to what will at completion of the internal access road become indented parking bays to the southern side of the internal access road.



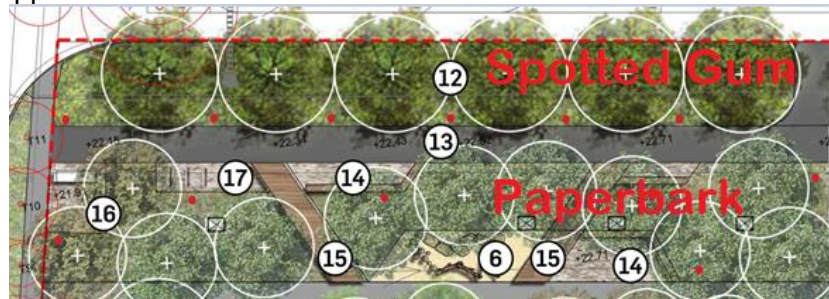


GROUND LEVEL PARKING BAYS -  
PERMEABLE PAVING

d. Open Space 1

A publicly accessible landscaped open area is provided north of the designated developable portion of the site. This open space area provides a direct and accessible pedestrian link into the BATA 2 precinct from Banks Avenue. This space incorporates as follows.

- Entry with seating adjoining Banks Avenue
- Black Granite pedestrian pathway and native feature trees
- Children's nature play area with nature logs/climbing and balancing structures, sandstone boulders, stepping stones, timber bridge, pockets of native planting and public domain seating.
- 6 x spotted gum to the northern side with a mature height of up to 30m and spread of 10m. Ground covers, shrubs and grasses beneath tree canopy.
- 11 x Paperbark trees to southern side with a mature height of up to 15m and spread of 10m. Ground covers, shrubs and grasses beneath tree canopy.
- Seating pods / gathering spaces with concrete pavers
- Bike rack, bench and wayfinding signage zone subject to future development application.



*Tree planting in Open Space 1*



*View of Open Space 1 from Banks Avenue*

e. Trees - Banks Avenue Frontage

Street tree planting within Banks Avenue beyond western boundary of Lot A, incorporating pedestrian footpath, turfed nature strip and 7 x Cook Pine trees with a mature height of 40m-60m and spread of 9-15m.

Level 1

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

Tower A (western tower)

- 12 units (1 x 1 bed / 10 x 2 bed / 1 x 3 bed) with adjoining private open space areas
- Units B101, B114, B113, B112, B111 benefit from courtyards with direct access to the adjoining central communal open space area.

Tower B (eastern tower)

- 14 units (3 x 1 bed / 8 x 2 bed / 3 x 3 bed) with adjoining private open space areas
- Units A112, A101 benefit from courtyards with direct access to the adjoining central communal open space area.

Communal Open Space

- Central lawn (natural turf)
- Arbour (aluminium framed structure, 3m in height above bbq area, comprising 45 degree angled timber look aluminium louvres), bbq, dining and seating areas.
- Periphery planted edges to building periphery and buffer planting adjoining residential units.
- 20m length lap pool and spa with perimeter decking / lounge area incorporating umbrellas, deck chairs and planted pots.
- Communal seating nooks and associated pole lighting

Level 2

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

Tower A (western tower)

- 13 units (1 x 1 bed / 9 x 2 bed / 2 x 3 bed / 1 x 4 bed) with adjoining private open space areas

Tower B (eastern tower)

- 15 units (3 x 1 bed / 9 x 2 bed / 3 x 3 bed) with adjoining private open space areas

Level 3

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

Tower A (western tower)

- 12 units (1 x 1 bed / 9 x 2 bed / 2 x 3 bed / 1 x 4 bed) with adjoining private open space areas

#### Tower B (eastern tower)

- 15 units (3 x 1 bed / 9 x 2 bed / 3 x 3 bed) with adjoining private open space areas

#### Level 4

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

#### Tower A (western tower)

- 12 units (1 x 1 bed / 9 x 2 bed / 2 x 3 bed / 1 x 4 bed) with adjoining private open space areas

#### Tower B (eastern tower)

- 15 units (3 x 1 bed / 9 x 2 bed / 3 x 3 bed) with adjoining private open space areas

#### Levels 5 – 15 (per floor)

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

#### Tower A (western tower)

- 10 units (6 x 2 bed / 2 x 3 bed / 2 x 4 bed) with adjoining private open space areas

#### Tower B (eastern tower)

- 9 units (2 x 1 bed / 4 x 2 bed / 3 x 3 bed) with adjoining private open space areas

#### Level 16 – 17 (per floor)

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

#### Tower A (western tower)

- 8 units (4 x 2 bed / 2 x 3 bed / 2 x 4 bed) with adjoining private open space areas. Communal open space area at level 16 only.

#### Tower B (eastern tower)

- 8 units (1 x 1 bed / 4 x 2 bed / 1 x 3 bed / 2 x 4 bed) with adjoining private open space areas

#### Level 17-19 (per floor)

Central pedestrian circulation corridor to each tower, lift / stair cores, services cupboards, garbage chutes, air conditioning condenser areas, services / plant and direct access to communal open space area.

#### Tower A (western tower)

- 8 units (4 x 2 bed / 2 x 3 bed / 2 x 4 bed) with adjoining private open space areas

#### Rooftop

The rooftop of both towers incorporates service rooms centrally located and solar panels.



Materials / Finishes

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 below.

PAINTED CONCRETE OR MASONRY			METAL WORKS - POWDERCOAT		GLAZING
	P1 - WHITE				
	P2 - LIGHT GREY		PC1 - WHITE		GL1 - GREY GLASS - CLEAR
	P3 - MEDIUM GREY		PC2 - MEDIUM GREY		GL2 - GREY GLAS - FROSTED
	P4 - DARKER GREY		PC3 - DARKER GREY		GL3 - GREY GLASS - COLOURBACK
	P5 - GOLD		PC4 - GOLD		GL4 - CLEAR GLASS



*View of Development from Banks Avenue (north west)*



*View from Tingwell Boulevard (south east)*

### Wind Amelioration Measures

The proposal incorporates wind amelioration measures in the design of the development to ensure public, private and communal areas remain useable. The following measures are proposed.

- Landscaping to ground and upper levels
- Awnings to residential and child care centre entrances comprising steel structural framing and an aluminium clad exterior.
- Fencing to periphery of child care centre
- Pergola structures above seating areas in communal open spaces within the development
- 1.5m high balustrade around northern and southern perimeter of Level 1 communal open space
- Landscaping to periphery of all upper level communal open space areas
- 1.8m high balustrades around entire perimeter of communal open space to level 4
- Vertical wind screens i.e. louvres to corner / open balconies from level 5 and above.

### Tree Removal

18 trees on site and 1 street tree, equating to a total of 19 trees are proposed to be removed. Trees are located along the western boundary of the site fronting Banks Avenue, and comprise bottlebrush, river oak, banksia and eucalyptus trees.

## **Site Location and Context**

The subject site is legally defined as Lot 24 DP1242288 and comprises a total site area of 28,110sq/m. Lot A is located within the aforementioned lot and whilst its subdivision is not as yet registered, the subdivision of Lot A will be registered at a later date, as consent was granted by Council for the subdivision of the original site, incorporating Lot A and other lots, on 13 January 2021 as depicted in the layout of the image below.





*Precinct image depicting approved building forms in pink, proposed form to Lot A in white and concept plan massing in blue.*

Lot A comprises a 96.9m frontage to Banks Ave, 83.2m frontage to Tingwell Boulevard, 80m frontage to the east and stepped 104m frontage to the north. Lot A comprises an independent total site area of 9,203sq/m. An internal service road is proposed to adjoin a portion of the northern boundary of the site, accessed from the east of the property.

Lot A is currently vacant, a total of 23 trees exist on site and within the adjoining nature strip to Banks Avenue. Trees are located along the western boundary of the site fronting Banks Avenue, consisting of bottlebrush, river oak, banksia and eucalyptus trees. Of these, 18 trees on site and 1 street tree, equating to a total of 19 trees are proposed to be removed.

Directly to the east, the site is positioned opposite Lot B, of which DA-2020/303 was approved by the L&E Court for the construction of two free standing buildings comprising tower forms above separate podium bases - including residential apartments (376) together with communal recreational facilities, a supermarket and other retail premises, excavation to create basement levels to accommodate car parking, associated landscaping and servicing infrastructure, a publicly accessible pedestrian through site link and construction and embellishment of private roads. The Lot B redevelopment is illustrated in the diagram above as the two elliptical building forms.



Existing street lights and underground power lines exist along the Banks Avenue frontage of the site. Street parking adjoins the existing kerb.

Directly south of proposed Lot A, is UB3 (126-128 Banks Avenue) a stepped 11-22 storey development within BATA 1 comprising a total of 368 residential units.



BATA 1 on the southern side of Tingwell Boulevard comprises a number of high rise 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 6-22 storeys.

Directly to the north of Lot A is Lot D, nil DA has been submitted for this lot as yet. The massing diagram above indicates the overall height / bulk and scale of future development permitted upon this lot as per the approved Concept Plan requirements.

Further 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.

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.

Further to the east, opposite the BATA 2 Precinct, on the opposite site 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
- Partially 1% AEP Flood affected
- Heritage items nearby (I155 and I66 – Local parkland)

## **Statutory Considerations**

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

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

#### **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 A 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 BLEP 2021 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 1 - Concept approval is granted under Section 4.16 of the Environmental Planning and Assessment Act to the development described below:

*“Use of the site for a mixed use development including residential, retail, commercial and child care centre uses incorporating:*

- Building envelopes with podium (maximum 4 storeys) .....”*

The proposal seeks to incorporate residential dwellings and a child care centre component on Lot A. The development comprises a 4 storey podium and adheres to the building envelope requirements of the Concept Plan. The proposal as designed is consistent with condition 1 of the Concept Plan.

- b) Condition 9 – Design Excellence

The proposal was peer reviewed by the Design Excellence Panel on four occasions as detailed below and it was concluded in November 2022 that the final scheme demonstrates and achieves Design Excellence.

- c) Condition 10 - Local Contributions

The proposal has been conditioned accordingly to ensure relevant contributions are payable as a consequence of the increase in density on site, in accordance with the executed Planning Agreement for the site.

- d) Condition 11 – Contamination

Refer to assessment under SEPP Resilience and Hazards of this report.

- e) Condition 12 - Maximum Gross Floor Area

The maximum gross floor area of the entire BATA 2 site is 210,520sq/m. The table below confirms the maximum GFA approved and proposed to date. The proposal is consistent with condition 12 of the concept plan.

<i>DA Number</i>	<i>Lot</i>	<i>Residential GFA</i>	<i>Non Residential GFA</i>	<i>Total</i>
DA-2020/303	B	35,269sq/m Approved	3,428sq/m Approved	38,697sq/m Approved
DA-2021/1	E	31,660sq/m Approved	505sq/m Approved	32,165sq/m Approved
DA-2021/208	G	5,635sq/m Approved	N/A	5,635sq/m Approved
DA-2021/627	A	38,428sq/m Proposed	538sq/m Proposed	38,966sq/m Proposed
<b>TOTAL</b>				115,463sq/m

- f) Condition 13 - Minimum Non Residential Gross Floor Area

A minimum of 5,000sq/m of gross floor area for non-residential purposes shall be provided across the entire BATA 2 site. Plans indicate the provision of 538sq/m of non residential GFA in the form of a future child care centre. The table below indicates the approved / proposed non residential GFA to date.

<i>DA Number</i>	<i>Lot</i>	<i>Non Residential GFA</i>
DA-2020/303	B	3,428sq/m Approved
DA-2021/1	E	505sq/m Approved
DA-2021/627	A	538sq/m Proposed
TOTAL	-	4,471sq/m

A minimum of 529sq/m of non residential gross floor area remains to be provided as part of the future redevelopment of the site.



g) Condition 14 - Maximum Residential Gross Floor Area

A maximum 205,520sq/m of gross floor area for residential accommodation shall not be exceeded upon the subject site. Plans indicate the provision of 38,428sq/m of residential GFA as part of the redevelopment of Lot A.

The table below indicates the approved / proposed residential GFA to date.

<i>DA Number</i>	<i>Lot</i>	<i>Residential GFA</i>
DA-2020/303	B	35,269sq/m Approved
DA-2021/1	E	31,660sq/m Approved
DA-2021/208	G	5,635sq/m
DA-2021/627	A	38,428sq/m
TOTAL	-	110,992sq/m

A maximum of 94,528sq/m of residential GFA remains to be provided as part of the future redevelopment of the site.

h) 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. Physical and digital sample boards have been provided and are satisfactory with respect of this condition. The proposal has been conditioned to require the submission of physical samples post determination prior to the issue of any construction certificate.

i) Condition 19 – Ground Level Interface

This condition seeks to ensure the provision of an appropriate interface / design treatment with adjoining streets and public domain areas at pedestrian level to ensure an adequate level of privacy to ground level apartments and avoid subterranean spaces.

The proposed development does not incorporate any subterranean spaces and proposes a ground floor RL which is level 0.22m – 0.75m above existing boundary levels. The proposal incorporates appropriate ramps where required to provide level and direct access and an appropriate interface with the adjoining public domain.

As conditioned, the proposal provides an appropriate interface with the public domain and finished RL for the development.

j) Condition 20 – Finished Ground Floor Level

Proposed finished ground floor levels are positioned slightly above existing natural ground level (i.e. maximum 0.75m) to ensure the development is safeguarded against any potential future flooding inundation.

The proposed development adheres to the minimum habitable floor level nominated by the Concept Plan i.e. 23.26RL for Lot A, proposing a stepped ground floor with FFL of 22.9RL and 23.26RL to ensure the development is future proofed against potential future flooding.

k) 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 68.95m to the top of Tower A and 63.2m to the top of Tower B.

l) Condition 22 – Floor to Floor Heights

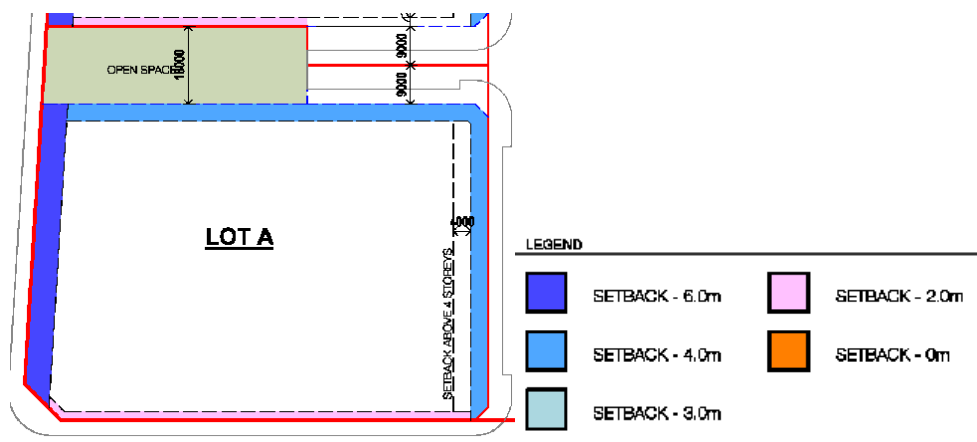
This condition requires compliance with ADG floor to floor heights. Compliance is detailed below;

Level	ADG	Proposed	Complies
Ground	4m	4.8m	Yes
Residential Levels	3.1m	3.15m	Yes

The proposal is satisfactory in this regard.

m) 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 indicate required deep soil setbacks of 2m to the south, 4m to the east and north and 6m to the west.



The proposal complies with the required setbacks 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.

It is noted however that courtyards to the following units along with associated fencing, penetrate into the required setbacks.

- South facing units AG.01 / AG.02 / AG.03 protrude into 2m setback zone to Tingwell Boulevard
- BG.02 in the north eastern corner of the development protrudes into the 4m required northern and eastern setbacks
- AG.04 at ground level protrudes into the 6m setback to Banks Avenue.

The proposal has been conditioned to ensure that courtyards, hard paving and associated fencing are located at the required setback line.

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

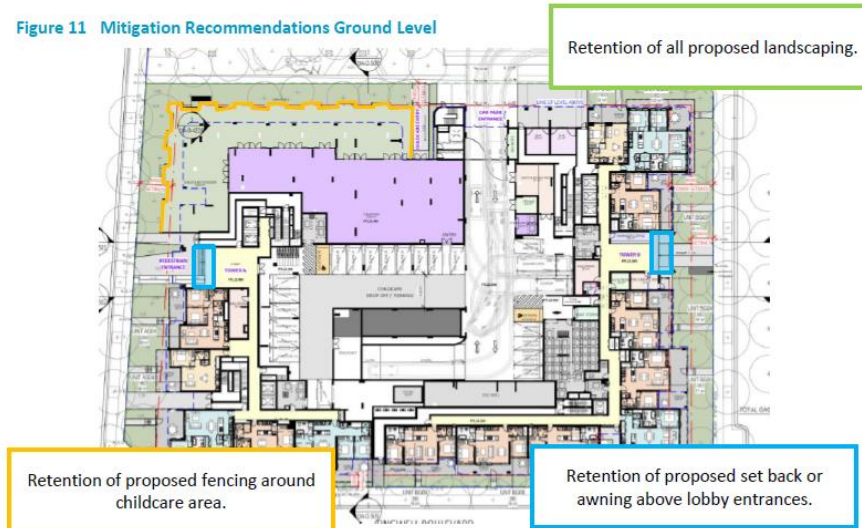
The submitted Landscape Report, depicts the provision of tree wells with a soil depth of 500mm around root ball of a 200L tree at grade within internal access roads, which are accommodated within an area of deep soil to the north of the site, beyond the extent of basement levels. The proposal satisfies this condition.

n) Condition 25 – Wind Report

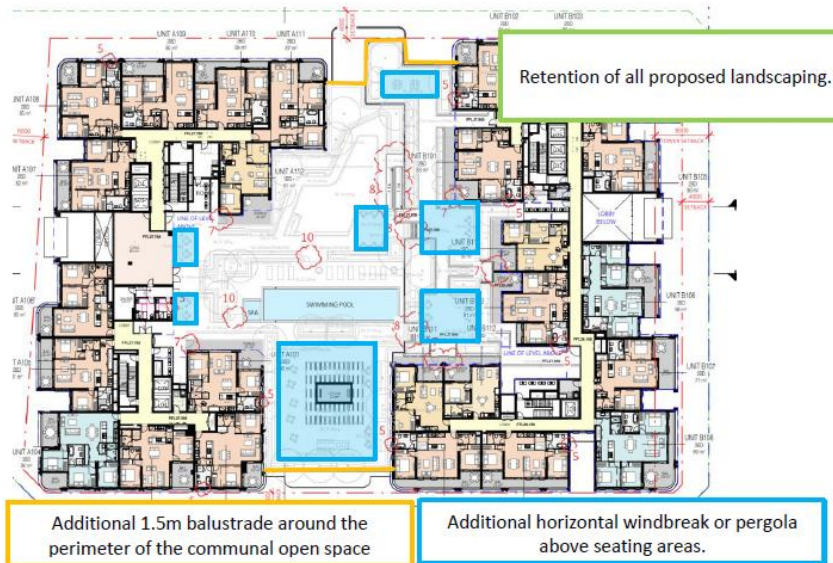
A wind report prepared by SLR Consulting dated, November 2022 was submitted with the application. The report nominates recommended wind mitigation measures as follows.

Ground Level

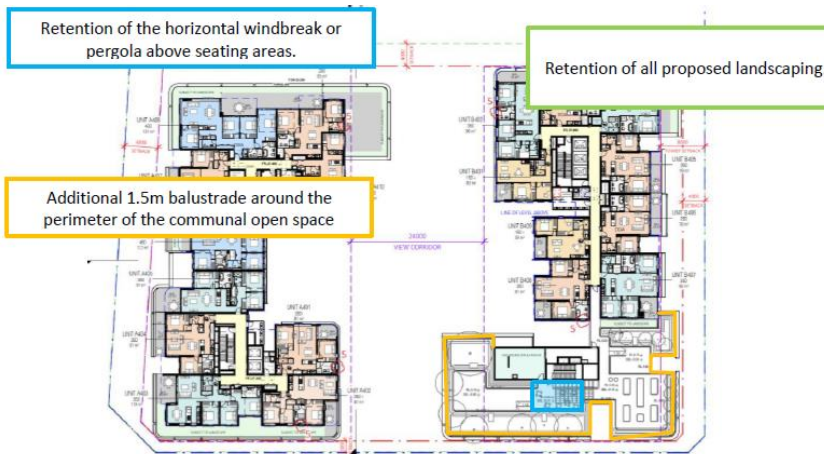
Figure 11 Mitigation Recommendations Ground Level



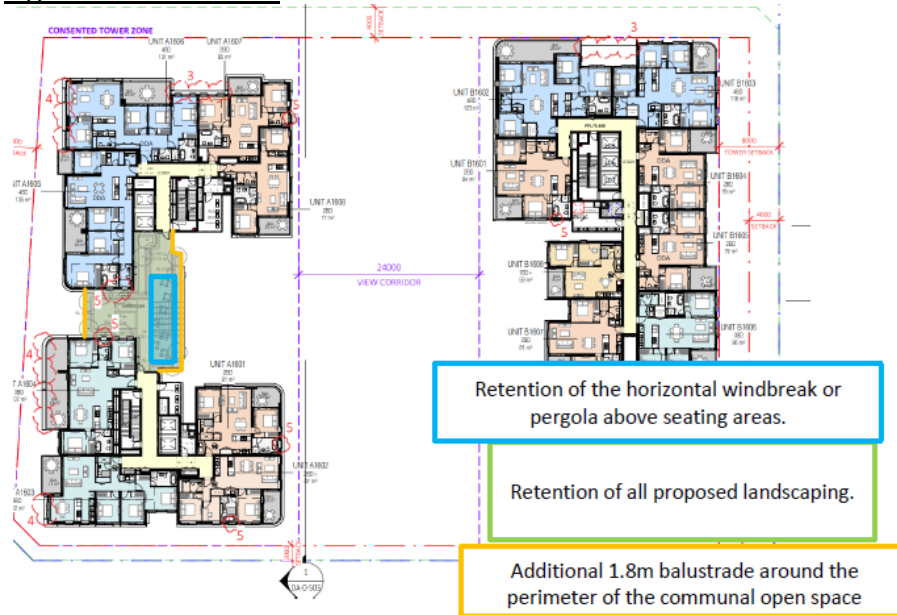
Level 1



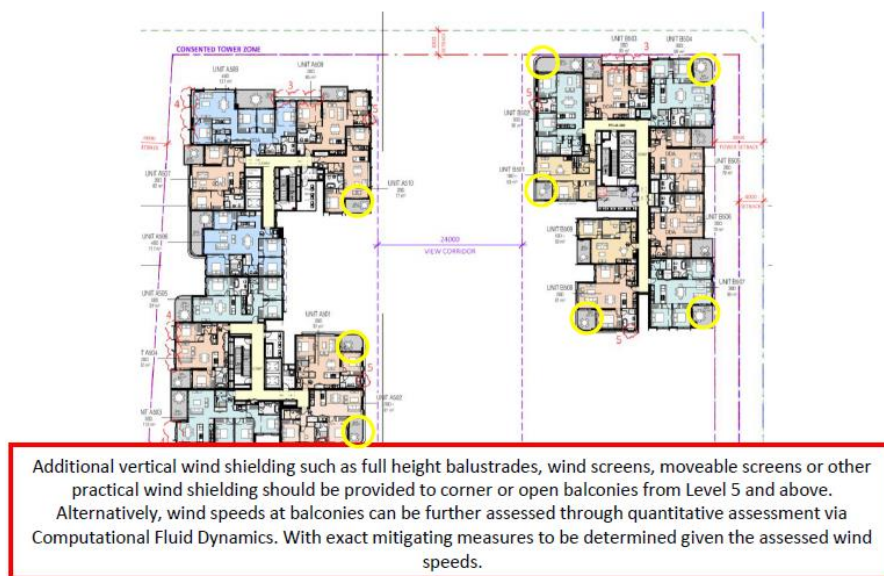
Level 3



## Typical Tower Levels



## Level 16



The proposal has been conditioned appropriately to ensure amelioration measures are implemented during construction and is satisfactory in this regard.

### o) Condition 26 – Reflectivity Report

An environmental glare and reflectivity assessment prepared by SLR dated November 2022 was submitted with the application. The report provides an assessment of the reflectivity and glare of the proposed development to both traffic and pedestrians.

The 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 i.e. glazing to have a reflectivity coefficient not greater than 20%, landscaping surrounding the development to be retained, façade elements including setbacks, building orientations, articulations and protrusions to be retained etc.

The proposal is therefore satisfactory in this regard.

p) Condition 27 – Emergency Services Access and Egress

Documentation provided with the application confirms 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.

q) Condition 28 – CPTED

The proposal was accompanied by a CPTED Assessment prepared by APP Corporation Pty Limited and dated December 2021. 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.

Natural / Passive 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, bicycle parking area, and any internal corridors.*
- *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.*
- *Consider the suitability of a 24-hour security service be provided as part of the site operations.*
- *Ensure that appropriate lighting is planned throughout the site, especially along internal footpaths, communal open space and access points.*

Territorial Reinforcement

- *Establish clear delineation and transition between private and public spaces.*
- *Maintain clear identification of ownership and management of space.*
- *Restrict private / public lift access to residential levels and private open space.*
- *Provide wayfinding and security signage to enforce feelings of safety and legibility. This is particularly important for delineating private residential apartments, childcare access points and visitor spaces.*
- *Utilise visual cues in the streetscape and building facades to delineate elements of the public domain from private spaces. These cues can include increased landscaping barriers or direct signage.*
- *Environmental Maintenance*
- *Ensure that landscaping of open space areas is well maintained.*
- *Use high quality materials that don't require extensive maintenance.*
- *Implement procedures to promptly remove graffiti or evidence of vandalism if such does occur.*
- *Frequently maintain publicly accessible and publicly visible areas of the development.*

Access Control

- *Provide separate controlled access - particularly to ensure security of residential apartments and childcare facilities.*
- *Consider increased security measures to restricted areas including private open space through use of security swipe cards.*
- *Childcare lobbies are to be monitored by staff during hours of operation.*
- *Swipe-card access to be implemented to restricted areas including residential amenities such as private open space and swimming pool/gym facilities.*

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.

r) 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 a plan showing the proposed staged subdivision of the site, whereby numerous proposed easements to facilitate pedestrian and vehicular access for the public on site were depicted. i.e. to local roads, community park and walkways.

Councils Development Engineer reviewed the aforementioned document 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.

s) 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 incorporates substations within the building footprint, yet the hydrant booster for the development is located externally and within what appears to be an enclosure adjoining the residential entry to Tower B.

The ground floor plan as submitted indicates the proposed location of a hydrant fire booster for the development adjoining the residential entry of Tower B. Elevations do not provide detail of the hydrant booster.

In order to minimise the visual impact of any hydrant booster, the proposal has been conditioned to require that no enclosure be permitted and that the hydrant remain as exposed pipework within landscaping proposed in this location.

Further to the above, the proposal is capable of providing relevant utility services for the development and substations required are integrated into the building form. The proposal is satisfactory in this regard.

t) Condition 33 – Public Art

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

u) Condition 34 – Wayfinding Signage Strategy

Nil detail is required as part of this application with respect of this condition.



v) Condition 35 – Public Domain Bicycle Parking

This condition requires a minimum of 10 publicly accessible bicycle parking spaces within Open Space 1. Landscape plans indicate the provision of bicycle spaces at the entry to Banks Avenue. The proposal has been conditioned to ensure the relevant number of spaces are provided.

w) Trees – Condition 41

Refer to State Environmental Planning Policy (Biodiversity and Conservation) 2021 Assessment.

x) 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. i.e. play area within open space 1, ramps, bicycle racks etc

The proposal provides a variety of pavement treatments, including pervious surfaces, granite pavers and washed in situ concrete etc. Water sensitive urban design elements are incorporated, ie. low water and low maintenance plant species.

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

y) 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 comply with this condition.

i. Condition 42(c) - Planters

The intent of Condition 42(c) is the incorporation of planters to upper levels of towers above 2-4 storey podium setbacks to soften facades. 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 strategically placed periphery landscape planters to levels 1, 4 and 16 to various façade locations. Such planters incorporate a range of planting of varying height and spread, of which are visible from the public domain, will aid in providing a green element to tower forms and soften the facades of the development. The proposal is satisfactory with regards to this condition.

j. Condition 45 – ESD

An Energy Efficiency and ESD Report, prepared by SLR Consulting, dated 04/11/2022 was submitted for review. The report confirms ESD commitments proposed on site as follows for the development.

<i>Initiative</i>	<i>Commitment</i>
Community Vegetable Garden	Garden bed available for resident use to be provided within the level 4 community space
Electric Vehicles	All residential car parking spaces will be provided as EV-Ready and one non-residential commercial car space will be EV Equipped
Car Share	8 car share spaces will be provided
Bicycle Facilities	256 bike racks are provided for resident and visitor use
Open Space	Open space areas at ground level incorporating deep soil and extensive planting
Green Roof Tops	Upper level communal areas at Level 1, 4 and 16 incorporate planting
WSUD	WSUD design features have been integrated into the design .i.e. low water species, rainwater for irrigation etc
Flora / Fauna	Appropriate species will be chosen for the planting on site
30% Tree Canopy	Minimum 30% tree canopy provided within Lot A incorporating trees with mature height of 30m
Solar Power	Solar panels will be provided to the roof of buildings to serve the common area demand
Rainwater	Rainwater tanks will be connected to the irrigation system to enable watering of gardens. A 20kL rainwater tank is proposed.
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.
Building Management System	Lot A will have a Building Management System (BMS) connected to all major energy consuming systems with-in the common areas. Mechanical systems in common areas will operate on time schedule or be activated by sensors to optimise and control energy efficiency.

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.

k. 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 application was accompanied by a 'Green Travel Plan' (GTP) which formed an Appendix D to the submitted Traffic Report. The GTP was prepared by ARUP and dated 3 December 2021.

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.

l. 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 533 car parking spaces are provided on site and are proposed to be allocated as follows;

- 498 residential spaces
- 19 residential visitor (including 3 car wash and 6 x car share)
- 16 child care spaces

m. Condition 48 – Loading / Unloading

Plans identify appropriately sized and located loading and unloading areas for the development at ground floor level for 1 x medium rigid vehicle and 1 x small rigid vehicle.

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.

n. Condition 49 – Car Wash Bays

This condition requires the provision of 1 car wash space per 200 car spaces provided. Given a total of 533 car spaces are proposed, a minimum of three (3) car wash bays are required. Plans indicate the provision of 3 car wash bays in basement level 1. The proposal is satisfactory in this regard.

o. 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 within the development. The proposal is satisfactory in this regard.

p. Condition 51 - Electric Vehicle Charging

This condition requires that all residential car parking spaces for future occupants be equipped with the necessary cabling and infrastructure, so as to facilitate the simple installation of an electric vehicle charger, in the event that the future owner / occupant has an electric vehicle. This condition further requires that a minimum of one (1) non residential car space be fully equipped with relevant infrastructure inclusive of a fast charger unit.

The Traffic and Transport report Issue 2, prepared by ARUP dated 4 November 2022 submitted with the proposal confirms the intention to ensure all residential car parking spaces be provided as EV-Ready and one non-residential commercial car space be EV-Equipped. The proposal is satisfactory in this regard and has been conditioned accordingly.

q. Condition 52 – Bicycle Facilities

This condition requires the provision of bicycle facilities for the residential and child care centre component of the development, in addition to end of trip facilities for cyclists.

A total of 256 bicycle spaces as required, are provided for the development. End of trip facilities are not provided given the nature of uses proposed within the development. The proposed child care centre at ground level is of sufficient overall area, such that at the time of the lodgement of a development application for the fit out / use, such facilities can be incorporated. Given the aforementioned the proposal is satisfactory in this regard.

r. Condition 53 – Motorbike Facilities

This Condition requires the provision of 1 space per 15 car parking spaces equating to a minimum of 36 spaces. Plans illustrate 38 car spaces, and the proposal is satisfactory in this regard.

s. 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 372 residential units, being 40 x 1 bed / 206 x 2 bed / 88 x 3 bed / 38 x 4 bed dwellings. Of the mix provided, 74 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, 40 units within the development are designed as Silver level units, as per the Liveable Housing Design Guidelines. Silver 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.

t. 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.

u. Condition 57, 58 – Flood Planning and Flood Risk Management

The subject conditions require that the development be designed in accordance with the Flood Study Report prepared by WMA water, titled “*Site Flood Assessment for Concept Development Assessment*” and dated 9 October 2020. Further that a Flood Risk Management Plan be prepared for the site.

This site is located in the south eastern corner of the overall BATA 2 site, at one of the highest points of the site, with no significant flood affectation.

It is confirmed that minimum floor levels are not required for Lot A given the aforementioned and whilst a Flood Risk Management Plan was not submitted as part of this application, it has been conditioned as follows in an effort to bring flood awareness of the site as a whole to future occupiers of the development.

*Prior to the issue of any Occupation Certificate, a Flood Management Plan is to be prepared for the development to ensure adequate flood awareness is provided. The Flood Management Plan shall be laminated and permanently attached to a prominent location within each dwelling of the development to the satisfaction of the Principal Certifier.*

As conditioned the proposal is satisfactory with regards to flood planning and risk management.

v. **Condition 59 – Stormwater Management**

Stormwater plans as submitted do not comply with the relevant requirements of Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines Section 6.

Accordingly, the stormwater plans submitted with the application will not form part of the approved documents and further plans shall be prepared and submitted for approval to Council prior to the issue of any Construction Certificate. As conditioned the proposal is satisfactory with respect of this condition.

**State Environmental Planning Policy (Planning Systems) 2021**

In accordance with Schedule 6 subclause 2 of the SEPP, as the proposed development has a capital investment value of greater than \$30 million, it is referred to the Sydney Eastern City Regional Planning Panel for determination.

**Sustainable Buildings SEPP 2022**

The Sustainable Buildings SEPP commenced on 29 August 2022. Amendments to the Regulation will commence on 1 October 2023.

The new State Environmental Planning Policy (Sustainable Buildings) 2022 encourages the design and delivery of more sustainable buildings across NSW. It sets sustainability standards for residential and non-residential development and starts the process of measuring and reporting on the embodied emissions of construction materials.

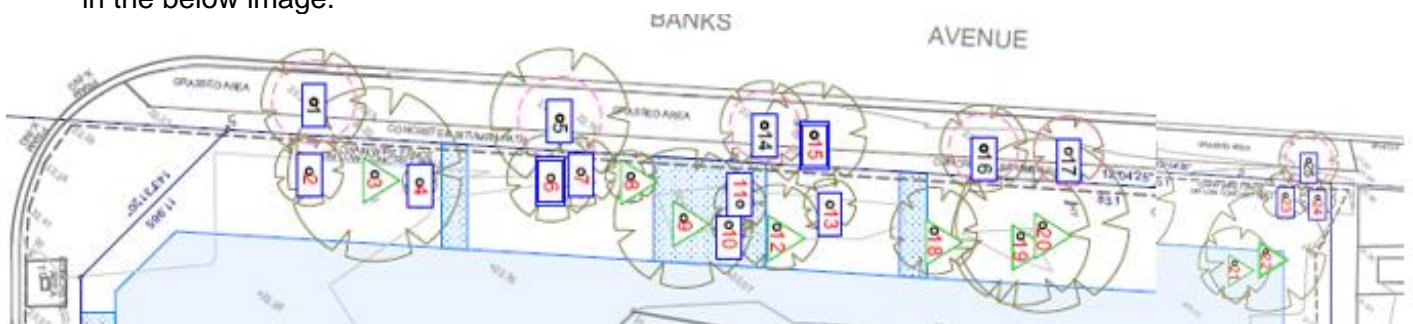
Savings and transitional provisions have been included so that the SEPP will not apply to development applications or modification applications that have already been submitted, but not yet determined by the commencement date. In this regard the SEPP does not specifically apply to this application and the proposal is satisfactory in this regard.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The SEPP applies to the proposal as the site contains trees of which consent is required for their removal given they are not exempted by Botany Bay DCP 2013. As per section 2.6 - Clearing that requires permit or approval of the SEPP, approval is required for the removal of vegetation upon the subject site.

An Arborist Report prepared by Naturally Trees dated October 2021 was submitted to reviewed by Councils Tree Officer. A total of 23 trees exist on site and within the adjoining nature strip to Banks Avenue.

Trees are located along the western boundary of the site fronting Banks Avenue, consisting of bottlebrush, river oak, banksia and eucalyptus trees. Of these, 18 trees on site and 1 street tree, equating to a total of 19 trees are proposed to be removed, depicted in red numbering in the below image.





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#### 4.6 - Contamination and remediation to be considered in determining development

The property is not identified in Council's records as being potentially conta



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.

- *Detailed Site Investigation [DSI] for Contamination Pagewood Green Stage 2 prepared Douglas Partners Pty Ltd (DP), dated 11 September 2020.*
- *Remediation Action Plan [RAP] Pagewood Green Stage 2 DRAFT report (Draft A) prepared Douglas Partners Pty Ltd (DP), dated 25 August 2020.*
- *Correspondance dated 28 October 2022, prepared by Douglas Partners.*
- *Report on Validation of Remediation Area 1, prepared by Douglas Partners dated 17 November 2022.*

The ‘Report on Validation of Remediation Area 1’ concluded as follows.

*‘The identified contaminated soil hot spots (remediation areas) were remediated through excavation and off-site disposal to landfill. Validation of the remediation works included inspections of the remediation excavations, followed by validation sampling and testing.*

*Based on the results of validation sampling and testing, site observations, and reviewed documentation (prepared by others, including the asbestos clearance reports), it is considered that Area 1 has been made suitable, from a contamination perspective, for the proposed future use as high rise residential and public open space.*

*It is recommended that an unexpected finds protocol remain in place during future civil and construction works to enable identification and management of contamination that may not have been found during the previous investigation stages’*

Councils Environmental Scientist has stated as follows.

*“Lot A is part of Area 1. Area 1 has been remediated and a validation report prepared by the consultant Douglas Partners for consideration by the Site Auditor. After the Validation report is reviewed and endorsed by the Site Auditor (Jason Clay), and the Site Auditor considers that Area 1 is suitable for the proposed development, the Auditor will provide a Section A Site Audit Statement (SAS) and Site Audit Report (SAR) for Area 1. A copy of the SAS and SAR will be provided to Council.”*

Given the above, it can be concluded that Lot A has been appropriately remediated and that the site is suitable for the proposed development as submitted. The proposal has been conditioned to require that a copy of the SAS and SAR are provided to Council.

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

The applicant has submitted a BASIX Certificate for the proposed development, being certificate number 1259834M\_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 (Transport and Infrastructure) 2021**

### **2.121 – Traffic Generating Development**

The proposal is classified as ‘traffic generating development’, as the site seeks to incorporate >200 car parking spaces as per Schedule 3 - Traffic-generating development to be referred to TfNSW - Chapter 2.

In accordance with the SEPP, TfNSW were advised of the proposed development. TfNSW responded on 1 February 2022 and did not raise any objection to the development, subject to the imposition of standard conditions of consent.

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.

### **2.48 - Works within the vicinity of electricity infrastructure**

The application is subject to section 2.48 of the SEPP as the development proposes works within the vicinity of undergrounded electricity infrastructure, along the periphery of the site within Banks Avenue.

In accordance with this section 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 No 65—Design Quality of Residential Apartment Development**

In accordance with section 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 four (4) occasions, being 22 February, 1 June, 7 October and via electronic means on 4 November upon submission of final revised scheme. The Panel reviewed the final revised scheme in November 2022, supporting the proposal and confirming that Design Excellence had been demonstrated.

### ***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 Design Excellence Panel supported the scheme and commented the “*project team for having developed the scheme. It has responded positively to prior panel feedback and*

*maintained coherence and clarity of the project.”* The Panel was supportive of the scheme with respect of this principle.

#### Comment

The subject site benefits from an R4 high density residential zoning, a 69m height limit and 2.35:1 FSR. Lot A 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 at the junction of Tingwell Boulevard and Banks Avenue of the overall site. Residential dwellings are proposed at ground floor level, with the exception of the north western corner, where a future child care centre is sought to be provided.

Open space 1 is located to the north of Lot A, along with an internal access road, as approved by the Concept Plan. To the east of Open Space 1 is the internal access road to Lots B and E and subsequently direct access and a visual link to the village heart via this connection.

Whilst open space 1 is to remain in private ownership, appropriate easements will be provided to ensure public access is provided in perpetuity. The proposal has been conditioned accordingly.

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

#### Principle 2 - Built Form and Scale

The Design Excellence Panel supported the substantial reduction in gross floor area which as a result resulted in a reduction in the overall massing, scale and extent of the development proposed. The Panel supported the revised bulk, scale, height and mass and confirmed that design excellence has as a result of final revisions, been achieved.

#### Comment

The design of the 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, building separation 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 perimeter of Lot A 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.

The proposal incorporates a strong articulated four storey podium which is well defined, with tower forms above being appropriately articulated, such that the visual bulk of towers is appropriately expressed resulting in visual bulk being minimised. Towers are also differentiated by their overall massing, stepping, position on the podium and materials palette. The eastern tower is scaled down in overall form and recessed significantly from the southern podium edge at level 5 and above.

The child care centre tenancy at ground floor level is strategically located to provide for a sense of community, given its position adjoining open space 1 and incorporates independent pedestrian entry to minimise any land use conflict.

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 original scheme submitted to Council proposed 47,585sq/m of gross floor area within Lot A. The final scheme proposed incorporates 38,966sq/m. This is a reduction of 8,619sq/m of floor space. Post revision of plans, the Panel stated that *'a reduction in density on the site from the previous scheme is supported and provides closer alignment with the approved Concept Plan'*.

### Comment

The Concept Plan approval permits a total of 210,520sq/m of gross floor area across the entire BATA 2 site. At Concept Plan stage, an indicative GFA of 38,900sq/m was estimated for Lot A. The subject DA proposes 38,966sq/m of GFA for Lot A, which is generally consistent with that envisaged by the Concept Plan approval.

The quantum of gross floor area sought to be achieved as part of this application, complies with the FSR standard for the overall site i.e. 2.35:1 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 04/11/2022 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 proposed ESD commitments sought to be implemented on site and clarifies measures within a statement of commitments. The proposal was reviewed by the Panel who noted that ESD commitments in relation to vehicular charging and future provision have been adhered to by the applicant as required by the Concept Plan approval.

The Panel recommended the following be added to the design so as improve sustainability.

- *Sun shading should be provided to the northern elevations*
- *Sun shading, or more limited glazing on the western elevations*
- *Modify bathrooms to provide windows where possible for natural ventilation.*

With regards to the above, sun shading has been provided to elevations as requested by the panel in the form of aluminium covered slab extensions and vertical louvres. Where possible, bathrooms of units have been modified to permit natural ventilation.

Due 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

The Design Excellence Panel confirmed that the *“Applicant has put forward a detailed and complete document set to address the landscape architectural outcomes. The design response, initiatives and outcomes are generally supported by the panel. With minor revisions to the plans to be provided to council, the panel can support Design Excellence”*.

Modifications referred to by the Panel are relatively minor and relate to the following.

- *“Clear plan and detail information to the proposed childcare perimeter fence on the ground floor is to be provided.*
- *All apartments with outdoor terrace areas on Level 1 should be provided with direct ground floor access to the communal open space*
- *The stair and ramp arrangement between communal open space levels should be revised so that the stair location connects more directly through the centre of the space, and therefore, minimising visual and acoustic privacy to private open spaces. This should not result in the loss of any landscape amenity and improve central circulation and flow*
- *Great articulation to planter beds throughout the site is to be provided to deliver greater landscape amenity and planter bed widths where trees are proposed (refer ADG for soil volumes) and to reduce long continuous gun-barrel effect to circulation spaces*
- *Pool gates must open outwards and resolution of circulation to the western entry should not impeded the external path of travel.”*

#### Comment

In response to the above, plans were revised to address these matters and specifically provide more detail relating to the fencing to the child care centre tenancy. The issues above are resolved within amended plans. A detailed discussion is undertaken further in this report in relation to the proposed child care centre tenancy and associated fencing.

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 be distributed across the entire BATA 2 precinct.

An area (i.e. 1,098sq/m) of open space to the north of the building form in Lot A is proposed as ‘open space 1’. This will be maintained in the ownership of the developer with associated easements permitting public pedestrian thoroughfare.

The proposal delivers as follows.

- 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 i.e. herb gardens incorporating, rosemary, sage, thyme and basil.
- Delivers a variety of pavement treatments, including pervious surfaces, granite pavers, exposed / washed aggregate concrete, composite timber, grass crete etc
- Incorporates water sensitive urban design elements i.e. low water and low maintenance plant species.

The proposed development incorporates communal open space at levels 1, 4 and 16, with a range of facilities and spaces, incorporating, seating, tables, amenities, pool / spa, pool decking with umbrellas, chairs and potted plants, pergola structures for shade, bbq facilities, recreational lawns along with a gym for future occupants. A sauna and toilet facilities are incorporated to the primary level 1 communal open space area on site.

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.

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.

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 level 1. This area incorporates a swimming pool with adjoining decking and lawn, indoor spa, gym / sauna / toilet facilities, recreational lawn, trees, a BBQ pavilion and seating areas.

Where unit balconies adjoin the level 1 communal open space area, a buffer of planters is provided, with small to medium trees i.e. frangipani, blueberry ash, crepe myrtle, dwarf magnolia with mature height up to 10m and a range of shrubs, which provide privacy and an appropriate interface.

Upper level communal open spaces are provided at levels 4 and 16. These areas accommodate a community garden and worm farm, small canopy trees, BBQ pavilion and seating areas. Aluminium framed awning structures, 3m in overall height are proposed above bbq areas, these comprise 45 degree angled timber look aluminium louvres to provide a canopy for weather protection.

Further to the above, units as proposed comprise well designed layouts, spacious internal areas and compliant private open spaces. Units as designed comply with the natural cross 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 dwellings, 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 372 units of an appropriate mix, being 40 x 1 bed / 206 x 2 bed / 88 x 3 bed / 38 x 4 bed dwellings. The subject site is located within an accessible area close to public transport / facilities and the development is capable of sufficiently accommodating a varied demographic and different household types.

Further to the above, 74 units within the development are provided as adaptable, with level transition between indoor / outdoor areas and sufficient circulation space to accommodate mobility aids. A total of 40 units are also designed as Silver level units, as per the Liveable Housing Design Guidelines. Silver 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 Dwellings as proposed allow for ageing in place.

Overall, 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 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, ensuring that both towers on site are capable of being visually differentiated. 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 below.

### PAINTED CONCRETE OR MASONRY

	P1 - WHITE
	P2 - LIGHT GREY
	P3 - MEDIUM GREY
	P4 - DARKER GREY
	P5 - GOLD

### METAL WORKS - POWDERCOAT GLAZING

	PC1 - WHITE		GL1 - GREY GLASS - CLEAR
	PC2 - MEDIUM GREY		GL2 - GREY GLAS - FROSTED
	PC3 - DARKER GREY		GL3 - GREY GLASS - COLOURBACK
	PC4 - GOLD		GL4 - CLEAR GLASS

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.	Ground floor raised 0.46m – 0.8m above existing natural ground level. Landscaping provided forward of building line to soften interface	Yes
	Courtyard units to have direct street entry, where appropriate.	Direct pedestrian access provided to ground level units	Yes
	Front fences / walls along street frontage to be visually permeable and limited to 1m	Front fencing to ground level courtyards limited to 1.5m in height as per previous consent for Lots B and E. Masonry component of fencing shall not exceed 1m in height. Fencing above 1m shall be open form	Yes – to be conditioned.
	Mailboxes located in lobbies or integrated into front fence	Mail room provided within internal lobby	Yes
3D - Communal Open Space	25% (2,300.75sq/m) of Site Area <i>Site Area = 9,203sq/m</i>	29% (2,669sq/m)	Yes
	50% (1,150sq/m) of principle useable area to receive 2 hours solar access in midwinter 9am - 3pm	>50% solar to communal areas from 10am – 1pm in midwinter	Yes
3E - Deep Soil Zone	7% (644.2sq/m) site area Minimum Dimensions 3m	17% site area (1,580sq/m)	Yes
3F - Visual Privacy <i>Buildings on same site combine required separation. Gallery treated as habitable space</i>	<u>Up to 12m (4 storeys)</u> 12m required	<u>Up to 12m (4 storeys)</u> 19.5m proposed	Yes
	<u>Up to 25m (5-8 Storeys)</u> 18m required	<u>Up to 25m (5-8 Storeys)</u> 24.9m / 44.5m / 48.6m proposed	Yes
	<u>Over 25m (9+storeys)</u> 24m required	<u>Over 25m (9+storeys)</u> 24.9m / 44.5m / 48.6m proposed	Yes
3G – Pedestrian Access and Entries	Multiple entries provided to activate street edge	Independent residential and communal residential pedestrian entries provided. Individual entry to child care centre premises also provided.	Yes
	Building access clearly visible from public domain and communal spaces	Clearly identifiable and visible building entries from adjoining public domain spaces. Building entries clearly distinguishable from communal areas within the development	Yes

	Steps / ramps integrated into building and landscape design	Ramping integrated to communal lobbies and child care centre entry	Yes
	Electronic access to manage access	Secure electronic access proposed to be provided	Yes
3H – Vehicular Access	Car park access integrated with building facade.	Car park entry gate recessed from building line and integrated into design of development.	Yes
	Car park entries behind building line		Yes
	Car park entry / access located on secondary street / lane where available	Car park entry located from internal access road to north of site	Yes
	Garbage collection, loading and servicing areas screened	Garbage areas located within development to facilitate servicing	Yes
	Pedestrian / vehicle access separated and distinguishable.	Clearly identifiable pedestrian and vehicular access areas within the development	Yes
3J - Bicycle and Car Parking	As per Concept Plan Parking Rates.	Compliant – refer to discussion in Condition 47 of Concept Plan	Yes
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (259 of 372) apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	259 of 372 (70%) units receive 2 hours in midwinter	Yes
	Max 15% (56 of 372) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	27 of 372 (7.25%)	Yes
4B – Natural Ventilation	Min 60% (119 of 198) of apartments in first 9 storeys are naturally cross ventilated	62.6% (124 of 198) units naturally cross ventilated	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.	15m	Yes
4C – Ceiling Heights	<u>Residential Floor To Floor</u> 3.3m – Ground / Level 1 3.1m – L2 and above	4.8m / 3.3m 3.15m	Yes Yes
	<u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m	2.7m 2.4m	Yes Yes
4D – Apartment Size and Layout	1 bed – 50sq/m	50sq/m	Yes
	1 bed + Study (nil minimum in ADG)	58sq/m – 61sq/m	Satisfactory on Merit
	2 bed – 70sq/m	78sq/m – 88sq/m	Yes
	3 bed – 90sq/m	96sq/m – 113sq/m	Yes
	4 bed – 102sq/m	110sq/m – 135sq/m	Yes
4E – Private Open Space and Balconies	1 bed – 8sq/m 2m min depth	8sq/m depth 2m	Yes
	2 bed – 10sq/m / 2m min depth	10sq/m – 23sq/m depth 2m	Yes
	3 + bed – 12sq/m / 2.4m min depth	12sq/m – 36sq/m	Yes

	Ground level /Podium - min 15m <sup>2</sup> / min depth 3m.	26sq/m – 62sq/m courtyards 3m dimensions	Yes
4F – Common Circulation and Spaces	Max apartments off a circulation core on a single level is eight.	Each core has minimum two lifts and 5 units per core. Tower B core contains 3 lifts and 9 units per floor, averaging 3units per lift.	Yes
	10 storeys + max units sharing a single lift is 40.	Fewer than 40 units share a single lift. Each core has 2-3 lifts.	Yes
4G – Storage <i>50% located within apartment</i>	1 bed - 6 cubic metres	Sufficient storage provided within units and supplementary in 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	Acoustic privacy has been protected through the arrangement of apartment layout on each floor plan and vertically. Wall thicknesses and floor-to-floor heights provide sufficient space for acoustic separation to be achieved. Noisy areas within buildings including building entries and corridors are located next to or above each other and quieter areas next to or above quieter areas.	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 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

## **Bayside Local Environmental Plan 2021 (BLEP 2021)**

<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
2.3 – Zone	R4 – High Density Residential	Residential / commercial uses	Yes - commercial uses permitted in Schedule 1.
4.3 – Height of Buildings	69m	Tower A - 68.95m Tower B - 63.2m.	Yes
4.4 – FSR	2.35:1	0.72:1 across entire site i.e. 120 Banks Avenue which comprises site area of 28,110sq/m 38,966sq/m GFA proposed	Yes
5.10 – Heritage Conservation	To conserve the environmental heritage of Bayside	Lot A is sufficiently distanced from the nearby heritage item Jellicoe Park. The northern boundary of the overall BATA 2 site which adjoins Heffron Road is 120m from this item, with Lot A being distanced a further 158m to its northern boundary. Given the aforementioned building forms on Lot A are unlikely to result in any adverse impact upon the item or its curtilage.	Yes
5.21 – Flood Planning	(a) To minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.	Appropriate flood mitigation measures proposed	Yes – conditions imposed to raise flood awareness of future occupants
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.	Conditions of consent have been imposed to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.	Yes
6.3 - Stormwater and WSUD	Minimise impacts of urban stormwater to adjoining properties,	Stormwater mitigation measures proposed. WSUD incorporated into development i.e. rainwater used for irrigation etc.	Yes – proposal to be conditioned to ensure design

Clause	Requirement	Proposal	Compliance
	native bushland and receiving waters.		is in accordance with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines
6.7 - Airspace Operations	The site is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24 metres)	Approval to a maximum overall height of 91m AHD. Proposal has a maximum height of 90.950RL and adheres to the aforementioned. Proposal conditioned accordingly.	Yes
6.10 - Design Excellence	Deliver the highest standard of sustainable architectural and urban design.	Design Excellence confirmed by Councils Design Review Panel	Yes
	Architectural Design Competition, unless otherwise certified by NSW Government Architect Office	NSW Government Architect Officer confirmed ADC not required as Design Excellence has been demonstrated.	Yes
6.11 – Essential Services	Essential services are or will be available	Existing sewer, water, electricity and gas connections are available.	Yes
6.16 - Development requiring the preparation of a development control plan	To ensure that development on certain land occurs in accordance with a site-specific development control plan	Assessment against Approved Concept Plan undertaken previously in this report	Yes
6.17 - 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens—general	The consent authority must not grant consent to development unless it is satisfied the development will 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) car park, (c) telecommunications facility.	Refer to discussion in Condition 13 - Minimum Non Residential Gross Floor Area previously in this report.	Yes

#### 6.10 - Design Excellence

The objective of this section is to deliver the highest standard of architectural, urban and landscape design. This clause applies to the proposal as the applicant seeks to benefit from a height bonus applicable to the site which has been previously discussed.



As per the provisions of this clause, development consent must not be granted, unless the consent authority considers that the development exhibits design excellence. Pursuant to subclause 5(a), development consent must not be granted unless a design excellence panel reviews the development and the consent authority takes into account the findings of the panel.

The proposed development was considered by Councils Design Excellence Panel who confirmed on 17 October 2022 post submission of final revised plans that the application achieved compliance with the Design Excellence provisions of the LEP. The proposal is satisfactory in this regard.

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

##### Review of C.4.6 of Standard Instrument

Proposed changes to clause 4.6 of the Standard Instrument LEP aim to clarify the requirements for varying development standards, improve transparency and accountability in the planning system.

Under the proposed revised clause 4.6, the consent authority would need to be satisfied that the applicant's written request demonstrates consistency with the objectives of the relevant development standard and land use zone. Applicants would also have to demonstrate that the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened.

In deciding whether a contravention of a development standard will result in an improved planning outcome, the consent authority is to consider the public interest, environmental outcomes, social outcomes or economic outcomes. Proposed changes were on exhibition from 31 March until 12 May 2021. The proposal has been considered against the above and is not inconsistent with the draft provision.

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

##### 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. Section 6.17 of BLEP 2021 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.

#### **Section 4.15(1)(a)(iia) – Planning Agreements under Section 7.4 of the EP&A Act**

Regional Panel Operational Procedures require Council to detail any 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 site is subject to a Planning Agreement, executed on 28 October 2021, which is to deliver the following community benefits.

- i. *Dedication of 45 Affordable Housing Units (AHU's), with a total of 100 bedrooms.*
- ii. *Embellishment and dedication to Council of no less than 16,995 sqm of public open space and embellishment and public access easement over no less than 3,131 sqm of publicly accessible open space.*
- iii. *Dedication of public roads.*
- iv. *Monetary contribution of \$23,900,000 (GST exclusive), over three payments. Monetary contribution that was part of the BATA I Planning Agreement 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.*
- v. *Payment of local Infrastructure contributions.*

In order to ensure the consent for Lot A operates in conjunction with the executed Planning Agreement the proposal has been conditioned appropriately.

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

The Regulations were updated by the State Government of NSW on 17 December 2021 and came into force on 1 March 2022. The provisions of the Regulations relating to demolition have been considered in the assessment of the application.

The application was accompanied by a '*design verification statement*' from a registered architect confirming that the design was directed by a registered architect and that it achieves the design quality principles set out in SEPP 65 Design of Residential Flat Development - Apartment Design Guide 2015.

Pursuant to clause 69 of the Regulations building works must be carried out in accordance with the requirements of the Building Code of Australia. The proposal has been conditioned accordingly to ensure compliance with the requirements of the BCA.

Based on the above, the proposal is consistent with the requirements of the Regulations 2021 and is acceptable in this regard. All relevant provisions of the Regulations have been considered in the assessment of this proposal.

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

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

As part of the assessment of previous development applications for the BATA 2 site, 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 for Lot A was subsequently reviewed by Councils Development Engineers whom raised no concerns with regards to the level of car parking proposed or traffic generation likely to be generated.

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 and is capable of accommodating a high level of vehicular movement.

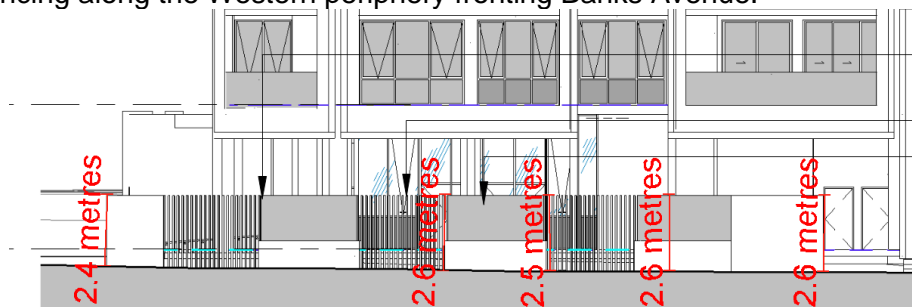
#### Roof Plant Equipment

Plant at rooftop level is recessed from the edge of the building insofar as is practical, partially concealed from view by the integrated building façade parapet design and plant screens / enclosures. Roof plant is within the maximum height limit for the site and is satisfactory in this regard.

#### Fencing to Ground Level Units / Child Care Centre

Residential courtyard fencing to ground floor units is a maximum of 1.5m in height above finished ground floor level and comprised of aluminium slats. Such fencing adjoins landscaping and is setback from the property boundary of Lot A, as such an appropriate interface with the future public domain is provided.

The child care centre component of the development incorporates stepped periphery fencing to the proposed outdoor play area, varying in height, given existing ground levels from 1.8m to 2.6m with vertical coloured slats and grey frosted panels. The image below depicts fencing along the Western periphery fronting Banks Avenue.



Whilst landscaping in the form of shrubs / trees is proposed adjoining child care centre fencing, the Assessing Officer and Design Excellence Panel raise concern with regards to the overall height, transparency, and colour selection of childcare centre fencing, given the location of the proposed centre at the north western corner, which is highly visible from Banks Avenue and Open Space 1.





Given the prominent position of such fencing, it is the view of the Assessing Officer and Design Excellence Panel, that in lieu of bright colours and excessive height as noted above, it would be more appropriate to integrate the height and colours of child care centre fencing, with residential fencing and the development as a whole.

Signage whilst not proposed as part of this application, can be provided at a later date to distinguish the child care centre component of the development, without the need for bright coloured or excessively high fencing which is considered to detract from the development overall.

Given the above, the proposal has been conditioned as follows.

- Fencing to the northern and western periphery of the outdoor play area shall not exceed 1.8m in height above finished ground level.
- Fencing shall incorporate a solid element no greater than 1.5m in height, with any portion above, to a maximum height of 1.8m, being constructed of visually permeable materials, to minimum 50% transparency
- The color of fencing shall be consistent with the finishes / materials of the development.
- Coloring of the rendered components of fencing as depicted in precedent images on DA-0-4224 Rev B is not permitted.
- Colors of fencing shall be submitted to and approved by Bayside Council Director City Futures (or his delegate) prior to the issue of any Construction Certificate.
- No advertising, signage, graphics or otherwise to the fencing of the child care centre component of the development forms part of this consent.

#### **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**

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners. Twelve (12) submissions were received and the following matters were raised;

*Traffic Report does not address the hazardous materials transport risk from the transportation of hazardous materials along Bunnerong Rd that could impact the subject site. Scott Lister, Dangerous Goods Transport QRA, Denison St Hillsdale was published in 2015. The study was the first and only comprehensive study of dangerous goods traffic in any area in the vicinity of the Botany Industrial Park. Executive Summary notes; The purpose of the study was to understand the level of risk*

*associated with dangerous goods transport on Denison St to inform determinations on a proposed Bunnings Warehouse as well as other potential future developments around the Botany Industrial Park (BIP). The study, publicly exposed significant transport risk in large residential areas in the north of Denison St and parts of Wentworth Ave around the intersection with Denison St / The study identified transport hazard movements from the transportation of LPG to and from Port Botany and from Dangerous Goods traffic to and from the BIP and detailed the number of these transportation movements / Meriton site is to the north of the T intersection of Wentworth Ave and Bunnerong Rd and has significant frontage to Bunnerong Rd. A significant portion of the Meriton site would be within a significant fatality risk area / It is a requirement of the 2001 Botany/Randwick Industrial Land Use Safety Study that the impacts of dangerous goods traffic be taken into account in the assessment of any development in the Botany/Randwick area. As such, it is inappropriate for the applicant to not provide a Transport Risk Assessment / Hazardous Materials Transport Risk / Assessment of Toxic Releases – Aforementioned studies not undertaken by Applicant / A further significant issue, in the Scott Lister assessment report, all Class 2 movements (LPG and toxic releases) were assigned the LPG tanker release rates. An assessment toxic releases was not considered for the report / Bayside Council in early 2018, Council undertook to finalise a quantitative Risk Assessment of the Botany Industrial Area in their Draft 2018-2020 Delivery Program and 2018-2019 Operation Plan, with Draft to be completed by December 2018 and Recommendations actioned by June 2019. As far as we are aware, Bayside Council have not yet commenced to undertake this review. Bayside Council have knowing failed in their obligation to implement measures to protect the interests of not only their existing and future residents in the vicinity of the BIP, but also those people who may be impacted from significant fatality risk who reside within Randwick City Council.*

#### Comment

Issues raised by the objector have previously been addressed on numerous occasions by Council staff during the assessment of multiple prior development applications.

To summarise, the objector's issues relate to risk affecting the proposal, including dangerous goods transport, both traffic and societal risk from the Botany Industrial Park, the dangerous goods route in Denison Street and the local and regional network that may carry traffic containing dangerous goods to and from the Botany Industrial Park.

As previously advised to the objector, the planning proposal which resulted in the rezoning of the site from industrial to residential considered the issue of 'risk' given to the proximity of the site to the Botany Industrial Park as well as the Dangerous Goods Route and it was concluded that the site was appropriately located such that it could be rezoned to permit residential intensification.

The Department concluded that the rezoning would not create a precedent for other landowners to rezone industrial land given the site's unique features, given it is isolated from other industrial zones at Botany / Banksmeadow, the site's context adjoining an existing retail centre, strategic bus corridor and a mix of residential and commercial uses, the site was less suitable for industrial use and unsuitable for heavy industry and that the site is not environmentally constrained by hazards of significance.

The site 'Lot A' is not located adjoining an identified '*dangerous goods route*'. Bunnerong Road to the east is nominated as a '*potential dangerous goods route*' and is in excess of 250m to the east of the closest boundary with Lot A. Denison Street which is a '*dangerous goods route*' is located in excess of 470m to the south of the site.

The site is not located within the 500m radial notification distance of Botany Industrial Park, being the zone of influence (identified in hatching below), of which would warrant referral of the proposal to the NSW Department of Planning Industry and Environment, Hazards Branch.



The information sought by the objector is not required for the purposes of the assessment of this application, given the location of the site.

It is reiterated that the subject site is beyond the identified Botany Industrial Park “risk area” and consultation zone, thus the reports suggested by the objector are not required nor warranted as part of the subject application.

A Quantitative Risk Assessment was prepared by Sherpa Consulting, on behalf of Council in 2018, despite the objectors claim this was not carried out. Notwithstanding, the preparation of this report and actioning of any relevant recommendations is beyond the scope of this application.

*View loss (city views) to units in Viola Building at 126 Banks Ave i.e. Units 1321, 825 etc / promotional material for Viola in the catalogue, in the sales office and online, which we notice has now conveniently changed the wording, originally stated 'never to be built out'. Clearly, the information given to buyers was false advertising.*

#### Comment

Advertising in relation to the site is beyond the scope of this application. There are no ‘iconic views’ within proximity of the subject site. Distant city skyline views are likely from north facing units. Given that the objectors property is south of the BATA 2 precinct which is not as yet developed to its full potential, it is inevitable that some loss of distant city skyline views will occur, given the height and FSR standards applicable to the site.

*Inadequate assessment of transport impacts / Adverse traffic impacts beyond the site / Light rail will no longer occur*

#### Comment

The matter of traffic has been considered previously in this assessment.

*Height / Height has increased from 12-15 storeys to 20 storeys / Height has been misrepresented to residents original model showed only 12 storeys on Tingwell Boulevard / Height should be capped at 15 storeys*

#### Comment

The matter of height has been considered previously in this assessment. The height of the development complies with the LEP height standard and concept plan approval.

*GFA / FSR / Development is too large / Too concentrated / Scale of development / Massive overdevelopment / Proposal will change character of area forever No integrated planning strategy / Deviation from masterplan*



### Comment

The development adheres to the density requirements for the site as previously discussed. The proposal is consistent with the future desired character of the precinct as envisaged by the Concept Plan approval for a high-density mixed-use precinct.

*Unit sizes reduced from original Pagewood Green Master Plan*

### Comment

Unit sizes adhere to the requirements of the Apartment Design Guide as previously discussed in this report.

*Overshadowing to Penguin Park / Overshadowing to Viola Building (126 Banks Ave)*

### Comment

Consideration was given to potential solar access impacts on site, to BATA 1 and Penguin Park during the assessment of the concept plan and establishment of the building envelopes that the proposal is designed within.

The Concept Plan ensured that future building forms would maintain sufficient solar access to units within UB3 and Penguin Park, to the south and south east of the site.

A comparative shadow analysis and elevational analysis of the Viola Building has been undertaken of the proposal against the approved concept plan building envelopes.

It is concluded that the shadow of the proposed development is no greater than that envisaged by the Concept Plan, in that 26% - 68% of Penguin Park receives direct solar access in midwinter between 9am – 3pm, with 260 of 368 units (i.e. 70.6%) within UB3 (i.e. Viola Building) receiving a minimum of 2 hours of solar access in midwinter, this is compliant with the requirements of the Apartment Design Guide.

*Scale of this development will have a negative impact on social and affordable housing*

### Comment

There is no evidence to substantiate this claim.

*Insufficient public transport access / Public transport is already at capacity / At the end of 2021 bus services in and out of the Bayside/Maroubra/Randwick area were cut by the NSW Government and the Light Rail services stop at Randwick & Kingsford, nowhere close to the proposed development. This new development, with its proposed 449 apartments, will cause extreme public transport delays and overcrowding*

### Comment

Investigations are currently being undertaken by Westfield, Transport for NSW and Council with a view to the renewal, upgrade and improvement of the existing public transport interchange adjoining Westfield Eastgardens.

*Excessive Carparking / Street parking for existing residents will be reduced / Insufficient parking for visitors*

### Comment

The proposal provides car parking on site in line with the concept plan parking rates. Sufficient parking is proposed for the development. Street parking is publicly available for members of the general public.

*Communal open space design is inadequate, awkwardly shaped, difficult to access, materials are questionable / Landscaping design at interface is poor*

Comment

Communal open space is well designed, laid out and considered. An assessment of landscape and communal open space has been undertaken previously in this report.

*Architectural Character is institutional in character*

Comment

The objectors statement is subjective. The proposal was peer reviewed by the Design Excellence Panel and the design of the development was supported and considered to be well resolved.

*Activity Station (exercise equipment) indicated in the approved Landscape Report, to be located in the street closure park in the street to the north of the development, appears to be missing from the proposed landscape design.*

Comment

The approved Concept Plan Landscape Report depicts an indicative 'active station circuit' opportunity within Open Space 1. The proposal as designed incorporates a childrens nature play area in lieu of the activity station. Given the proposed location of the child care centre space within the proposed development, it is the assessing officers view that the children's play space in this location is more suitable. The proposal remains consistent with the design objectives of the Concept Plan which seeks to encourage a variety of sensory experiences and various play opportunities.

*Is WSUD integrated into design of building*

Comment

WSUD has been considered and integrated into the design of the proposed development and landscaped areas on site. i.e. rainwater used for irrigation, low water species, use of green roof's, bioretention areas, permeable surfaces for infiltration etc

*ADG compliance queried*

Comment

An assessment of the proposal against the requirements of the ADG has been undertaken previously in this report.

*Vehicular entry to the north is inappropriate, residences should be located here to maximise orientation*

Comment

The proposed vehicular access is located as nominated and envisaged by the Concept Plan layout for the site.

*Child Care Centre vehicular drop off appears to be problematic in its layout. A drop-off zone that is a dead end and combined with building loading dock and rubbish collection activities would likely create significant conflicts, congestion at the morning drop off period, and potential safety issues as parents try to negotiate access to the 8 spaces provided.*

### Comment

The car parking arrangement for the child care centre component of the development has been reviewed by Councils Development Engineer. The proposal complies with the relevant Australian standard

*Removal of trees*

### Comment

The matter of trees has been assessed previously within this report.

*Nil sporting facilities proposed / Insufficient infrastructure*

### Comment

Substantial areas of open space are to be provided within the BATA 2 precinct. An extensive public park has been approved and is currently under construction to the east of Lot E centrally within the site

*Original art deco GMH building was demolished and should have been retained and protected*

### Comment

This is beyond the scope of this application. The demolition of the GMH building was approved by Private Certifier 'AED Group' (1423.92-01- 2018-CDC) on 23/07/2018.

*Noise & Stress of residents during construction*

### Comment

Standard conditions of consent have been imposed to restrict hours of construction work and limit noise generated during the construction phase. It is noted that construction is temporary.

*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.

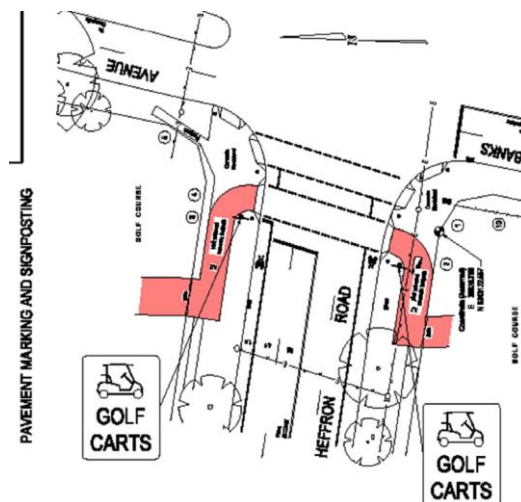
This issue in the end is inherently a private matter for the Golf Club, given they operate over two separate land parcels of land and seek to utilise Heffron Road and pedestrian footpaths in an improper way as part of their business.

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.



#### **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 Contributions**

The redevelopment of the site increases the residential density of the precinct, thus consequently demand for public amenities within the area.

The proposal is subject of an executed Planning Agreement which requires the payment of monetary contributions per dwelling equivalent to s7.11 contributions. The proposal has been conditioned to ensure the payment of the relevant contributions is made prior to the issue of any Construction Certificate, in line with the executed Planning Agreement.

### **Conclusion and Reasons for Decision**

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The proposed development has been assessed with regard to the s4.15 of the Environmental Planning and Assessment Act 1979 including the Concept Plan approval

and relevant State Environmental Planning Policies, Bayside LEP 2021 and Botany Bay DCP 2013.

The proposed development is a permissible land use within the zone with development consent. In response to the public notification, ten (10) submissions were received. The matters raised in these submissions have been discussed in detail within this report.

Accordingly, the proposal is supported for the following reasons:

1. The proposal is permissible within the zone with development consent and satisfies the zone objectives.
2. The proposed development complies with the relevant environmental planning instruments and Concept Plan requirements which apply to the site.
3. The proposal is of appropriate height, bulk, scale and form for the site and is consistent with the emerging desired future character of the area as envisaged by the concept plan approval.
4. The proposal achieves and demonstrates design excellence as required by requirements of Clause 6.10 of the BLEP 2021 and was supported by the Design Excellence Panel.
5. The proposed development is a suitable use for the subject site and its approval is in the public interest.
6. Due consideration has been given to the issues raised by submitters.