

# BAYSIDE COUNCIL

## Planning Assessment Report

Application Details	
Panel Reference:	PPSSEC-21
DA Number:	DA-2019/386
Date of Receipt:	25/10/2019
Property:	128 Bunnerong Road & 120 Banks Avenue, Eastgardens
Owner:	
Applicant:	Mr Walter Gordon
Applicant Address:	Level 11, 528 Kent Street, Sydney
Proposal:	BATA 2 - 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
Recommendation:	Approval subject to Conditions
Value:	\$786,422,691.00
No. of submissions:	Five (5)
Author:	Fiona Prodromou - Senior Assessment Planner
Date of Report:	November 2020

### Key Issues

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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 currently being redeveloped in line with the Stage 1 Masterplan approval granted by the Land and Environment Court on 7 August 2015. The consent is a concept approval for the southern portion of the site, with construction nearing completion.

On 22 November 2019, LEP Amendment 8 was notified by the NSW Department of Planning, Industry and the Environment. This LEP Amendment applies to the northern portion of the site, subject of this proposed application. The amendment updated BBLEP 2013 (including relevant maps) to:

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

Development Application, (DA-2019/386) seeks approval for the initial concept for the future mixed-use development and establishes the parameters for future development of the site and includes the following Torrens Title land subdivision, Building Envelopes, Height and

Setbacks, Concept Landscaping and Public Domain, Design of Road Layout, Basement Parking and Car Parking Rates.

As per Section 4.23 of the Environmental Planning and Assessment Act, a Concept DA can take the place of a DCP.

Additional DA's submitted for the subject site are as follows;

- DA-2019/387 - BATA 2 - 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. This was approved by the Regional Panel on 24 August 2020 with construction occurring on site.
- DA-2019/426 - Torrens title land subdivision into seventeen (17) lots comprising nine (9) development lots, five (5) public open space lots and three (3) public roads. Remains under assessment and will be determined under Delegated Authority by Council.

The subject site is;

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

Following extensive design review by Councils Independent Urban Designer, Design Excellence Workshop team and Councils Assessment Team, conditions of consent are recommended to ensure Design Excellence is achieved as part of the redevelopment of the overall site.

A total of five (5) submissions were received during the public notification of the proposal, issues raised have been considered in this assessment report.

The proposal is recommended for Approval subject to specific conditions of consent which establish numerical performance measures to ensure a 'design excellence' outcome is achieved.

## **Recommendation**

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- A. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/386 for BATA 2 - 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 5,000sq/m 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 at 128 Bunnerong Road & 120 Banks Avenue, Eastgardens; pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- B. That the submitters be notified of the Regional Planning Panel's decision.

## Background

DA	Description	Date	Decision
CDC 1423.92-01-2018	Demolition of industrial buildings on BATA 2	23 July 2018	PCA AED Group
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, serviced apartments, 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	Submitted to Council 25 October 2019  Subject DA.	
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	Submitted to Council 25 October 2019. Approved by Regional Panel 24 August 2020.	
DA-2019/426	Torrens title land subdivision into seventeen (17) lots comprising nine (9) development lots, five (5) public open space lots and three (3) public roads	Submitted to Council 25 November 2019  Under Assessment	

## Proposal

The proposal is a Concept Plan application, which seeks to undertake the staged redevelopment of the property, known as BATA 2 which is described below in 'Site Location and Context'. The proposed concept plan is detailed below;

### Subdivision

Torrens title subdivision from 2 to 17 lots including associated open space which is proposed to comprise multiple lots and roads as follows;

<i>Proposed Lot</i>	<i>Proposed Area</i>		<i>Proposed Lot</i>	<i>Proposed Area</i>
A	9,203sq/m		Roads	8,786sq/m
B	10,372sq/m		Open Space 1	1,098sq/m
C	8,529sq/m		Open Space 2	1,558sq/m
D	9,290sq/m		Open Space 3	4,729sq/m
E	9,054sq/m		Open Space 4	3,074sq/m
F	10,702sq/m		Open Space 5	2,764sq/m
G	9,671sq/m		Open Space 6	1,309sq/m
H	4,170sq/m		Open Space 7	3,262sq/m
J	4,891sq/m		Open Space 8	2,330sq/m

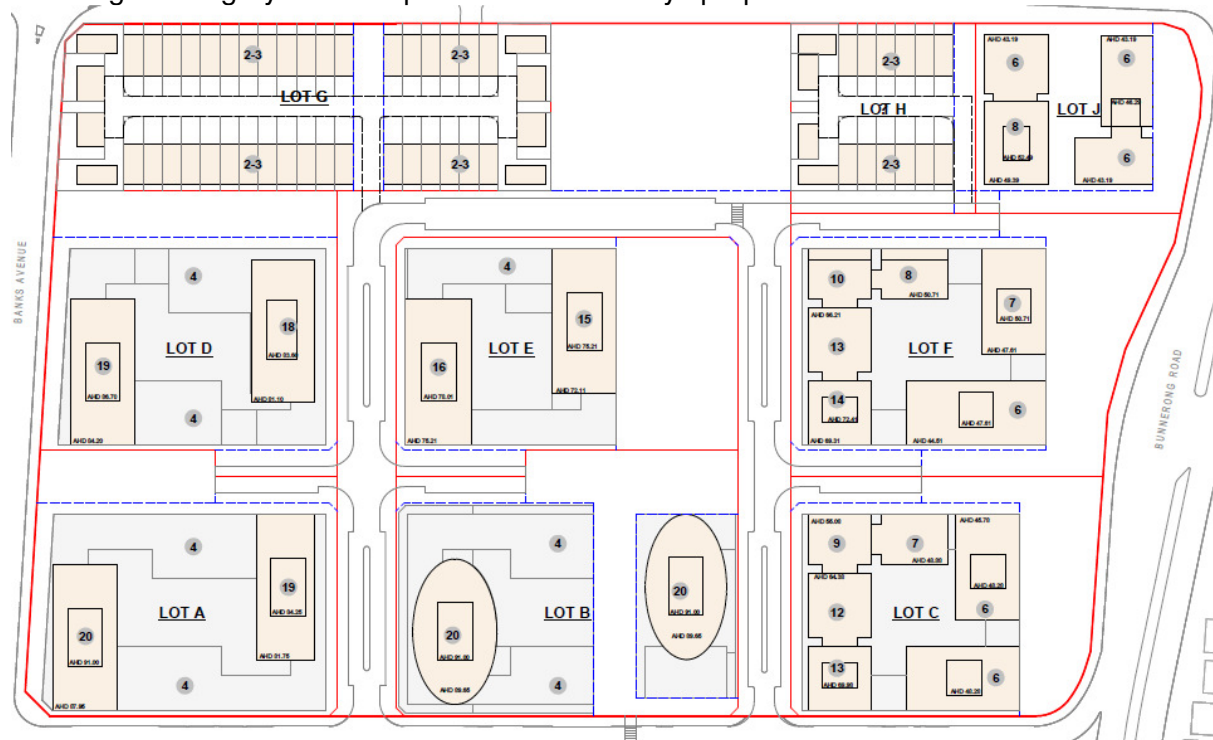
### FSR / GFA

2.35:1 FSR, to be distributed across the entire site. This equates to a total 210,520sqm of gross floor area across the site, of which is proposed to be distributed as follows;

- Residential - 205,520sq/m.
- Retail – Minimum 5,000sq/m.

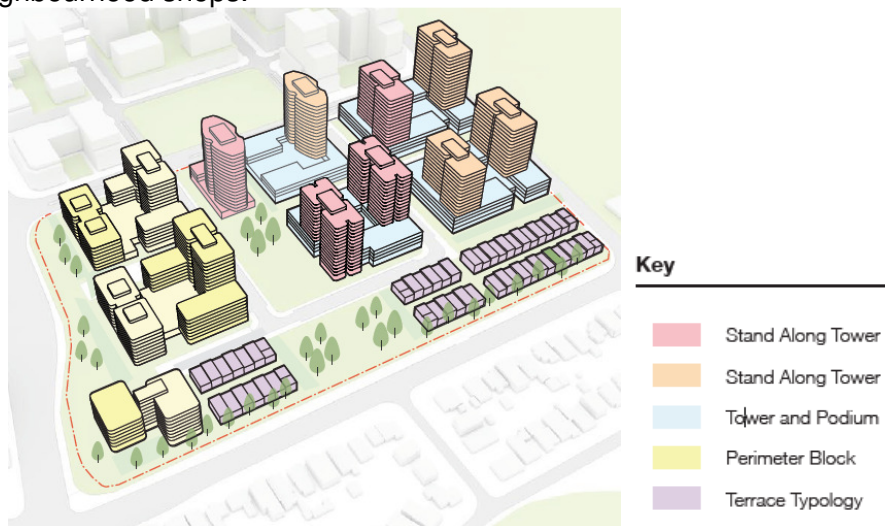
### Building Heights

Maximum building heights proposed range from 2 to 20 storeys, to a maximum height of 69m. Figures in grey below depict number of storeys proposed.



### Building Envelopes & Typologies

Indicative building envelopes across the site, which are to provide for future permitted uses, including residential apartments, multi dwelling housing on lots approximately 6m width, child care and neighbourhood shops.



### Podium Heights

A maximum four (4) storey podium height is proposed on lots which are proposed to accommodate high rise tower development forms.

### Floor to Floor Heights

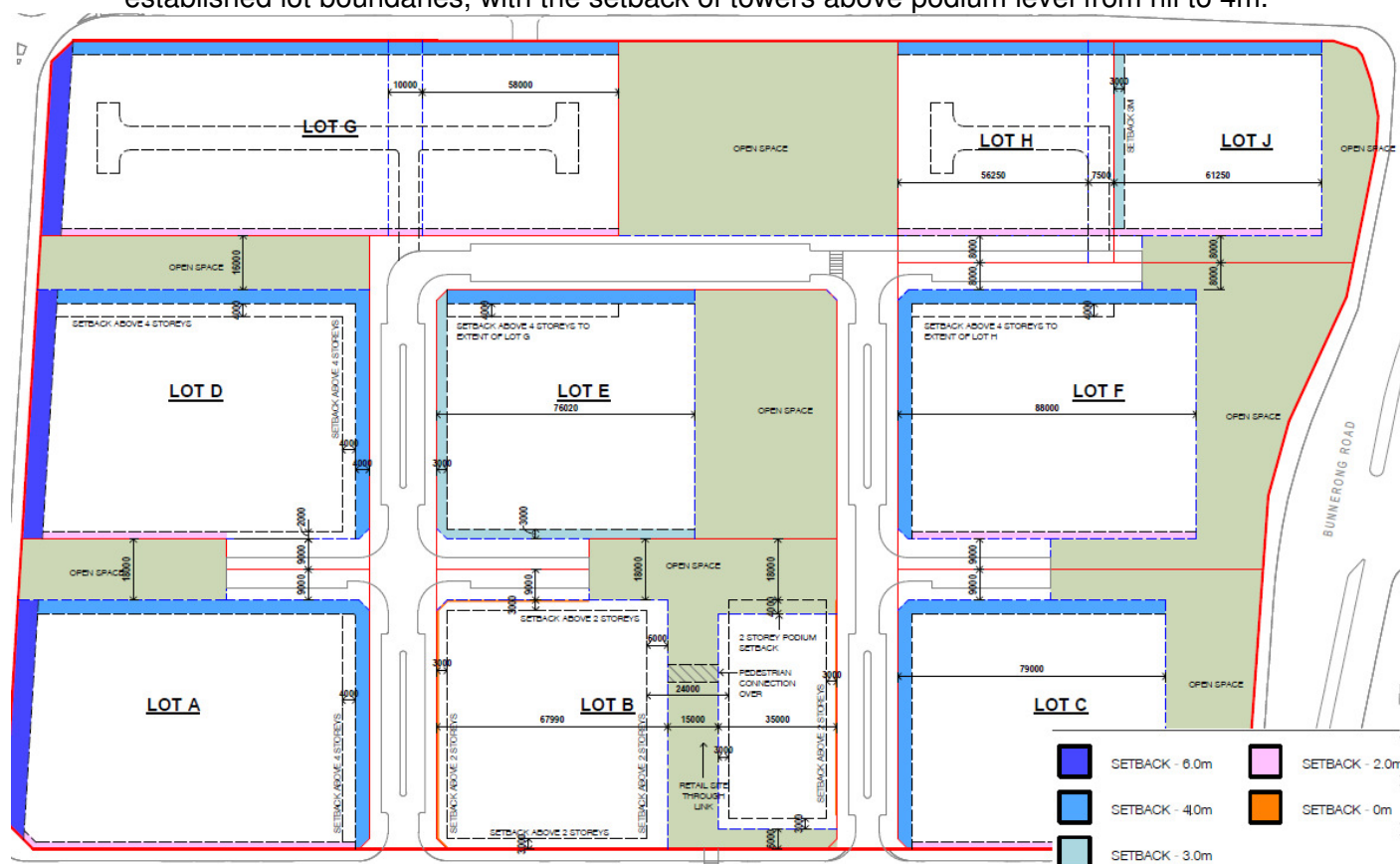
Buildings are proposed to comprise floor to floor heights as follows;

- i. Ground Level - 5.5m – 7m
- ii. Upper levels – 3.1m

Plant / Lift Overrun at rooftop level shall comprise a maximum height of 2.5m

### Building Setbacks

The concept plan proposes building setbacks on site at ground level to the public domain and podium level for towers above. Setbacks at ground level vary from nil – 6m from established lot boundaries, with the setback of towers above podium level from nil to 4m.



### Residential Dwelling Mix

Type	Percentage
1 bedroom	10%-50%
2 bedroom	20%-70%
3 bedroom	5%-30%.

### Car Parking

Car parking is proposed within a single level basement beneath building footprints, with the exception of Lot B which is set to comprise a 2 level basement beneath this lot to accommodate parking for commercial uses. Additionally a maximum of two levels of podium on site are to be provided for car parking, sleeved with residential units. A maximum rate as follows is proposed on site.

Development Type	Proposed Rates
<i>Residential Flat Building</i>	
1 Bed	0.6 space per apartment
2 Bedroom Apartment	0.9 space per apartment
3 Bedroom Apartment	1.4 spaces per apartment
Visitor Parking	1 space per 20 apartments
<i>Other</i>	
Shops (Retail)	1 space per 80m2
Supermarket	1 space per 30sq/m

Childcare	1 space per 2 Employees 1 space per 5 children 1 pick-up and set-down space per 20 children.
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### Motorbike / Bicycle Parking

<i>Development Type</i>	<i>Proposed Rates</i>
<i>Residential Flat Building</i>	
Bicycle Space	1 per 2 dwellings
Motorcycle Space	1 per 15 dwellings

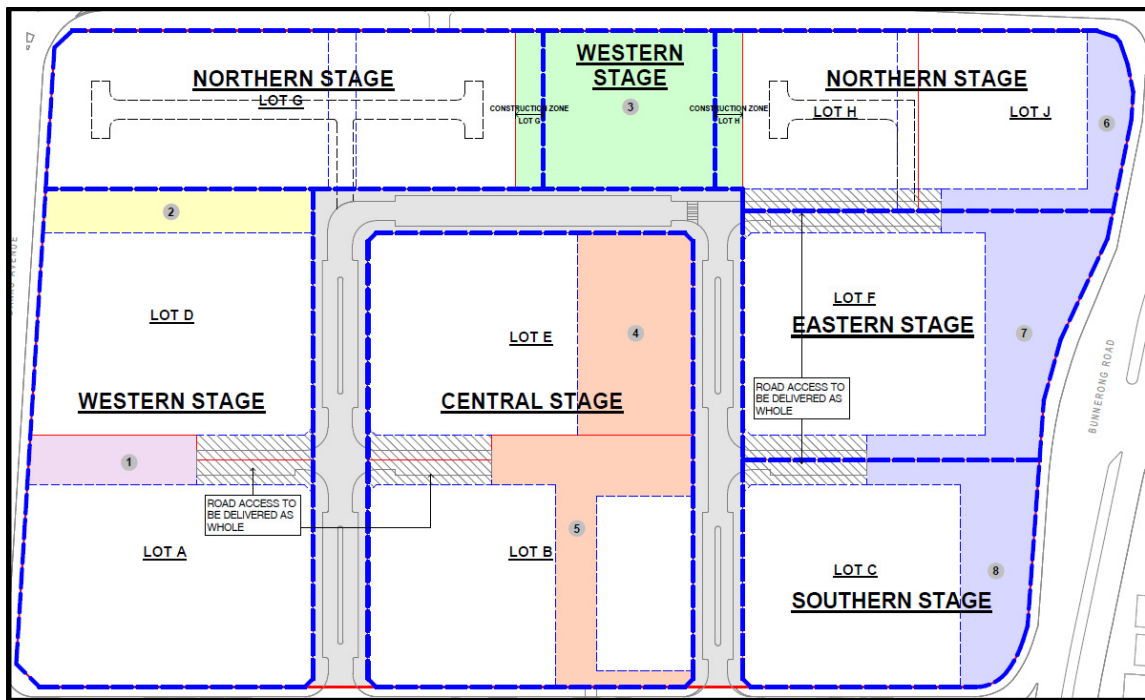
### Staging

<b>Stage</b>	<b>Open Space Area</b>	<b>Timeframe</b>
Central Stage	4 & 5 <i>(Orange, centrally located on site)</i>	Open space 5 is to be completed prior to the issue of the occupation certificate of the final building in Lot B. Open Space 4 is to be completed prior to the issue of the occupation certificate of the final building in Lot E.
Western Stage	1 / 2 / 3 <i>(pink / yellow / green)</i> <i>Easement for public access to benefit Council is proposed across open spaces 1 &amp; 2.</i>	Open Space 1 is to be completed prior to the issue of the occupation certificate of the final building in Lot A (excluding a construction setback). Open Space 2, 3 and the remainder of open space 1 are to be completed prior to the issue of the occupation certificate of the final building in Lot D (excluding the construction zones in open space 3).
Northern Stage	6 & Partial 3 <i>(Purple, adjoining eastern periphery of site &amp; Partial 3)</i>	Open space 6 is to be completed prior to the issue of the occupation certificate of the final building in Lot J. The eastern and western edges of open space 3 (construction zones) are to be completed prior to the issue of the occupation certificate of the final building in Lots G & H respectively.
Eastern Stage	7 <i>(Purple, adjoining eastern periphery of site)</i>	Open space 7 is to be completed prior to the issue of the occupation certificate of the final building in Lot F.
Southern Stage	8 <i>(Purple, adjoining eastern periphery of site)</i>	Open space 8 is to be completed prior to the issue of the occupation certificate of the building in Lot C
-	Internal Road Network	Public Roads are to be dedicated to Council, fully completed and embellished at the completion of the final development stage. The extent of works is to be to the satisfaction of Bayside Council.

**Note:** "Completed" means the subject item (road/open space) is fully constructed and embellished to the satisfaction of Bayside Council and a final occupation certificate for relevant works has been obtained.

**Note:** Upon the embellishment and completion of open space areas to the satisfaction of Bayside Council, as referred to above the subject lots are to be dedicated to and maintained by Bayside Council as per any executed VPA upon the site.



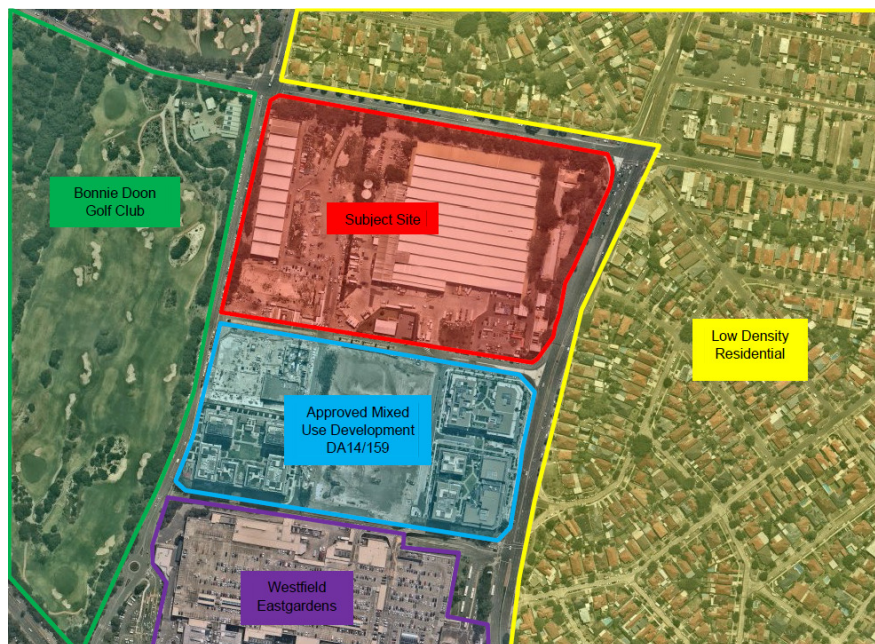


## Site Location & Context

The subject site comprises a combined total site area of 89,583sq/m. The site is generally rectangular in shape, with an irregular eastern boundary along Bunnerong Road.

The site adjoins Heffron Road to the north, Banks Avenue to the west, Bunnerong Road to the east and Tingwell Boulevard to the south. The site has a frontage of 224m to Banks Avenue, 372m to Heffron Road, 218m to Bunnerong Road 337m to Tingwell Boulevard.

The site is identified below and is currently vacant, with buildings on site having been demolished under a separate consent. DA-11/272/6 - Removal of all buildings and structures.



The subject site has a cross fall, with the south eastern corner of the site being up to 3m lower than the footpath at the junction of Bunnerong Road and Tingwell Avenue. The north

western portion of the site is raised up to 1.5m above the existing public footpath along Banks Avenue.



*Looking north west from junction of Tingwell Avenue and Bunnerong Road*



*Looking south from junction of Bunnerong & Heffron Roads*

A number and range of mature trees are positioned along the periphery of the subject site, with several trees scattered within the property and adjoining the boundary of the site within the public domain.



*Looking east from intersection of Heffron Road & Banks Avenue*

As existing, telegraph poles, power lines, Telstra pits and a substation along Bunnerong Road are located along all frontages of the subject site. Bus stops are located along Heffron and Bunnerong Roads.

Directly south of the site are a number of multi storey residential / mixed use buildings and a public open space area. This area was developed by the applicant as part of the Stage 1



Master Plan for the BATA site and is characterised by a mix of land uses and building forms of varying heights from 6-21 storeys. This redevelopment is nearing completion.

Directly to the north, 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.



*Properties along northern side of Heffron Road*

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

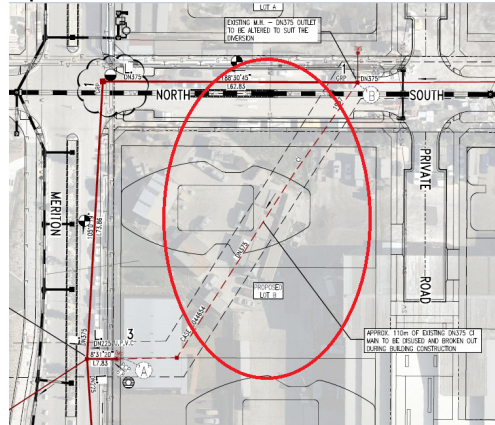


The BDGC is an 18 hole course with a number of buildings including a Clubhouse which is listed as a heritage item, scattered across upon the property. The golf club operates over two parcels of land, north and south, which are physically separated by Heffron Road.

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

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

The site is partially affected by an existing sydney water sewer which traverses the site and affects proposed Lot B as depicted below;



Council records identify that the subject site is affected by;

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

## Statutory Considerations

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

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

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

As per the provisions of this part, a Concept DA may take the place of a DCP which may be required by a relevant environmental planning instrument. The applicant has thus submitted the subject Concept Plan DA to the consent authority for assessment and consideration.

The Concept DA submitted includes a detailed Urban Design Report, Building Envelope plans, development controls and indicative landscape design for the proposed future redevelopment of the site.

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

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

As per the provisions of this section;

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

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

With respect of the above, given the likely future cost of works for the redevelopment of the subject lots within the concept plan site area is anticipated to exceed \$30 million dollars, future development applications will be referred to the Sydney Eastern City Regional Planning Panel for determination as the consent authority. The proposal is consistent with the provisions of this section.

#### **S4.46 - Development that is Integrated Development**

Future development applications subject of the concept plan may form integrated development in that basement levels may penetrate the water table and may require temporary dewatering of sections of the site during the construction phase.

The concept plan application has been conditioned to require that relevant information with respect of the above be submitted with future development applications to ensure procedural considerations are accurately assessed as required.

#### **S7.4 - Planning Agreements**

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

In accordance with the provisions of Section 7.4 of the EPA Act 1979 (as amended), the developer has proposed a draft Voluntary Planning Agreement (VPA) upon the subject site, with the following community benefits. The draft VPA has not as yet been executed.

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

The draft VPA was reported to the 14 October Council meeting with the following recommendation which was adopted by Council.

*“That Council resolves to assign delegation to the General Manager to make amendments to and finalise the amended draft Voluntary Planning Agreement prior to placing the finalised amended draft Voluntary Planning Agreement on public exhibition for a period of 28 days.”*

Public Exhibition of the adopted draft VPA commenced from 15 October. A Council Meeting is scheduled for 9 December for post exhibition resolution and execution is anticipated to occur from December 10 onwards.

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

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

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

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

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

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

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

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

Mr Jason Clay (Senversa) has been engaged as the NSW EPA Accredited Site Auditor for Stage 2 of the BATA – Pagewood Green development. Interim Audit Advice indicates that a draft detailed site investigation has been completed for the site, and a Remediation Action Plan will be required to remediate the site for use.

Given the above, the proposal has been conditioned to require that the relevant documents noted above be submitted to Council for assessment and review as part of development applications to be submitted for the redevelopment of future lots within the site. As



conditioned, the proposal complies with the requirements of the SEPP.

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

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

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

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

Notwithstanding, given the frontages of the site to Heffron and Bunnerong Roads, the proposal was sent to Transport for NSW (TfNSW). The Authority responded on 22 January 2020 confirming nil objection to the proposal subject to standard conditions being included the draft Notice of Determination.

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

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

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

Accordingly, Clause 102 of SEPP Infrastructure is required to be considered as part of this assessment given residential uses are proposed on site.

As the proposal does not seek to undertake physical works, for the sake of clarity it is noted that all future development applications incorporating residential uses for the site which are subject to the requirements of this clause, will be required to address its provisions via the submission of an Acoustic Report. This is subsequently identified within the Acoustic Logic correspondence dated 27 July 2019 and submitted by the applicant as part of this DA.

Detailed acoustic assessment will accompany future development applications and the site and likely future redevelopment is capable of compliance with the relevant requirements.

The proposal in its current form as submitted is therefore satisfactory with regards to the provisions of this clause of the SEPP.

**Clause 104 - Traffic Generating Development**

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

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

The proposal was accompanied by a Transport and Parking Impact Assessment (Issue 2, dated 23 October 2019), prepared by ARUP which concluded as follows with respect to the concept plan proposal upon the subject site;

*“The potential extended transport network and reduced parking rates on the site in comparison to the site specific DCP will also reduce car dependence and result in lesser road network impacts. Through the operational modelling process it was found that the development yields have little impact on the network with the current approved and committed upgrades proposed. In the weekend peak however development traffic has trouble accessing the wider network due to the intensification of retail traffic around Eastgardens. This is a broader network issue not generated by the proposed development as the project will have local retail or is within walking distance to the Westfield Centre. Accordingly, the development does not generate the need for any localised upgrades.”*

The above is concurred by Councils Development Engineer and the proposed development was not anticipated to have a detrimental impact upon the existing operation of the surrounding road network which is comprised primarily of classified roads which accommodate a high level of vehicular movement.

The proposal was further referred to Transport for NSW who did not object to anticipated traffic generation arising from the redevelopment of the subject site.

It is noted that future development applications for the redevelopment of lots within the site will be accompanied by independent traffic assessments. Given the above, the proposal is consistent with the provisions of the SEPP.

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

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

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

Accordingly, the proposal was sent to Ausgrid. The authority has responded granting approval for the development subject to conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

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

SEPP (Vegetation in Non Rural Areas) 2017 (Vegetation SEPP) applies to the proposal. The subject site, contains trees within that are subject to approval by Council under clause 4.1.7 of Rockdale Development Control Plan 2011.

The concept plan does not propose the removal of trees on site. The removal of any existing trees will be the subject of future development applications. The concept plan has been conditioned to ensure the provision of an Arborist Report with any future Development Application and detailed landscape plan which identifies the provision of suitable replacement species where trees are sought to be removed from the site.

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

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

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

The proposal was referred to the Design Excellence Review Panel (DERP) on two occasions, being 5 March and 7 July 2020. Following of which, given the scope and nature of the application, the proposal was the subject of two days of extensive independent architectural, landscape and urban design workshops, attended by the applicants team, Councils assessing planner, Councils independent urban designer and a panel of three independent experts.

The workshops focused on key areas to address the objectives and outcomes of the concept plan to achieve design excellence. The workshops facilitated a thorough review of the proposed concept plan in terms of urban design, public domain, landscape and architecture to ensure that an appropriately designed and integrated precinct is capable of being delivered at a future date.

The first workshop was undertaken on 4<sup>th</sup> August 2020, following of which the applicant submitted a revised package of information to Council and the workshop team for review. A subsequent and final workshop was undertaken on 29<sup>th</sup> September.

Discussion is provided below with respect of design considerations undertaken at the workshop, conditions of consent as recommended by the workshop team and Councils independent urban designer.

The proposal in its current form, with conditions imposed as recommended by the Design Excellence Panel workshop team, to elevate the current scheme to design excellence, i.e. setting numerical performance measures to ensure a particular outcome, is considered to be satisfactory and satisfy the requirements of Clause 6.16 of BBLEP 2013.

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

The concept plan application has addressed the relevant design quality principles of the SEPP. The consent authority can be satisfied that future development applications will address the SEPP principles in further detail as part of the future redevelopment of the lots on site.

The proposal has been conditioned appropriately to ensure compliance with the requirements of SEPP 65 in order to achieve design quality and maximise future amenity of occupants and users of the site.

An assessment of the concept plan against nine design quality principles of the SEPP has been detailed below;

### **Principle 1 - Context and Neighbourhood Character**

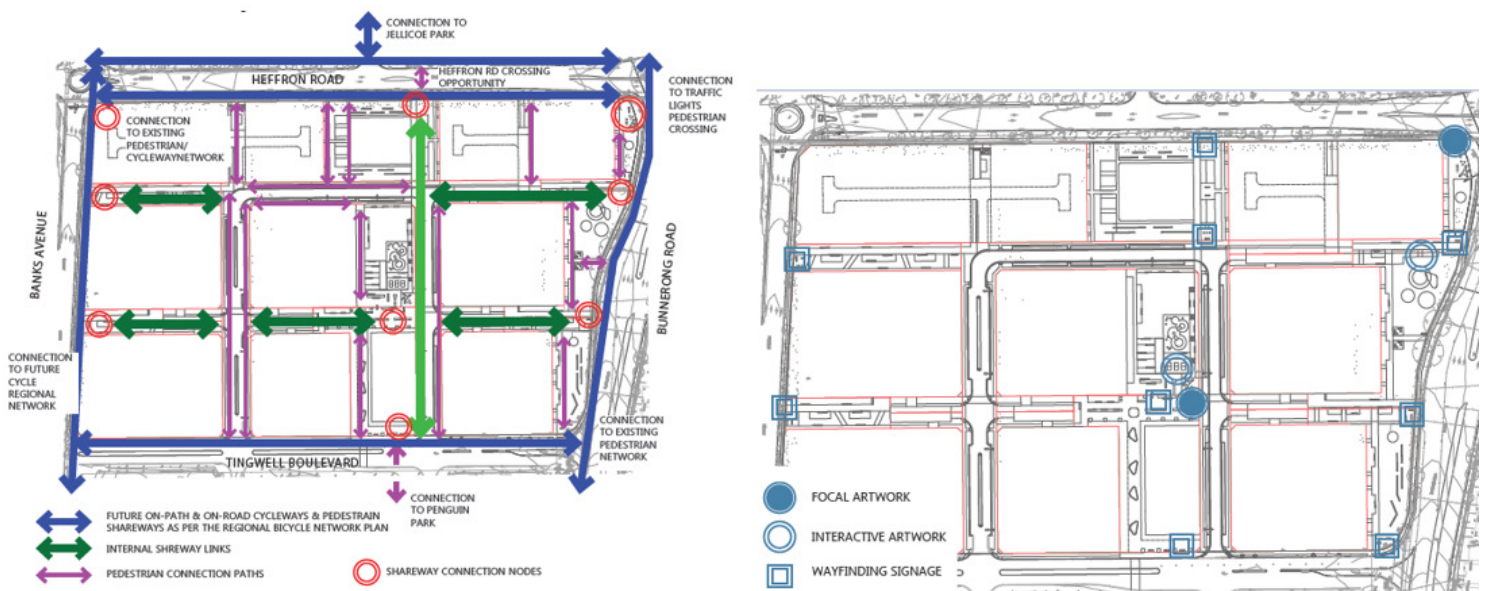
The concept plan seeks to establish a rectilinear grid subdivision pattern on site, akin to that established within BATA 1 directly to the south.

The orientation of the site, establishment of lots as proposed, in conjunction with the relevant height & FSR standards in BBLEP 2013, will ensure flexibility is capable of being adopted within future building design, ensuring overshadowing is minimised to existing buildings and Penguin Park within BATA 1 and opposite the site to residential buildings on the eastern side of Bunnerong Road.

Physical connections to and within the site are aligned to connect to existing public domain along the sites periphery and introduce wide and spacious footpaths and cycle ways along identified desire lines, which will encourage and invite members of the public into the site in order to avoid an enclave and isolated community.

The design of the concept plan maintains sightlines through the precinct to surrounding areas and provides linkages across main roads which tie into scheme's vehicular and pedestrian circulation system. Connectivity and integration with the surrounding context is well considered across the site, with a legible circulation system which is illustrated below.

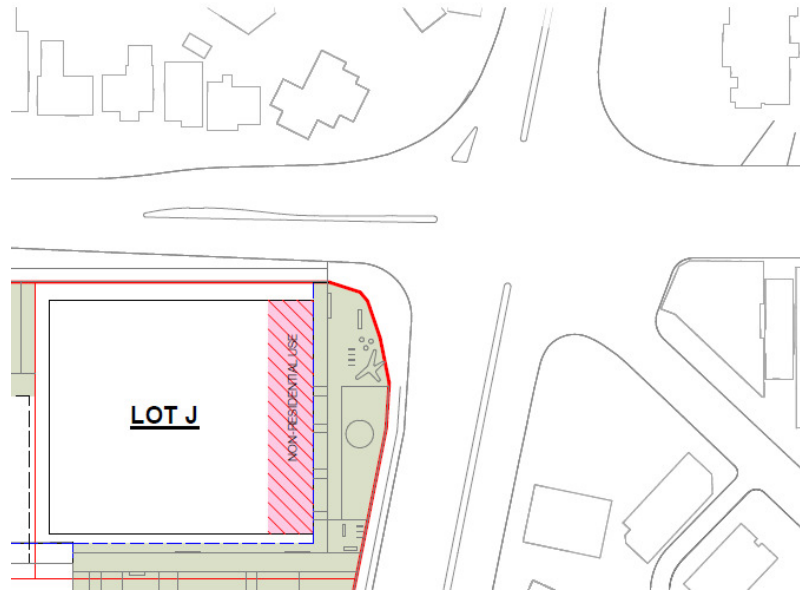
The proposal incorporates proposed public art and wayfinding signage, which is intended to be designed to reflect the historical background of the site, highlight areas of interest and function as a means of cultural education and way finding. The aforementioned is illustrated below.



The proposal provides an appropriate public domain response to the existing commercial local centre to the northeast via the provision of non-residential floor area at this location to mirror that opposite at the intersection of Heffron, Bunnerong and Maroubra Roads.

Conditions of consent are proposed, in order to ensure that a suitably designed entry gateway structure with appropriate visual landscape treatment is integrated into the site in this north eastern corner, to enable the site to be read as an entry to the Bayside Local Government Area (LGA), given its geographical location at the edge of the LGA.



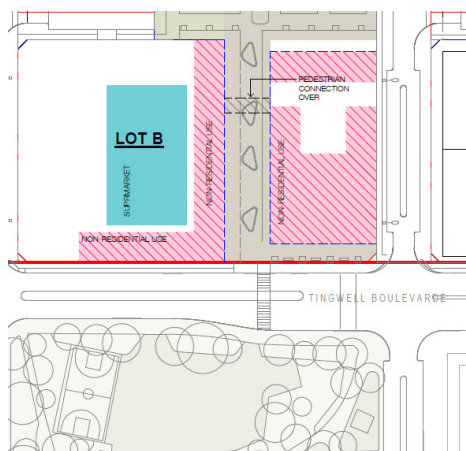


*Proposed non residential in pink above*

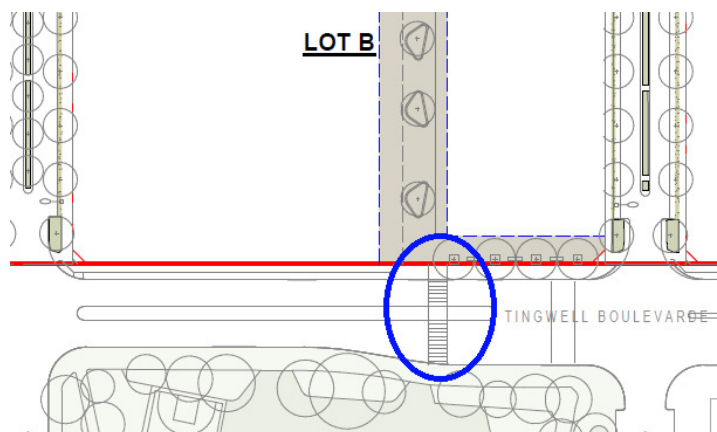


*Existing commercial areas to the east / north east of proposed Lot J*

A commercial / retail precinct within the village heart (Lot B) provides an active interface with Penguin Park, directly to the south within BATA 1. Conditions of consent as proposed will require the provision of a pedestrian crossing between the retail precinct proposed and Penguin Park to the south, in order to ensure safe and direct pedestrian linkages between BATA 1 & 2 as proposed.



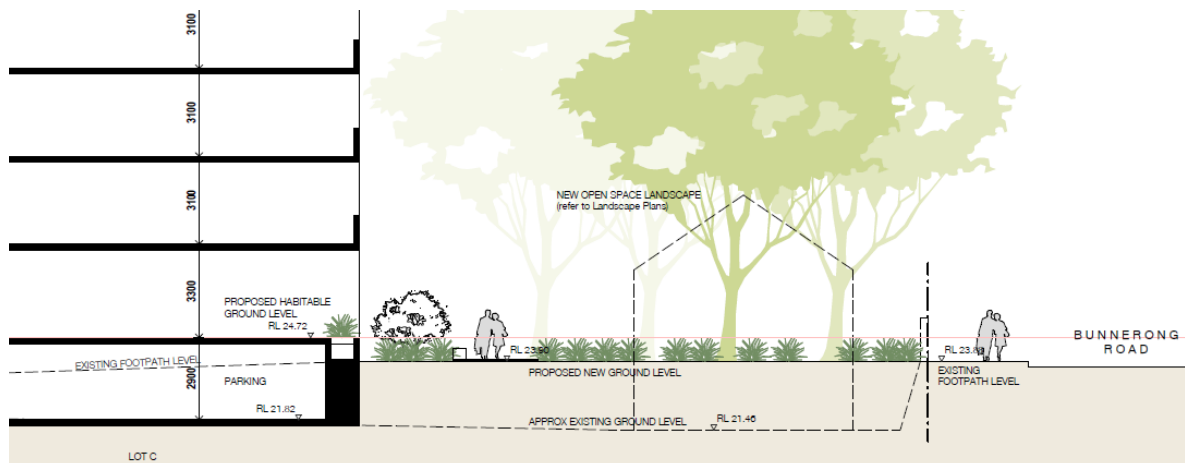
*Pink / Blue = Non Residential*



*Blue Circle = Pedestrian Crossing Linkage*

Details have been submitted which illustrate the cut and fill of certain areas within the site, in order to provide for an appropriate interface with existing levels of adjoining public domain, in particular the SE and NW corners at the junction of Tingwell Boulevard / Bunnerong Road and Banks Avenue / Heffron Road.

The below diagram depicts a maximum of 2.42m of fill in the south eastern corner at Tingwell Boulevard / Bunnerong Road, the worst affected point on site, in order to enable the future linear public domain component of the site along the eastern periphery to be flush with the existing footpath and facilitate safe, accessible and direct public access.



The eastern periphery of the site accommodates extensive landscaping and open space which will at a later date and subject to the execution of the VPA be publicly accessible and level with the existing public domain. It will function as a widening of the existing footpath along Bunnerong Road, providing a more appealing landscaped buffer and linear north south park.

The concept plan depicts the provision of a maximum 3 storey building typology akin to terrace housing along the majority of the Heffron Road frontage of the site. These building forms provide for an appropriate transition in bulk, form, height and scale to the lower density residential dwellings within the R2 low density zone on the northern side of Heffron Road.



#### Terrace Typology

Fine grain terraces with parking access to the rear maximising passive surveillance of the street

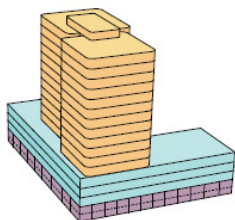
The concept plan as proposed positively responds to existing established building typologies within the context surrounding the site. The proposal integrates the development into the local area, providing appropriately designed, accessible and clearly identifiable linkages and appropriately designed periphery landscaping and building setbacks, which assist with integrating the site into the local neighbourhood, whilst avoiding an isolated enclave.

## Principle 2 - Built Form and Scale

The concept plan incorporates a mix of clearly defined typologies across the site, with accompanying defined controls and guidelines outlined within a Stage 1 DA Design Report, and accompanying plans prepared by SJB Architects for each proposed lot to be redeveloped, to ensure that each lot will be developed according to the concept plan vision.

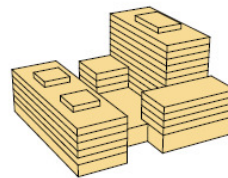
Building typologies proposed across the site include stand alone towers, tower and podium, perimeter block and terrace building forms as depicted below. The height, nature, scale, mass and form of these buildings reflect the future desired character envisaged for the subject site given the high density residential zone of the property.

The following examples show different approaches to towers and podiums to break down the scale of each building and to provide variety across the precinct.



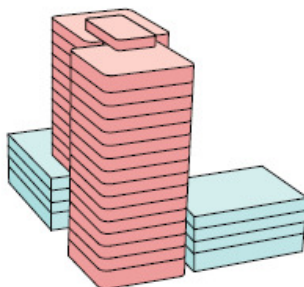
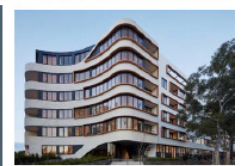
### **Maisonette Podiums**

Maisonette apartments address the streetscape with opportunity for individual address to each apartment. towers are setback above podium



### **Perimeter Block**

Mid rise form that holds the street wall and define the urban block



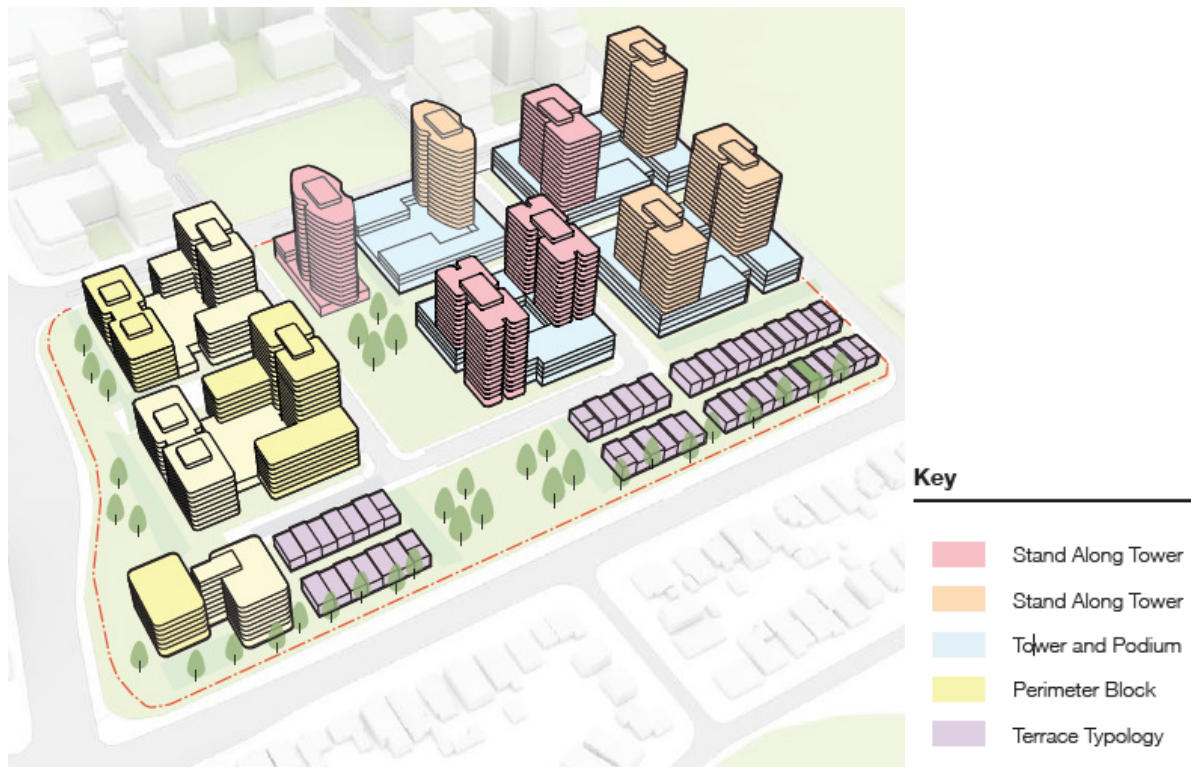
### **Expressed tower and street wall**

Opportunity to allow tower forms to come to ground defining key corners of the site



A range of typologies assists in ensuring variation in architecture, form and expression within the precinct and aids in integrating the precinct with existing development surrounding the site.



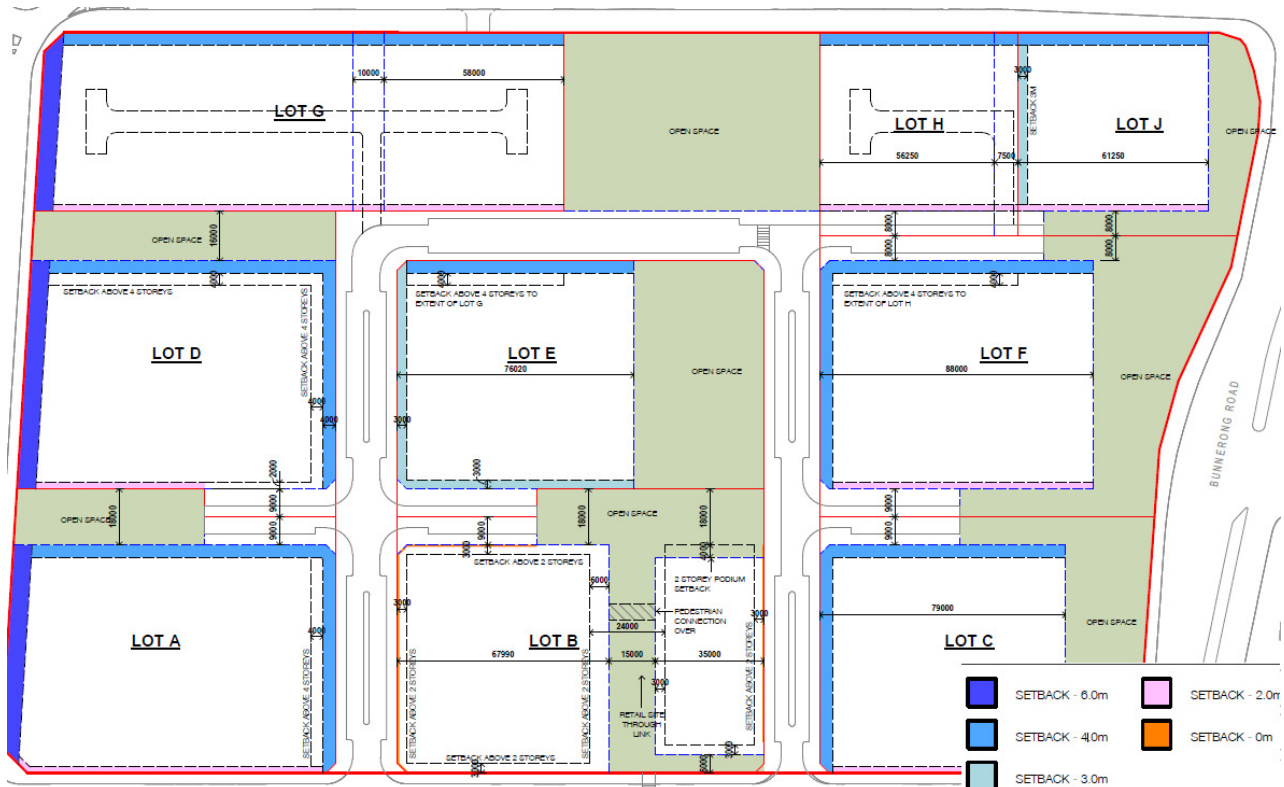


Building heights are proposed in line with relevant LEP standards, with buildings ranging in height from 2 to 20 storeys, to a maximum height of 69m. Lower buildings are generally located along the northern and eastern periphery of the site, with higher buildings located centrally and within the south western corner of the site, adjoining Banks Avenue. A maximum four (4) storey podium height is proposed on lots which are proposed to accommodate high rise tower development forms.

The concept plan proposes building setbacks on site at ground level to the public domain and podium level for towers above. Setbacks at ground level vary from nil – 6m from established lot boundaries, with the setback of towers above podium level from nil to 4m.

Final revised plans also respond to ground level RLs and communicate the relationship of each lot typology to the public domain. Conditions of consent further ensure that finished ground levels will not be positioned below existing ground level, thus subterranean dwellings / commercial spaces will be avoided. Additional conditions imposed will ensure that flood levels are appropriately adhered to, with lots that are flood affected comprising raised floor levels 0.5m above the freeboard.





Notwithstanding the above measures which seek to control and regulate building form, scale and design, the Design Excellence Panel noted as follows;

*“Differentiation in typology type needs further definition within the masterplan through design that ensures a series of legible and different building forms, material and colours result. This should allow diversity within a range of compatible colours and materials that highlights each building typology and provide an authentic sense of diversity across the precinct to further break down its scale.*

*The concept plan must establish a design principle that there be a differentiation in building heights within each lot as demonstrated in the Block Sections and Block Elevations.*

*The townhouse precincts, Blocks G and H, also need additional definition, perhaps in the form of a design brief, that commits to materiality, form definition, potential additional levels to ensure height transitions and landscape that define its desired character and confirm that it will be delivered as intended.*

*At present the document alludes to this potential but does not provide adequate information to ensure that it is delivered. The masterplan should clearly provide a hierarchy to the built form typologies, through materiality, noting Tower A within Lot B is to be an iconic, stand-alone structure to define the identity of the precinct and not a ‘match design’ as part of a twin tower identity.*

*The built form was refined to further define village heart and, along with the commitment to the 5000sq/m non-residential space, has delivered this outcome. This needs to be maintained through all DA stages.*

*Conditions of consent should include commitments to this additional definition for:*

- *Materiality and character for each building typology*
- *Townhouse precinct form, character and landscape attributes*
- *Setting a hierarchy of building types and identities*
- *Alignment among documents describing typologies.”*

Given the above, in order to ensure that diversity in building form and typology is delivered within the precinct, the proposal has been conditioned in line with the above Panel and Urban Design recommendations to ensure appropriate building design variation is realised on site.

As conditioned the concept plan will ensure variety of appropriate built form outcomes, in terms of building typology, alignments, proportions, articulation and building elements. Building forms will define the public domain they adjoin and will result in the creation of a unique character on site which appropriately interfaces with its surrounding context.

Further conditions will ensure a diversity of materials, treatments, finishes and architectural expression as nominated by the Design Report prepared by SJB Architects. Examples stipulated in the aforementioned document, represent reference buildings which establish the built quality and variety sought to be achieved within each stage of the redevelopment of the site. Collectively the examples referred to, represent breadth of architectural diversity to be present in successive stages of the development.

As conditioned the proposed concept plan is considered satisfactory with respect of this principle.

### Principle 3 - Density

Whilst the submitted concept plan depicts compliance with the relevant 2.35:1 FSR standard, plans seek the implementation of a gross floor area tolerance for each lot on site in order to facilitate the transfer of unused gross floor area (GFA) across the site between lots at a later date at the discretion of the developer.

Council raises concern in relation to permitting a GFA tolerance of + / - 10% per lot as sought by the applicant, as it may imply and/or result in future unwanted variations and exceedances to the overall FSR standard for the site.

In order to avoid the aforementioned and clarify the maximum GFA / FSR on site, the concept plan will be conditioned to;

- a) Specify the maximum overall permitted GFA on the entire site
- b) Specify the maximum residential and minimum non-residential GFA components.
- c) Clarify that the transfer of unutilized GFA between lots is permitted on site.

As conditioned the submitted concept plan will ensure compliance with the FSR standard for the site and result in an appropriate density of development as envisaged by Council.

### Principle 4 - Sustainability

The concept plan was accompanied by an Ecologically Sustainable Design Report, prepared by efficient living, dated 02/10/2020. The report incorporates a number of sustainability measures within the development including but not limited to;

- i. 20% of car parking spaces being electric vehicle (EV) capable by implementing a smart energy load management system
- ii. community vegetable gardens,
- iii. water sensitive urban design, water reuse and irrigation,
- iv. use of energy efficient fixtures / fittings,
- v. implementation of an embedded energy network on site,
- vi. use of LED lighting,
- vii. use of KONE energy efficient lifts

viii. incorporation of photovoltaic solar panels.

ESD has been considered in order to ensure the sustainable design and potential adaptive reuse of future buildings, in order to reduce reliance on technology and consequentially operational costs for future occupants, encourage alternative transportation methods in lieu of private car ownership and provide extensive deep soil zones for groundwater recharge and vegetation.

A review of the aforementioned report by the Design Excellence Panel noted as follows;

*The report identifies numerous initiatives and communicates a masterplan strategy which requires the following additional information to be supported by the Panel. Any numerical target in the ESD report should be provisioned as a condition of consent to equal or better in terms of performance within the ESD report.*

NatHERS and BASIX - Numerical targets, higher than minimal compliance are required to achieve design excellence. Additional minimum targets be provided for Section J, NatHERS and BASIX (Energy, Thermal Comfort and Water).

Tree Canopy Cover - A percentage canopy cover to the public domain was identified as a numerical target in the ESD report, but did not provide similar targets for podium landscape areas.

- Public domain target 30%
- Podium suggested target 20%
- Both should be provisioned as a condition of consent
- Landscape plans should also reflect this in their documentation

Proposed Landscape – the documentation identifies a cohesive mix of Australian endemic, native and low water use plant material and is supported. This provides design flexibility and opportunities for passive solar design.

- A numerical percentage of endemic trees within the site should be conditioned at 50% minimum
- Native vegetation (shrubs and ground covers) 50% minimum
- Landscape plans should also reflect this in their documentation.

Solar - the applicant has outlined proposed systems without a commitment to a numerical value

- Define percentage (e.g.50-75%) Commitment to all communal area lighting/power within developments to be by solar
- Demonstrate a site wide initiative that outlines the capacity of each site to achieve this percentage
- Similar to GFA, the percentage can be transferred but on balance the whole site must achieve this.

Townhouse Product

- The ESD does not identify any targets or initiatives within these lots
- Provide a high level master plan that can serve to identify future design intent and ESD outcomes for each townhouse
- Define maximum built upon area per townhouse – 70%
- Landscape areas within each lot to abut one lot minimum to maximise deep soil
- Provision of three trees per lot
- Define a % canopy cover per townhouse – suggest 20%
- Define public domain % canopy cover – 20% - same as podium landscape
- Define a deep soil percentage – suggest 15% per lot
- Permeable paving within townhouse lots 15% per lot
- Use of permeable pavement materials to all public domain and vehicular laneway areas

Mobility Transition

- Commit Electric charging stations at bike storage locations
- Ensure electric vehicle infrastructure commitment is defined in the DA conditions of consent
- Provide a mobility adaptability plan that identifies the potential car parking spaces for future repurposing

- *Lot specific DAs to address services layout to ensure adaptability*

#### Construction Waste

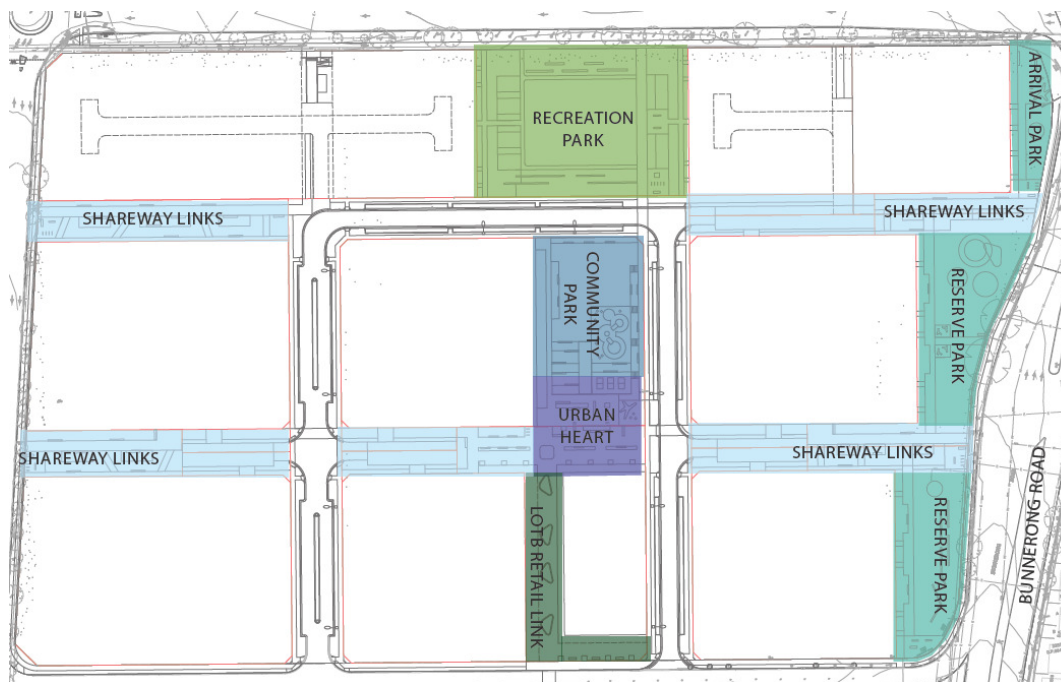
- *Commit to targets for minimising construction waste*
- *Conditions of consent should include commitments to sustainability for:*
- *Measurable metrics for the items noted above*
- *Strategies for mobility transition*
- *A strategy to minimize construction waste."*

Notwithstanding consideration of ESD by the applicant and noting the comments of the design excellence panel above, the proposal has been conditioned to ensure that future DA's submitted for the redevelopment of lots clearly demonstrate proposed sustainability measures and baseline numerical commitments to ensure a positive environmental outcome across the entire site.

Conditions of consent as imposed on the draft Notice of Determination for the concept plan will ensure that minimum numerical measures and targets are clearly defined, particularly in regards to the provision of electric bicycle charging stations which were not quantified within the ESD report, in order to ensure clarity with respect to the preparation and assessment of future development applications on the subject site and the achievement of ESD.

#### Principle 5 - Landscape

An indicative concept landscape plan for the site was submitted as part of the subject DA. Documents illustrate the provision of an extensive area of publicly accessible open space to a minimum quantum of 20,000sq.m. Publicly accessible landscaped open space areas are illustrated in colour below.



Publicly accessible landscaped and embellished open spaces, some to be dedicated to council subject to the execution of the draft VPA, are identified above and incorporate various design concepts integral to the establishment of the precinct including but not limited to, informal play & circuit areas, turfed community lawn, retail / alfresco dining areas, a flexible community square with shaded seating, performance space and pop up space



opportunities, activity stations, integrated bike racks, passive outdoor 'community room', shade structures, public art and wayfinding signage. The aforementioned is illustrated below.

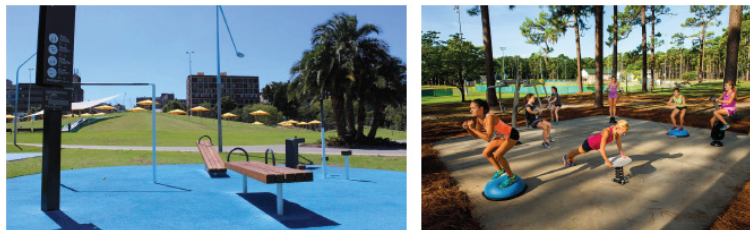
#### URBAN HEART INTEGRATED PLAY



#### RESERVE PARK INFORMAL PLAY



#### ACTIVITY STATIONS



The Concept Plan includes deep soil areas within publicly accessible open space to be dedicated to Council at a later date subject to the execution of the current draft VPA.

Deep soil zones have important environmental benefits, such as allowing infiltration of rain water to the water table and reducing stormwater runoff, promoting healthy growth of large trees with large canopies and protecting trees which assists with temperature reduction in urban environments. Deep soil areas further facilitate shade and amenity for future residents.

Concern is raised by the assessing officer that post subdivision of the site, dedication of the publicly accessible open space and construction of the development with hard surfacing within through site links & basement footprints proposed to new lot boundaries, lots to be retained in the ownership of the proponent will comprise minimal to nil deep soil provision.

A consequence of the aforementioned is that not only will development on some of the future private lots i.e. A, B, C, D, E, F, J, be contrary to ADG requirements and objectives, but a lack of deep soil will not facilitate the growth, longevity and delivery of large trees on a site with such intense density that the provision of landscaping to achieve a human scale is imperative.

The potential impact of the above is discussed as follows;

##### a) Lots B & E

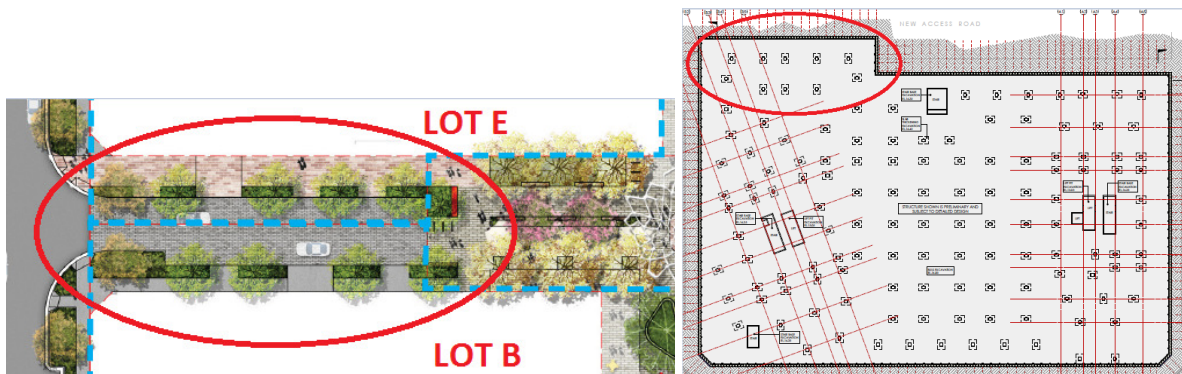
- i) Lot E - Excavation should not extend into the 4m northern and 3m southern / western setbacks of Lot E, in order to ensure sufficient future deep soil provision as required by the ADG is somewhat achievable on this lot, post

dedication of the adjoining eastern open space and establishment of new lot boundaries.

Should a basement level extend within these setback areas this lot will likely comprise nil deep soil at a future date and not comply with the requirements or objectives of the ADG.

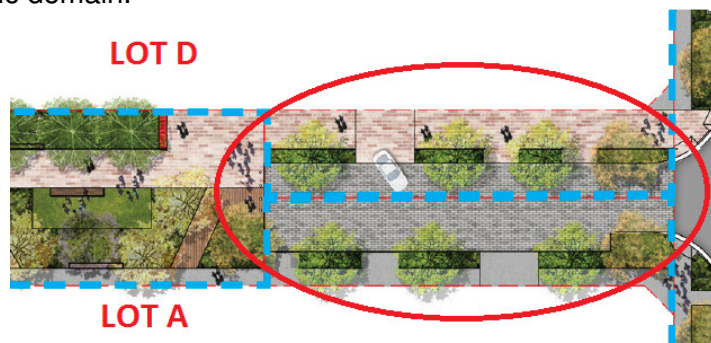
- ii) Lot B / E - Excavation of a future basement footprint to the new lot boundaries of Lot B and lack of any subsequent deep soil on this site whilst not ideal is acceptable in the circumstances to Lot B, with the exception of the following, given the commercial core focus of this lot within the overall site.

Excavation is sought to extend beyond the proposed building footprint into the spur road between lots B & E, circled in red below. In order to facilitate appropriate soil depth / volume for the planting of street trees on both sides of the spur road, as depicted within the Landscape Stage 1 Concept Plan Report the proposal has been conditioned to require tree wells or alternative design measures to facilitate the longevity of street trees within the public domain.



b) Lots A & D

Akin to arguments presented in (a) above, where future basement excavation is proposed beneath spur roads identified below between lots A & D, there is likely to be insufficient depth and soil volume to facilitate the growth of large street trees internally on site. It is reiterated that the proposal has been conditioned to require tree wells or alternative design measures to facilitate the longevity of street trees within the public domain.



Additionally, should future basement excavation for Lots A & D extend to the western boundary of the site to Banks Avenue, beneath the proposed 6m building setback, depicted in the site setback plan below, it will not be possible to ensure appropriately sized trees are delivered within the front building setback to Banks Avenue in order to provide an appropriate buffer to soften building forms which are anticipated to be 19 & 20 storeys in height from the public domain.

Finally, the extension of a basement footprint to the new northern and eastern boundaries of Lots A & D will minimise the ability for growth & longevity of street trees internally within the site.

c) Lot J

Should future basement excavation for Lot J extend to the northern boundary of the site to Heffron Road, beneath the proposed 4m building setback, depicted in the site setback plan below, it will not be possible to ensure appropriately sized trees are delivered forward of the building line to Heffron Road, in order to provide an appropriate buffer to soften the 6 storey building form on this lot from the public domain.

Excavation should not extend into the front setback of Lot J to Heffron Road, in order to ensure future deep soil provision as required by the ADG is in some way achieved on this lot, post dedication of the adjoining eastern open space and establishment of new lot boundaries. Should a future basement extend within the setback area to Heffron Road this lot will likely comprise nil deep soil at a future date and not comply with the ADG.

d) Lots C & F

Discussion referred to above with respect of excavation beneath spur roads is reiterated with respect of the spur road between Lots C & F.

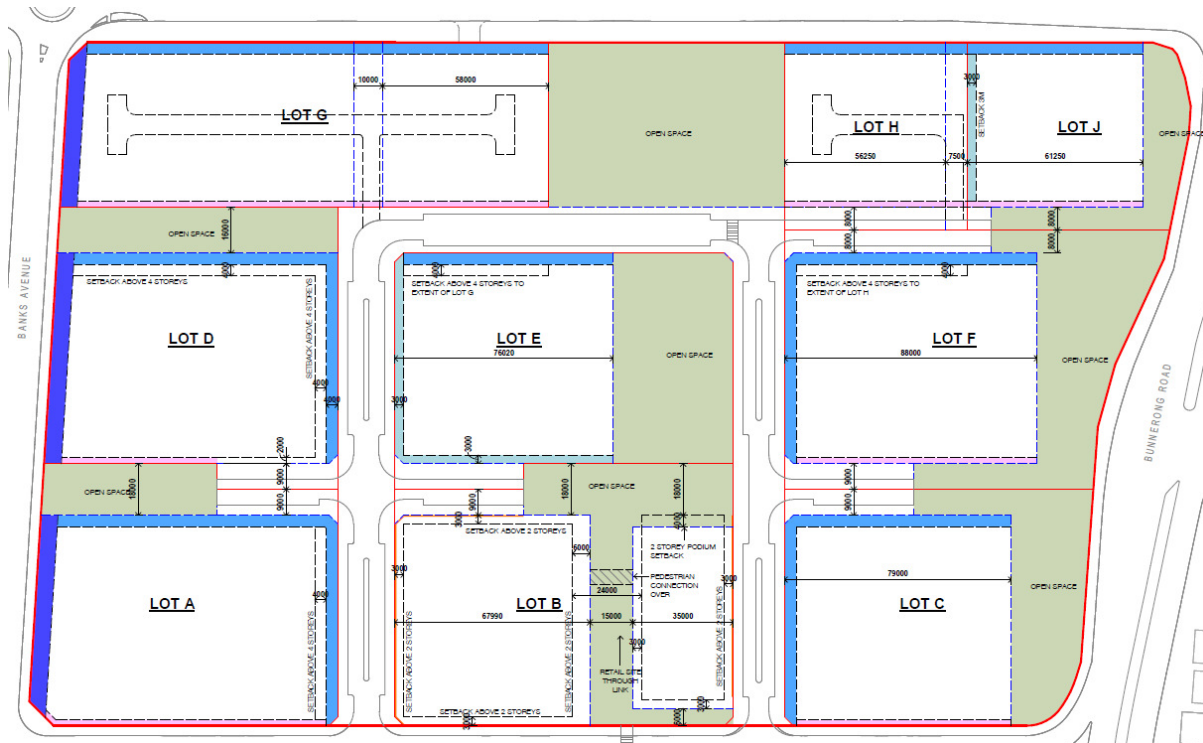
Additionally, the extension of a basement footprint to the new northern and western boundaries of Lots C & F will minimise the ability for growth & longevity of street trees internally within the site.

Excavation should not extend into the northern and western setbacks of Lot C & F, in order to ensure future deep soil provision as required by the ADG is in some way achieved on these lots, post dedication of the adjoining eastern open space areas and establishment of new lot boundaries.

Should future basements extend within the aforementioned setback areas these lots will likely comprise nil deep soil at a future date and not comply with the requirements or objectives of the ADG.

To resolve the above concerns, conditions are proposed, to require that;

- a) Basement levels are limited to beneath building footprints.
- b) All building setback areas depicted in blue, on the site setbacks plan prepared by SJB Architects, with the exception of the 3m setback to the west of Lot J, be provided as deep soil zones.
- c) Hard surfacing within deep soil zones is minimised.
- d) Tree wells or alternative design measures to facilitate the longevity of street trees within the public domain are required.



Further to the above, the proposal has been conditioned to require that a minimum of 15% of each proposed townhouse lot, within lots G & H to be provided as deep soil landscaping in order to maximise the planting of canopy trees.

With respect of this principle, the Design Excellence Panel noted as follows;

*"The Panel considers the landscape outcomes are key elements in achieving a fine grain public domain outcome and integration of the built form into the broader surrounding community. In addition to sustainability outcomes being implemented and considered within the landscape and the role it should play in enhancing biodiversity the landscape can be improved to provide a higher level of public domain outcomes.*

*As mentioned previously, a public art concept is provided in SJB report, as well as concepts within the landscape documentation. For consistency, one consolidated public art strategy and concept document should be provided that outlines the process, the locations, the uses and opportunities and defines a narrative for the site.*

*Refer to ESD for commitments and consistency of documentation within landscape in relation to canopy cover targets (documentation refers to 28% and 30%), podium landscape canopy cover, use of species and percentages and townhouse typology.*

*Public domain and park space adjacent to Bunnerong Road is to resolve the provision for emergency and security vehicle access.*

*Spur roads in private ownership have been differentiated with unit paving material to its entirety to provide a shared zone form. Dead ends in landscape areas should be further integrated into this concept to ensure a plaza like outcome to the spur roads is achieved that identifies traffic calming and potential shared pedestrian interface.*

*Landscape documentation within the masterplan must be consistent with the DA lodged to the loop road, noting pedestrian crossover pavements etc. cannot be achieved and are not proposed in the DA.*

*Landscape masterplan to reflect design changes and setbacks and additional retail provision in and around the village heart.*

*Landscape commitments should be made to the design of private open space areas at the podium levels. These may include water collection, depth of soil and quality of landscape, and tree canopy coverage.*

*The desired outcome is a public domain experience that engages with the surrounding community, defines clear wayfinding within, through and too the village centre and explores opportunities to incorporate sustainability initiatives within the BATA 2 site.*

*Conditions of consent should include:*

- *Further integration of landscape with spur / dead end roads to a plaza-like character*
- *Updating landscape masterplan to incorporate all changes to the village heart*
- *Resolution of emergency access to all parts of the site*
- *An approach to improving the biodiversity of the site as an extension of its surroundings and original native environment*
- *Commitments to landscape quality on accessible podium levels*
- *Consistency of documentation across the proposal.”*

In response to the above it is noted;

- a) Conditions of consent require that public art across the site within publicly accessible open space areas as nominated in Part 5.4 – Public Art / Wayfinding of Pagewood BATA 2 (North) Landscape Stage 1 Concept Master Plan Report, be designed, procured and implemented on site in collaboration with Bayside Council as per Council’s draft Public Art Policy and Guidelines 2020 and any executed VPA.

Conditions will ensure that the process of procurement, design, location, use and narrative for public art across the site is clearly defined, that public art is integrated into publicly accessible open space and responds to the social, cultural, natural elements or history of the site.

- b) With respect of ESD commitments, conditions of consent have been imposed to ensure there is clarity and minimum numerical targets with respect of deep soil provision, canopy and landscape cover on site between the various lots and future building typologies.
- c) Conditions of consent are sought to be imposed in order to ensure future DA’s are accompanied by an emergency services plan which confirms that suitable access is able to be accommodated for emergency vehicles on site.
- d) Conditions of consent seek further design resolution to spur / dead end roads on site, in order to integrate landscaping and create a plaza-like character which facilitates both pedestrian and vehicular traffic.
- e) Conditions of consent sought to be imposed as per S4.17(b) of the Environmental Planning & Assessment Act 1979 (as amended), require that a s4.55(1A) minor modification application be submitted to and determined by the consent authority, for the previously approved civil works DA for the internal road network on site i.e. DA-2019/387.

Modifications required to the current consent are necessary in order to ensure consistency between approved public domain / landscape documentation for the aforementioned DA and the subject application. I.e. footpath finishes & widths to the



periphery of Lots B, E, G, as a result of the evolution of the concept plan scheme during its assessment.

- f) Conditions of consent require that certain design objectives to be achieved with respect of the village heart. The proposal now adheres to the minimum BBLEP 2013 level for non-residential floor area provision and is now satisfactory in this regard.
- g) Following further consideration of the 20% podium canopy cover requirement sought to be imposed by the Design Excellence Panel, the assessing officer notes this is extensive, difficult to achieve and will restrict landscape design at podium levels.

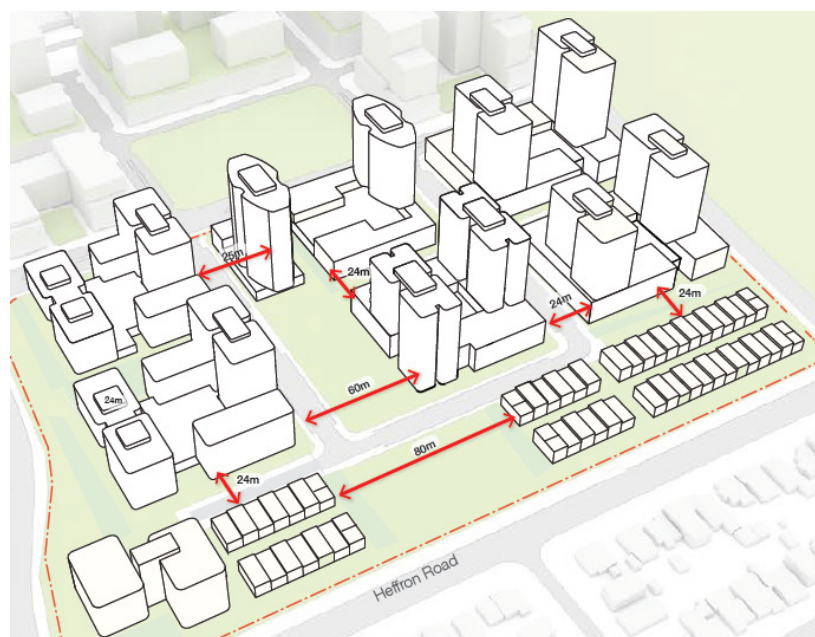
As such whilst not imposed, future landscape design at podium level will be assessed against the relevant provisions of the ADG and subject to design excellence, this is considered satisfactory to achieve an optimal landscaped outcome.

Landscaping and deep soil zones as conditioned with minimum numerical targets, will assist in establishing a particular character for the precinct, aid in softening future building forms, provide amenity, improve environmental performance & microclimate, enhance the visual quality of the precinct and facilitate a human scale. Landscaped areas on site will be required to include a cohesive mix of Australian endemic, native and low water use plant material.

Conditions of consent in combination with the landscape master plan will ensure publicly accessible and privately landscaped areas are attractively designed, functional and contribute to the landscape character of the community to be created on site.

#### Principle 6 – Amenity

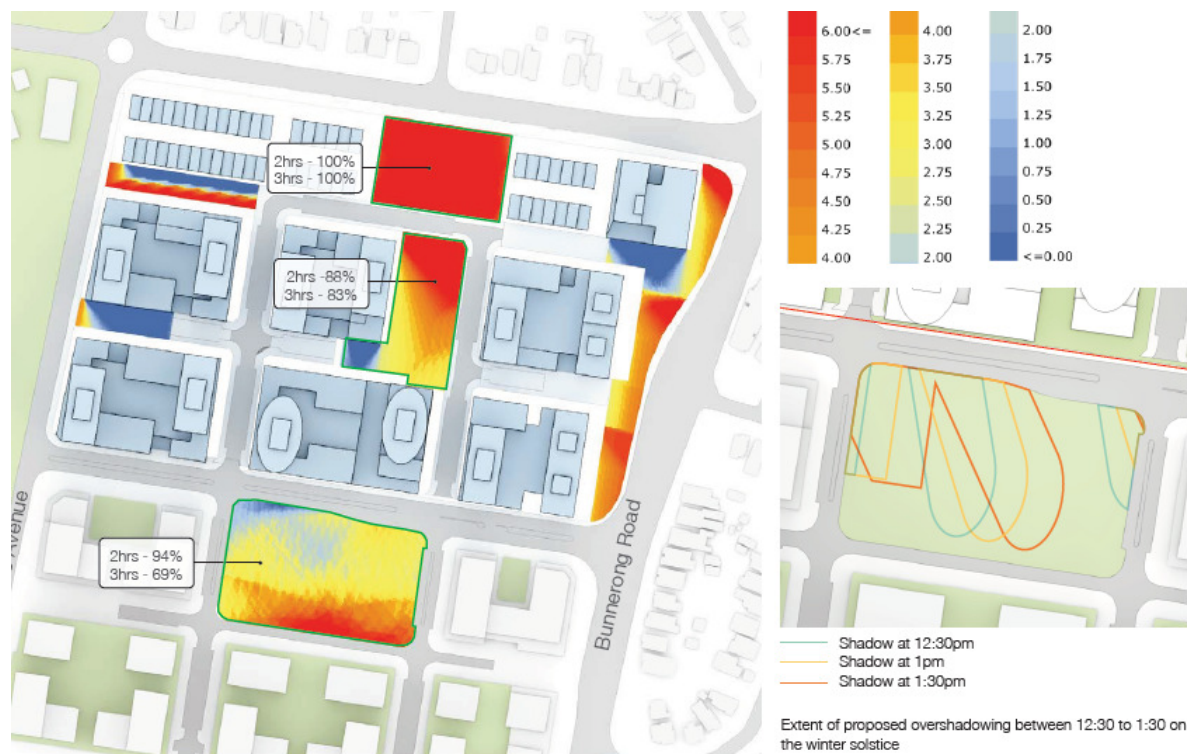
The proposed concept plan illustrates physical building separation below between proposed building forms which are consistent and in excess of the minimum separation requirements of the Apartment Design Guide. Given the aforementioned it can be stated that visual / acoustic privacy is capable of compliance with the relevant ADG requirements at a later date subject to the lodgement of future development applications.



The proposal has been conditioned to ensure compliance with the requirements of the Apartment Design Guide, which will ensure that appropriate residential amenity will be delivered to future occupants within the development with respect of appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, storage, indoor and outdoor space, efficient layouts, provision of appropriate service areas and ease of access for all age groups and degrees of mobility.

Consideration has been given to potential solar access impacts on site, to BATA 1 and Penguin Park and residential dwellings further to the east on the opposite side of Bunnerong Road. The highest buildings have been located in lots A, B, D & E, which allows a transition in scale to lower building forms to the north and east, thus mitigating adverse solar impacts to the aforementioned areas.

Solar access documentation submitted and illustrated below, based upon the maximum permissible LEP heights, setbacks proposed and massing / location of proposed buildings on site concludes that solar access to the areas mentioned previously is not adversely affected between 9am – 3pm in midwinter.



With respect of the design of publicly accessible areas, the Design Excellence panel noted that the proposal provides clearly defined and defensible public space organisation allowing for multiple uses, yet providing flexibility with respect to use.

The Design Excellence Panel noted that conditions of consent should include;

- i. *Increasing the number of units with direct ground level access and revising the landscape layout at the village square to improve amenity and activation across the precinct*
- ii. *Revisions to the landscape layout of the village heart to create a stronger sense of place at the village square in response to the modification the built form of Lot B*
- iii. *A defined art strategy to deliver art in the public domain.*

With respect of the above matters raised by the Panel, the proposal has been appropriately conditioned to ensure an 'excellence' outcome is capable of being achieved in future DA's.

#### Principle 7 - Safety

Public and private spaces are located and designed so as to be clearly defined, well lit, visible and incorporate secure access points that are easily maintained and appropriate to the location and purpose.

The location of non-residential uses on site adjoining publicly accessible open spaces enables opportunities for passive surveillance to be maximised and encourages activation of the space.

Residential uses at ground level delineate between the private / public realm and ensure appropriate passive surveillance of the public domain. Within developments, towers above communal landscaped podiums allow for passive surveillance from above.

The proposal has been conditioned to require the submission of a thorough crime prevention through environmental design report with the lodgement of future development applications. Future applications will be required to clarify measures proposed for the safety and security of future occupants and users.

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

The proposal nominates a diversity of unit mix on site as follows, which is supported by the assessing officer and the Design Excellence Panel.

Type	Percentage
1 bedroom	10%-50%
2 bedroom	20%-70%
3 bedroom	5%-30%.

The Design Excellence Panel noted that;

*"In a development of this size, to provide for a more robust community mix and in consideration of emerging living trends in Sydney, it may be advisable to include a commitment to a number of live/work units and dual keyed multi-generation units in the scheme. These units may take the form of maisonettes with direct access from the public way providing additional address points across the scheme. Flexibility to accommodate these units should be included in the documents. Conditions of consent should include a commitment to including a strategy to create 'flexible units' that can respond to market sounding as each new stage is implemented".*

With respect of the above, the proposal has been conditioned appropriately and the applicant is thus required to indicate as part of future development applications units which have the capacity to be modified so as to facilitate a dual key or aging in place arrangement, facilitating flexibility for future occupants.

Consideration has been given to future social interaction on site within publicly open space areas. It is reiterated that the design of publicly accessible areas incorporates design concepts integral to the establishment of the precinct including but not limited to, informal play & circuit areas, turfed community lawn, retail / alfresco dining areas, a flexible community square with shaded seating, performance space and pop up space opportunities, activity stations, integrated bike racks, passive outdoor 'community room', shade structures, public art and wayfinding signage. All the aforementioned are positive elements which encourage opportunities for social interaction.



## Principle 9 - Aesthetics

The Design Excellence Panel is generally supportive of the aesthetic of the development proposed in both built form and landscape. Examples of materiality / treatments proposed are detailed below, derived from the submitted SJB Design Report.



Figure 1: Creation of depth using materials Figure 2: Solid vs transparent interplay of materials. Figure 3: Lobby Entries to create identity for each building and to contribute to the character of the precinct. Figure 4: Solid material such as concrete to ground podiums Figure 5 natural materials sitting within the landscape; Utilising landscaping to soften materiality. Figure 6 Expressive façades to create variation and articulation across the precinct. Figure 7 Create legible podiums that define the street wall.

The Panel noted that conditions of consent should include commitments to;

- a) *'Materiality and character for each building typology*
- b) *Quality of proposed finish materials.'*

With respect of the above the proposal has been conditioned to require the delivery of a range of high quality materials and finishes, that the diversity of materials nominated in the Design Report prepared by SJB be adhered to, details of the colours, finishes, treatment and materiality for each building form to be submitted with each future DA in the form of a sample board containing original samples and swatches of all external materials and colours.

As conditioned the proposal is satisfactory with respect of this principle.



### c. The Apartment Design Guide

The concept plan is schematic and whilst a general assessment against the intent and principles of the the Apartment Design Guide (ADG) can be undertaken, it is reiterated that the future redevelopment of lots is subject to separate development applications which will be assessed against the relevant ADG requirements in detail.

The submitted concept plan has illustrated that the future building envelopes anticipated upon each lot are capable of compliance with respect of the ADG requirements, particularly with respect of building separation, provision of communal open space, solar access, natural ventilation, floor to ceiling heights, deep soil provision and the like.

The proposal has been conditioned to ensure future development applications demonstrate compliance with the relevant requirements of the ADG.

### **Botany Bay Local Environmental Plan 2013 (BBLEP)**

Clause	Requirement	Proposal	Compliance
2.3 – Zone	R4 – High Density Residential	Residential / commercial uses	Yes <i>Note -commercial uses permitted as per Schedule 1.</i>
4.3 – Height of Buildings	<b>O</b> = 16.6m <b>V1</b> = 37m <b>AA</b> = 69m	16.6m 37m 69m	Yes – heights have been conditioned.
4.4 – FSR	T1 = 2.35:1	2.35:1.	Yes – maximum gross floor area conditioned for both residential and non-residential uses.
5.10 – Heritage Conservation	To conserve the environmental heritage of Botany Bay.	The site and future building forms are sufficiently distanced from the nearby heritage item i.e. Jellicoe Park. The northern boundary of the site is 120m from this item, future building forms will be further setback and thus unlikely to result in any adverse impact upon the item or its curtilage.	Yes
6.2 – Earthworks	Ensure earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Nil physical works proposed as part of concept plan DA. Subject to assessment of future DA's.	
6.3 - Stormwater Management	Minimise impacts of urban stormwater to adjoining properties, native bushland and receiving waters.	Nil physical works proposed as part of concept plan DA.	Yes – conditions of consent imposed to provide clarity on stormwater / flooding requirements for future development applications.
6.8 - Airspace Operations	The site is affected by the 51 Obstacle Limitation Surface.	Sydney Airport Corporation Limited issued approval to a	Yes – Maximum height of envelopes depicted 91RL on

Clause	Requirement	Proposal	Compliance
		maximum overall building height of 91m AHD.	Building Heights Plan A0201. Proposal conditioned accordingly.
6.16 - Design Excellence	<ol style="list-style-type: none"> <li>1) The objective of this clause is to deliver the highest standard of sustainable architectural and urban design.</li> <li>2) This clause applies the BATA</li> <li>3) Development consent must not be granted to development involving the construction of a new building or to external alterations to an existing building on land to which this clause applies unless the consent authority considers that the development exhibits design excellence.</li> <li>4) In considering whether the development exhibits design excellence, consent authority must have regard to; <ol style="list-style-type: none"> <li>a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</li> <li>b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</li> <li>c) whether the development detrimentally impacts on view corridors,</li> <li>d) the achievement of the principles of ecologically sustainable development.</li> </ol> </li> </ol>	Refer to discussion in SEPP 65 section of this report.	Yes – Design Excellence achievable subject to conditions of consent which shall guide future development applications.
6.18 – Development requiring preparation of DCP	(1) The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan.	Refer to discussion above in S4.23.	

Clause	Requirement	Proposal	Compliance
<i>(LEP Amendment 8 notified 22 November 2019)</i>	(2) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288		
	(3) Development consent must not be granted for development on land to which this clause applies unless;		
	(a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, or	Refer to discussion above in S4.23.	
	(b) guidelines and controls similar to those mentioned in subclause (4) already apply to the land, or		
	(c) the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated.		
	(4) The development control plan must provide for all of the following;		
	(a) design principles drawn from an analysis of the site and its context,	Submitted	Yes – due consideration given to site context, refer to discussion in Principle 1 - Context and Neighbourhood Character of SEPP 65 section of this report.
	(b) the compatibility of the proposed development with the desired future character of the area,	Submitted	Yes – due consideration given to future desired character, refer to discussion in Principle 2 - Built Form and Scale of SEPP 65 section of this report.
	(c) the phasing of development and how it will provide for the social and recreational needs of a new community,	Staging of development submitted.	Yes – Proposal conditioned to ensure the appropriate delivery of publicly accessible open space in line with construction of larger developments on site.
	(d) distribution of land uses, including open space (its function and landscaping) and environment protection areas,	Location of residential, non residential and public open space uses identified on submitted plans. Concept public domain plan and landscape Stage 1 Concept Report details landscaping on site.	Yes – conditions imposed.
	(e) the existing and proposed mix of land uses,		
	(f) subdivision pattern and provision of services,	A0102 Rev 14 Subdivision Plan identifies the subdivision proposed.	Yes - conditioned
	(g) building envelopes and built form controls, including	Plans & sections depicting setbacks, heights, envelopes, deep soil submitted. Stage 1	Yes – conditions imposed with respect of GFA.

Clause	Requirement	Proposal	Compliance
	bulk, massing and modulation of buildings,	Design Report prepared by SJB provides further design guidelines, objectives & design examples in relation to (g).	envelopes, form, height, materials, finishes, interface and the like.
	(h) housing mixes and tenure choices, including affordable and adaptable housing,	Indicative unit mix provided.	Yes – conditioned.
	(i) heritage conservation, including both Aboriginal and European heritage,	Nil heritage on site. Consideration given to heritage items in context of site.	Yes
	(j) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and appropriate car parking provision, including integrated options to reduce car use,	Various ESD measures proposed, refer to discussion in Principle 4 – Sustainability.	Yes – Conditions imposed to ensure compliance with ESD Report submitted.
	(k) the overall transport hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, with particular regard to public transport, pedestrians and cyclists,	Detailed within submitted Traffic Report.	Yes
	(l) improvements to the public domain,	Public Domain Plan A0104 submitted, in conjunction with Pagewood BATA 2 (North) Landscape Stage 1 Concept Master Plan Report which details public domain / landscape improvements to publicly accessible areas on site.	Yes – conditions also imposed to ensure public domain beyond site boundary adjoining periphery of site is upgraded as part of future DA's i.e. footpath / bicycle paths, landscaping, undergrounding of power lines etc.
	(m) minimising adverse impacts on adjoining buildings or the public domain,	Shadow diagrams submitted which confirm appropriate solar is achieved to BATA 1 and opposite Bunnerong Road to the east.	Yes
	(n) achieving appropriate interface at ground level between buildings and the public domain,	Ground level RL's depicted on plan to ensure appropriate interface on and within the site and adjoining public domain.	Yes – conditioned appropriately.
	(o) impacts on view corridors,	Detailed	Yes
	(p) the application of the principles of ecologically sustainable development,	ESD Report submitted, detailing measures proposed.	Yes - Future DA's to provide further detailed assessment. Conditions imposed to ensure minimum benchmarks and compliance with measures of ESD Report.



Clause	Requirement	Proposal	Compliance
	(q) environmental impacts, such as overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	Detailed	Yes – Conditioned to ensure future DA's are accompanied by relevant documents i.e. Acoustic / Reflectivity reports, Shadow Diagrams etc.
	(r) environmental constraints, including acid sulfate soils, flooding, groundwater, stormwater, aircraft movement and noise, contamination and remediation,	Numerous reports submitted; - Transport Impact Assessment - Site Flood Assessment - Detailed Site Investigation for Contamination - Interim Audit Advice for Contamination - Aeronautical Impact Assessment - Qualitative Wind Statement - Summary of Geotechnical Conditions - Indicative Review of Noise Intrusion and Emissions -	Yes – Conditioned to ensure future DA's are accompanied by relevant documents / reports.
	(s) opportunities to apply integrated water sensitive urban design,	Detailed in Landscape Stage 1 Concept Master Plan Report and ESD Report.	Yes - Conditions imposed to ensure minimum benchmarks
	(t) no additional overshadowing to the residential buildings in Zone R2 on the eastern side of Bunnerong Road between 9 am and 3 pm on 21 June in each year	Detailed	Yes
6.19 - 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens – General (LEP Amendment 8 notified 22/11/19)	(1) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288		
	(2) The consent authority must not grant consent to development unless it is satisfied the development will provide for a minimum of 5,000 square metres of gross floor area on the land for non-residential purposes, not including any of the following; (a) residential accommodation, (b) a car park, (c) a telecommunications facility.	5,000sq/m non residential space proposed	Yes
Schedule 1 – Additional Permitted Uses	(2) Development for the following purposes is permitted with development consent; o serviced apartments, o commercial premises, o recreation facilities (indoor).	Commercial premises proposed as part of application.	Yes

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

##### **Bayside Draft LEP 2020**

The Bayside draft LEP 2020 was on public exhibition from 8 April to 1 June 2020 and applies to the subject site. The draft LEP reviews Council's current planning controls under three previous LEPs into one consolidated LEP. The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area. The proposal is generally consistent with the objectives and requirements of the draft instrument.

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

The following is relevant to this application:

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

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

##### **Part 3E – Subdivision**

The proposal seeks to subdivide the site from 2 to 17 lots including associated open space which is proposed to comprise multiple lots and roads as follows;

<i>Proposed Lot</i>	<i>Proposed Area</i>		<i>Proposed Lot</i>	<i>Proposed Area</i>
A	9,203sq/m		Roads	8,786sq/m
B	10,372sq/m		Open Space 1	1,098sq/m
C	8,529sq/m		Open Space 2	1,558sq/m
D	9,290sq/m		Open Space 3	4,729sq/m
E	9,054sq/m		Open Space 4	3,074sq/m
F	10,702sq/m		Open Space 5	2,764sq/m
G	9,671sq/m		Open Space 6	1,309sq/m
H	4,170sq/m		Open Space 7	3,262sq/m
J	4,891sq/m		Open Space 8	2,330sq/m

The proposed subdivision is consistent with the future desired character of the precinct, will ensure that all lots retain suitable frontage to what is currently or will become public roads, and lots will be appropriately serviced.

Consideration has been given to the connectivity of the site with its surroundings and as designed the proposed subdivision is consistent with the objectives and requirements of Part 3E.5 Connectivity and Future Development Potential in that the subdivision provides through site connectivity in the form of pedestrian pathways, cycle ways and new streets.

It is reiterated that at a later date the internal road way is intended to be dedicated to Council, subject to the execution of the draft VPA, in addition to the public open space lots noted above, as public land. The proposal is satisfactory with respect of this part.

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

It is noted that the Desired Future Character referenced in this part was formulated prior to the rezoning of the subject site and its subsequent uplift.

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

The proposal is satisfactory with respect of this part as further detailed consideration of these matters is captured within submitted documents which shall form part of the concept plan consent for the site.

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

This part is superseded given the rezoning of the site, uplift derived from the finalisation of LEP Amendment 8 and relevant clauses i.e. Clause 6.18 of BBLEP 2013 which require the preparation of a site specific DCP, albeit concept plan in this instance.

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

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

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

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

Consideration has been given to potential traffic generation and impacts to the surrounding road network which includes local and classified roads along the periphery of the site. Council's engineers and Transport for NSW did not raise objections in this regard as previously discussed. It is reiterated that specific car parking / traffic considerations will be assessed further as part of the assessment of future development applications yet to be submitted for the redevelopment of lots within the site.

##### **Telstra**

Telstra pits exist along the periphery of the sites frontages. Consideration has been given to the location of this infrastructure in relation to vehicular access for the proposed development.

Standard conditions have been imposed to safeguard associated infrastructure and ensure future liaison between the applicant and relevant authority.

##### **Bayside Council Resolution**

As at 12 June 2019 Bayside Council resolved as follows;

- 1 *That a Concept Development Application be prepared to address the following issues at DA stage:*
  - a) *urban design including height transitions, setbacks, building articulation and modulation and the interface of built form with the public domain.*
  - b) *podium car parking options to reduce bulk and encouraging articulation.*
  - c) *treatment, embellishment and functionality of public open space.*
  - d) *car parking and other vehicle rates.*
  - e) *revised traffic modelling to address matters raised by RMS in their submission.*
- 2 *That, as part of a future DA revised traffic modelling is submitted that:*
  - a) *addresses matters raised by RMS in their submission; and*
  - b) *includes an analysis of the intersection of Wentworth Avenue and Baker Street.*
- 3 *That any additional funding to address additional traffic impacts and facilitate the upgrades of the Wentworth/Baker and Wentworth/Page intersections be provided as part of a future Development Application, over and above that required by the applicable Section 7.11 Contributions Plan.*

With respect of the above, it is noted;

1. Urban design and built form considerations specified within a – c above have been taken into account within the submitted concept plan. Conditions of consent have been

imposed to ensure the delivery of appropriate building forms on site which provide diversity in typology and design, whilst satisfying the principles of SEPP 65 and ensuring an appropriate transition to the lower density residential area to the north opposite Heffron Road

Due consideration has been given to the location, design and future treatment of public open space areas on site to ensure that they integrate with their surrounds, provide suitable access and facilities for future users and are designed in a manner which is attractive and functional.

Conditions of consent have been imposed to;

- a) Specify the minimum quantum of publicly accessible open space to be provided on site. This will be delivered in line with any executed VPA for the site at a later date;
- b) Facilitate the establishment of an appropriate legal mechanism for creating rights of public access to all publicly accessible areas of open space, drainage reserves and through site links;
- c) Ensure the submission of detailed landscape plans for the embellishment of publicly accessible open space areas, including the location and detail of safe, accessible and convenient pedestrian links between the subject site and Penguin Park within BATA 1.

A requirement is further imposed to ensure publicly accessible open space areas achieve design excellence ensuring the design, function, access and nature of materials / treatments selected is to the satisfaction of Council.

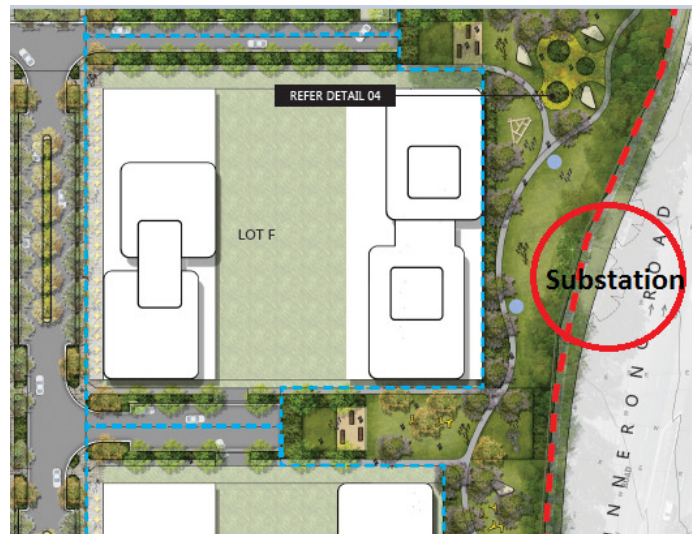
- d) Ensure that open space areas on site include high quality landscaping and paved areas and a variety of recreation facilities which may include BBQs, seating, water features, grassed areas, paths, shade trees, bicycle racks and exercise equipment/games.
2. The submitted Transport and Parking Impact Assessment (Issue 2, dated 23 October 2019), prepared by ARUP has addressed items 1(d) & (e) and 2 above. The report was further referred to TFNSW in accordance with the provisions of SEPP Infrastructure and additionally peer reviewed by Councils Engineer. Matters with respect of traffic have been addressed previously within this report.
  4. With respect of funding for the upgrade of the Wentworth/Baker and Wentworth/Page intersections, it is noted as follows;
    - a) A total of \$10.5 million dollars was received as part of the BATA 1 VPA for upgrade works to the Wentworth / Page Street intersection.
    - b) The estimated cost of upgrading the Wentworth / Page intersection at the time the VPA was executed was \$10.5 million dollars.
    - c) The funding agreement was amended to include upgrade works to the Baker Street intersection.
    - d) The estimated cost of upgrading the Wentworth / Baker intersection is \$8 million dollars.
    - e) There was insufficient funds received to upgrade both intersections.
    - f) Council pursued the State Government for additional funding for upgrade works to required at the Wentworth / Baker Street intersection.



- g) As at October 2020, Council is of the understanding that Transport for NSW will be undertaking upgrade works at the Wentworth / Baker Street intersection, as additional funding has been received from federal / state government.
- h) As the Wentworth / Baker Street intersection is now to be funded by the State Government, additional funding is no longer required. There is sufficient funding to cover the design and construct of the both intersection upgrades.

#### Ausgrid

A substation exists within the public domain, along the Bunnerong Road frontage of the site, in proximity to proposed Lot F and land identified as Open space 5.



Consideration has been given to the location of this infrastructure, in relation to vehicular and pedestrian access and the proposed development is unlikely to adversely affect or require any relocation of the existing substation.

Further to the above, a number of power poles and associated power lines are positioned within the public domain, along the periphery of the site to Bunnerong and Heffron Roads. Powerlines along the frontage of the site to Banks Avenue have recently been undergrounded. The proposal has been conditioned to require the undergrounding of powerlines along Bunnerong and Heffron Roads, this is consistent to Councils approach for the redevelopment of BATA 1.

The proposal was referred to Ausgrid whom did not object to the proposal and recommended standard conditions of consent be imposed, to safeguard associated infrastructure and ensure relevant future liaison between the applicant and relevant authority.

### Sydney Water

The proposal was referred to Sydney Water who noted as follows;

#### *Water Servicing*

- Water servicing should be available via a 200mm PVC water main (laid in 2016) located within the property boundary. Amplifications may be required.
- The Randwick and Maroubra supply system which serves this property should have adequate capacity, however, this is subject to change.
- Due to the scale of the proposed development, the extension and/or augmentation of our water assets may be required to service the property. Detailed requirements of these works will be covered under the Section 73 Application stage.

#### *Wastewater Servicing*

- Wastewater servicing should be available via a 375mm CI branch sewer main (laid in 1937). Amplifications and extensions may be required.
- Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets.

The proposal has been conditioned appropriately to reflect the above.

### Police

The proposal was referred to NSW Police whom raised no objection to the concept plan subject to the imposition of standard conditions of consent with respect of Crime Prevention Through Environmental Design. The proposal has been conditioned appropriately to ensure publicly accessible areas on site are designed in a manner which ensures the visibility, illumination and safety of future users of the site.

### Sydney Airports Corporation Limited (SACL)

The proposal was referred to SACL given the future height of building forms. SACL responded noting no objection to a maximum height of 49.53 metres AHD upon the subject site, inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. The proposal has been conditioned appropriately and future development shall not exceed this height.

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

The proposed development is permissible and satisfies the objectives of the R4 high density residential zone. 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 required to be notified to surrounding property owners.

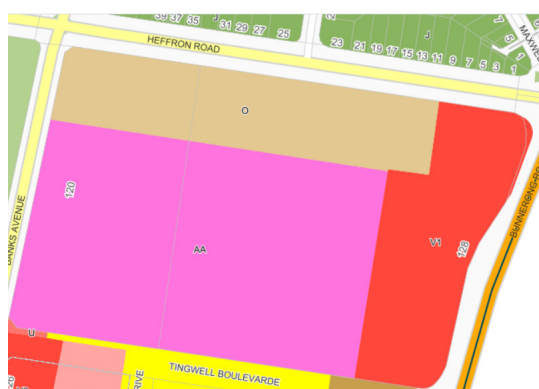
Following the public notification of the proposal a total of five (5) submissions were received by Council. The following issues were raised;

### *Demolition of General Motors building on site*

Comment: The demolition of the GM building on site was approved by a Private Certifying Authority on 23 July 2018, long prior to the submission of the subject DA.

### *Oppose height of development / Should have reduced heights along Heffron road / Height of development is excessive under flight path and dangerous*

Comment: The maximum height permissible upon the subject site was established when the site was rezoned on 22 November 2019. The site is subject to three height standards illustrated below. O (brown) = 16.6m V1 (red) = 37m & AA (purple) = 69m. As is observed below.



The majority of the site frontage along Heffron Road is subject to a lower height standard, albeit at the intersection of Bunnerong / Heffron Roads, in order to facilitate an appropriate transition with the low density residential area to the north. The north eastern corner of the site at the intersection of Bunnerong / Heffron Roads is subject to a 37m height standard, to enable buildings to address this corner and integrate with the commercial nature of the intersection opposite. The proposal was referred to Sydney Airports whom raised no objection to the concept plan or heights incorporated which adhere to the LEP standard.

### *Risk of damage to existing buildings / Vibration during construction / Sandy nature of soils and potential sinking of new and existing buildings*

Comment: The subject DA does not approve any physical construction works. All development will be the subject of future development applications which could include conditions of consent in relation to dilapidation reports, to ensure nearby properties and public domain are not adversely impacted. It is noted that the site boundaries are located some distance i.e. minimum 30m from nearby residential properties to the north of Heffron Road and east of Bunnerong Road.

### *Overdevelopment of the site / Character of area will be affected*

Comment: The proposed concept plan is consistent with the uplift in height and density granted by the rezoning of the property. The concept plan will establish objectives in addition to minimum numerical requirements and targets in order to ensure an appropriate residential character is achieved on site.

The proposal as designed is not an overdevelopment, and it is reiterated that conditions of consent will restrict the height, density of future development and ensure appropriately designed, located and accessible public spaces.

*Existing roads and infrastructure wont cope with population increase / Bus services will be unable to cope with population increase.*

Comment: The site is surrounded by a classified road network with a bus interchange located to the east of the adjoining Westfield Eastgardens site, within close proximity to the subject site. A number of bus stops with frequent bus services are located along the periphery of the site to both Bunnerong Road, Tingwell Boulevard and Heffron Road. There has been nil information submitted to substantiate the objectors claims.

*Privacy concerns for dwelling houses around the site.*

Comment: The concept plan seeks to provide 2 – 3 storey terrace / townhouse forms on the southern side of Heffron Road opposite the dwelling houses noted by the objector. The northern boundary of the subject site and the front boundary of dwelling houses opposite Heffron Road are positioned 30m apart. Front building setbacks to existing dwelling houses and those to be provided to proposed terrace / townhouse forms on site will increase this separation.

High rise developments are located further into the site and positioned in excess of 70m away from Heffron Road dwellings, with high rise development i.e. 6-7 storey along the eastern periphery of the site, positioned in excess of 80m from dwellings on the eastern side of Bunnerong Road.

Given separation distances noted above it is not considered that future development will result in adverse privacy impacts to existing residential dwellings on Heffron and Bunnerong Roads.

*Pedestrian and vehicular safety impacts on Heffron Road during construction*

Comment: A Construction Traffic Management Plan prepared by SBMG dated 16 October 2019 was submitted with the Civil Works DA for the site, which detailed the following strategies in order to maximise safety for pedestrians/cyclists in and around the site.

- *Boundary fence to limit pedestrian access to site, hoarding is not required as demolition is set back from footpath. Pedestrian access maintained throughout this stage with a traffic controller at the site entry point as required to manage site vehicle movements for increased safety to traffic using the pathway.*
- *Existing pedestrian and cyclist access along Tingwell Boulevard & surrounding streets to be maintained throughout the project. The existing cycle crossing will also be unaffected and maintained during the project. A traffic controller will increase safety for pathway users by managing the movement of vehicles in and out of the site.*

The above strategies are deemed satisfactory in order to ensure the safety of pedestrians and cyclists in and around the site during civil works which are currently occurring on site. The concept plan does not propose physical construction works. With respect of pedestrian / vehicular safety for future applications yet to be submitted, appropriate conditions of consent would be imposed on any future consent to be issued to safeguard pedestrian and vehicular safety in and around the site during the construction phase.

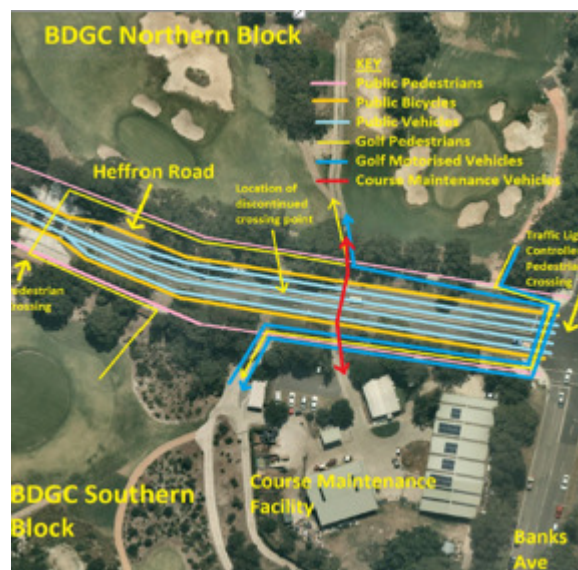
*Developer should pay for underpass on Heffron road / Recent change to Heffron Road from a 2 to 4 lane roadway (plus two dedicated cycleways) without mitigating the hazard to the public using Heffron Road and employees of Golf Course who have to traverse Heffron Road (plus two pedestrian pathways) daily with heavy equipment has placed everyone at considerable risk. The planned provision of additional density housing on the BATA site associated with this development will significantly exacerbate the situation / To*

*mitigate the risk and ensure the safety of all users of Heffron Road, Bayside Council must request the proponent, Karimbla Constructions Services (NSW) Pty Ltd, to include as a condition of the DA the construction of an underpass or, undertake to meet the full cost of an underpass (estimated to cost \$3m) / Developer should pay for cost of tunnel to link golf club sites / BDGC submits that Bayside Council make it a condition of the development to include the construction of an underpass or, that the proponent meet the full cost of the construction of the underpass.*

Comment: There is substantial history with respect of intersection upgrades to Wentworth Avenue, Page / Baker Streets in Pagewood. The club has been informed that they cannot use a pedestrian crossing to drive heavy machinery and golf carts between their sites. The club is required need to have equipment registered as vehicles through Service NSW and a myriad other measures to manage the operation of golf club.

As previously advised to the objector via correspondence from the General Manager dated 27 August 2019, Council is not currently negotiating any Voluntary Planning Agreements (VPA) which would improve access for Golf Club members across Heffron Rd.

Transport for NSW, will not approve an 'at grade' crossing at the site previously used by golf carts and equipment on Heffron Rd. The option of an under or over pass far exceeds the financial capacity of any current VPAs being considered by Council, and would require both agreement and funding from Transport for NSW.



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

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

#### **S7.11**

The redevelopment of the site will increase demand for public amenities within the area, and in accordance with Council's Section 7.11 Contributions Plan 2016 (amendment 1), future development applications which increase the density of the site are subject to conditions of consent which require the payment of the aforementioned contributions.

The proposal is subject of a draft VPA which once executed will require the payment of monetary contributions per dwelling equivalent to s7.11 contributions. As the draft VPA has not as yet been executed, in order to safeguard Council and ensure that relevant contributions can be levied the proposal has been conditioned accordingly to ensure that



the relevant contributions remain payable to Council irrespective of the execution of the draft VPA.

## **Conclusion**

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Development Application No. DA-2019/386 has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for Approval subject to the recommended conditions of consent.