

COUNCIL SUPPLEMENTARY ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-330 – DA-2024/172
PROPOSAL	BATA 2 - Lot C – Integrated Development - Tree removal, excavation, construction of a mixed-use development including three buildings comprising 7 to 13 storeys, 3 basement levels for car parking, 232 residential apartments, 2 retail premises, and associated communal recreational facilities, landscaping and servicing infrastructure.
ADDRESS	2 Tingwell Boulevard, Eastgardens
APPLICANT	Karimbla Properties (no.39) Pty Ltd
OWNER	Karimbla Properties (no.39) Pty Ltd
DA LODGEMENT DATE	01/08/2024
APPLICATION TYPE	General Development
REGIONALLY SIGNIFICANT CRITERIA	CIV >\$30 million
CIV	\$130,922,276.61
CLAUSE 4.6 REQUESTS	4.4 – FSR
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Resilience & Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Bayside LEP 2021</i> • <i>Bayside DCP 2022</i>
TOTAL & UNIQUE SUBMISSIONS	36 (two x pro forma letters & 12 unique submissions)
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural & Landscape Plans Statement of Environmental Effects

	Clause 4.6 – FSR Solar access diagrams and tables and solar analysis plans
HOUSING PRODUCTIVITY CONTRIBUTION (\$7.24)	Applicable – Conditioned
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
PLAN VERSION	Various
PREPARED BY	Fiona Prodromou – Senior Assessment Planner
DATE OF REPORT	20 May 2025

EXECUTIVE SUMMARY

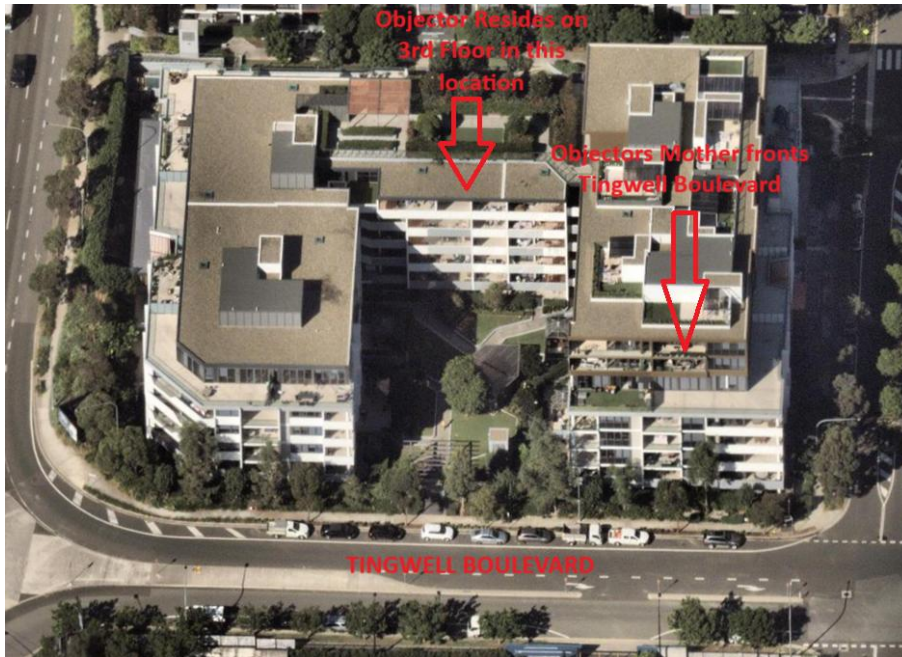
Council received Development Application No. DA-2024/172 on 01/08/2024, for the proposed redevelopment of Lot C within the BATA 2 Precinct for “*tree removal, excavation, construction of a mixed-use development including three buildings comprising 7 to 13 storeys, 3 basement levels for car parking, 232 residential apartments, 2 retail premises, and associated communal recreational facilities, landscaping and servicing infrastructure*”.

On 29 April 2025, the Sydney Eastern City Planning Panel (SECPP) (the Regional Panel) deferred the determination of the application subject to the following:

The Panel agreed to defer the determination of the matter to allow for the provision of more detailed solar analysis in respect of both the subject building and any building impacts by that building. The analysis must show the solar penetration of sun at 15 minute intervals to all units, to demonstrate the extent of compliance with the Apartment Design Guide (ADG). In this respect, understanding the solar penetration of units that don't achieve a minimum of 2 hours on the winter solstice, will be of assistance to the Panel.

Following the deferral, the applicant prepared further information to address the above. This supplementary report is an assessment of the additional solar analysis information submitted by the applicant.

It has also been clarified by the objector who was in attendance at the Regional Panel determination meeting on 29 April 2025 and raised concerns with respect of overshadowing, resides on the third floor in the location identified below. The objectors' mother also resides in the building and is identified in the location also identified below.



The solar analysis provided by the applicants confirms that the objectors property is not affected by overshadowing from the proposed redevelopment of Lot C, given the distance and location of the objectors unit from the proposed development.

Documentation submitted, further confirms solar access impacts to units in the vicinity of the objectors mothers dwelling is such that units AG08-AG10 (ground floor) and subsequent stacked above (i.e. A109-A111 / A209 - A211 etc) retain a total of 6 hours of solar access in midwinter.

Following a comprehensive assessment of the submitted information, the Assessing Officer is of the view that the proposal complies with the requirements of the ADG and the application is subsequently referred to the Regional Panel for final determination, with a recommendation for Approval as per the conditions of consent originally recommended.

ADDITIONAL INFORMATION

The following additional information was submitted by the applicant on 07/05/2025.

Lot C Shadows onto 8 Studio Drive

- *A written summary outlining the potential impact of Lot C shadows on units at 8 Studio Drive.*
- *Shadow diagrams showing the extent of Lot C shadows and identifying the affected units within 8 Studio Drive.*
- *An assessment of each affected unit at 8 Studio Drive, including a quantification of solar access received in midwinter.*
- *Solar access tally at 15-minute intervals.*

Lot F Shadows onto Lot C

- *A written summary outlining the potential impact of Lot F shadows on units within Lot C.*
- *Shadow diagrams showing the extent of Lot F shadows and identifying the affected units within Lot C.*

- An assessment of each affected unit within Lot C, including a quantification of solar access received in midwinter.

ASSESSMENT

Shadow Impact - Lot F onto Lot C

The below compliance table excerpt from the original Council assessment report has been provided for reference.

The table below established that the proposed building upon Lot C complies with the solar access requirements of Part 4A – Solar and Daylight Access of the ADG, notwithstanding shadow impacts which arose from the redevelopment of Lot F to the north of the site.

CLAUSE	DESIGN GUIDANCE	COMMENTS	COMPLIES
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (162 of 232) of apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	70% (162 of 232)	Yes
	Max 15% (34 of 232) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	14% (32 of 232)	Yes

Notwithstanding the above, an assessment of the additional information requested by the Regional Panel and submitted by the applicant has been undertaken below.

Specific consideration was given to Figure 4A.2 of the ADG illustrated below and the following “Design Guidance” within the ADG.

“To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes”



Figure 4A.2 Shading devices on balconies should shade summer sun and allow winter sun access to living areas

The midwinter shadows cast by the proposed building upon Lot F onto the proposed building upon Lot C are identified below.

MIDWINTER SHADOW IMPACT - LOT F ONTO LOT C





A summary table of the applicant's data analysis is provided below.

Level	Total Units	Total Units Impacted by Lot F	Units Impacted by Lot F that receive 2hrs sun	TEST <i>1m² above 1m for 15min</i>	Compliance <i>2Hrs Sun</i>
Ground	6	2	2	Y	2
Level 1	31	8	5	Y	19
Level 2	31	7	6	Y	20
Level 3	31	7	6	Y	21
Level 4	31	5	5	Y	21
Level 5	31	5	5	Y	21
Level 6	25	4	4	Y	20
Level 7	11	2	2	Y	9
Level 8	11	2	2	Y	9
Level 9	11	1	1	Y	9
Level 10	6	-			5
Level 11	4	-			3
Level 12	3	-			3
Total	232	43	38	38/38	162
				100%	70%

Further analysis reveals:

- A total of 43 of 232 units (18.5%) within Lot C from ground level to Level 9, are impacted by overshadowing from the proposed redevelopment of Lot F to some extent.
- Of the 43 affected units, analysis concluded that 39 of the 43 retain 2 hours solar access in midwinter with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.
- Overall, 162 of the 232 units (70%) in Lot C retain 2 hours solar with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.
- Overall 32 of the 232 units (14%) receive nil solar access. This is below the maximum of 15% (35 of the 232 units) which are permitted to receive nil solar access as per ADG.
- Overall 38 of the 232 units (16%) receive less than 2 hours of solar access in midwinter.

Based on the above analysis, the supplementary information provided by the applicant and the findings of the original assessment report, the proposed redevelopment of Lot F is not expected to diminish solar access to proposed units within the Lot C building, below the minimum requirements of the ADG.

The proposal complies with Part 4A – Solar and Daylight Access of the ADG and is therefore considered acceptable.

Shadow Impact – Lot C onto 8 Studio Drive

An assessment has been undertaken to quantify solar access for units within 8 Studio Drive and ascertain how many retain a minimum of two hours of sunlight in midwinter given the potential shadow impacts of the redevelopment of Lot C.

Specific consideration was given to Figure 4A.2 of the ADG illustrated below and the following “Design Guidance” within the ADG.

“To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes”



Figure 4A.2 Shading devices on balconies should shade summer sun and allow winter sun access to living areas

The Council Assessment Report considered by the Regional Panel on 29 April 2025 stated as follows with respect of potential overshadowing impacts from Lot C onto existing dwellings within 8 Studio Drive to the south of the site.

Consideration was given to the impact of the proposed development onto existing units within the development to the south at 8 Studio Drive.

Submitted elevational shadow, sun eye view, shadow diagrams and floor plan analysis confirm that with the construction of the proposed development, a total of 118 or 167 of units within 8 Studio Drive will retain a minimum of 2 hours solar access in midwinter, being 70.6% of dwellings within this development.

It is noted that dwellings within 8 Studio Drive also benefit from easterly or westerly orientation and thus compliance with the solar access requirements of the Apartment Design Guide remains achievable despite the proposed development directly north.

An assessment of the applicant's additional information with respect of the potential shadow impact of Lot C onto 8 Studio Drive has been undertaken below. A summary table of the applicants data analysis is provided below.

Level	Total Units	AS APPROVED 2hrs Solar in midwinter	Units Impacted by Lot C	Units Impacted by Lot C which receive 2hrs sun	TEST 1m ² above 1m for 15min	LOT C IMPACTS 2Hrs Solar Midwinter Retained
Ground	21	14	9	8	Y	14
Level 1	27	19	9	7	Y	19
Level 2	27	19	9	7	Y	19
Level 3	27	19	9	7	Y	19
Level 4	27	19	9	7	Y	19
Level 5	22	16	7	6	Y	16
Level 6	8	6	3	2	Y	6
Level 7	8	6	3	2	Y	6
Total	167	118	58	46	46/46	118
		70.7%			100%	70.7%

Further analysis reveals:

- i. A total of 58 of the 167 units (34.7%) within 8 Studio Drive are impacted by overshadowing from the redevelopment of Lot C to some extent.
- ii. Of the 58 units, a total of 12 failed to receive a minimum of 2 hours of solar access in midwinter at the time that building was approved. As such, these units are excluded from this assessment, as they were non-compliant from the outset. Accordingly, 46 affected units remain.
- iii. Of the 46 units affected by shadows from the Lot C redevelopment it is confirmed that all 46 retain a minimum of 2 hours of solar access in midwinter as outlined in the original assessment report.

Additionally, all 46 units retain a minimum of 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space at varying times of the day in midwinter.

- iv. Overall, 118 of the 167 of units (70.6%) within 8 Studio Drive retain 2 hours solar access in midwinter with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.

Given the above thorough information provided by the applicant, and as noted in the original assessment report, it is reiterated that the proposal does not generate unreasonable overshadowing impacts onto units within 8 Studio Drive.

The proposal complies with Part 4A – Solar and Daylight Access of the ADG.

RECCOMENDATION

- A. That the Sydney Eastern City Regional Planning Panel, exercising the functions of Council as the consent authority pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979 agrees with the applicant's written request justifying the contravention to clause 4.4 - Floor space ratio development standard of the Bayside Local Environmental Plan 2021. The Panel is satisfied that the applicant's written request has addressed the matters required to be demonstrated by clause 4.6 of the Bayside Local Environmental Plan 2021 and has established that compliance with the development standard would be unreasonable or unnecessary in the circumstances and that sufficient environmental planning grounds have been provided to justify the contravention of the development standard.
- B. That the Sydney Eastern City Regional Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2024/172 BATA 2 - Lot C – Integrated Development - Tree removal, excavation, construction of a mixed-use development including three buildings comprising 7 to 13 storeys, 3 basement levels for car parking, 232 residential apartments, 2 retail premises, and associated communal recreational facilities, landscaping and servicing infrastructure at 2 Tingwell Boulevard, Eastgardens by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

REASONS

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development is a permissible land use within the zone with development consent. In response to the public notification all submissions received have been reviewed and issues raised considered in this assessment. Matters raised in submissions do not warrant refusal of the proposal.

The proposal is supported for the following main reasons:

- The proposed development generally complies with the relevant environmental planning instruments and Concept Plan requirements which apply to the site.
- The proposal is permissible within the zone with development consent and satisfies the zone objectives.
- The proposal achieves and demonstrates design excellence as required by requirements of Clause 6.10 of the BLEP 2021 and was supported by the Design Excellence Panel.

- Notwithstanding the technical FSR noncompliance as discussed in this report, the proposal is of appropriate height, bulk, scale and form for the site and is consistent with the emerging desired future character of the area as envisaged by the concept plan approval.
- The proposed development is a suitable use for the subject site and its approval is in the public interest.