

COUNCIL ASSESSMENT REPORT TO PANEL

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-332 – DA-2024/169
PROPOSAL	BATA 2 - Lot J – Integrated Development - Removal of trees, retention of mature Fig tree to Heffron Road frontage of site, construction of two (2) residential apartment buildings of 7-8 storeys, including two (2) levels of basement car parking, 92 residential units, communal recreational facilities, childcare centre for 60 children, associated landscaping and roof top plant.
ADDRESS	8 Heffron Road Eastgardens (Lot 31 DP 1312041)
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	\$62,719,531.30
CLAUSE 4.6 REQUESTS	N/A
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Resilience & Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Bayside LEP 2021 • Bayside DCP 2022
TOTAL & UNIQUE	Two (2) - Original Notification

SUBMISSIONS	One (1) - Second Notification
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural & Landscape Plans Statement of Environmental Effects
HOUSING PRODUCTIVITY CONTRIBUTION (S7.24)	Applicable. Conditioned.
RECOMMENDATION	Approval subject to conditions.
DRAFT CONDITIONS TO APPLICANT	Yes
PLAN VERSION	Various
SCHEDULED MEETING DATE	29 April 2025
PREPARED BY	Fiona Prodromou – Senior Assessment Planner
DATE OF REPORT	March 2025

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

EXECUTIVE SUMMARY

In accordance with Schedule 6 subclause 2 of State Environmental Planning Policy (Planning Systems) 2021, as the proposed development has a capital investment value of greater than \$30 million, it is referred to the Regional Planning Panel for determination.

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

The subject site was previously rezoned from IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential and granted substantial uplift in height and FSR. Lot J benefits from an FSR of 2.35:1 and height standard of 37m.

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

The Concept Plan established parameters for future development including numerical requirements and objectives and incorporated Torrens title subdivision of the site, creation of building envelopes, indicative heights, numerical setbacks, maximum gross floor area, materiality of building forms, public domain interface, concept landscaping and public domain provision, car parking rates, public open space and art provision in addition to a myriad of other design measures. All relevant conditions of the Concept Plan have been complied with or can be complied with by way of condition of consent.

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

Lot J is located in the north eastern corner of the overall precinct and comprises a total site area of 4,101sq/m.

The BATA 2 Precinct benefits from numerous development approvals, of which the central development incorporating retail and residential uses Lot B has been completed. Work is currently occurring within the precinct.

The Design Excellence provisions of BLEP 2021 apply. The proposal was peer reviewed by the Design Excellence Panel on three occasions, The Panel confirmed in February 2025 that the revised scheme as presented satisfies the Design Excellence requirements of BLEP 2021 subject to minor amendments discussed in this report.

The initial proposal sought to remove an existing mature Fig tree along the site's frontage on Heffron Road. However, following negotiations with the applicant, a revised scheme was developed which preserves and integrates this existing tree on site.

The proposal includes a child care centre facility, yet the fit out of the facility and any associated signage are to be the subject of a future separate development application.

A total of two (2) submissions were received during the original public notification of the proposal, with one (1) receipted following the renotification of the revised scheme. Issues raised have been considered in this assessment report.

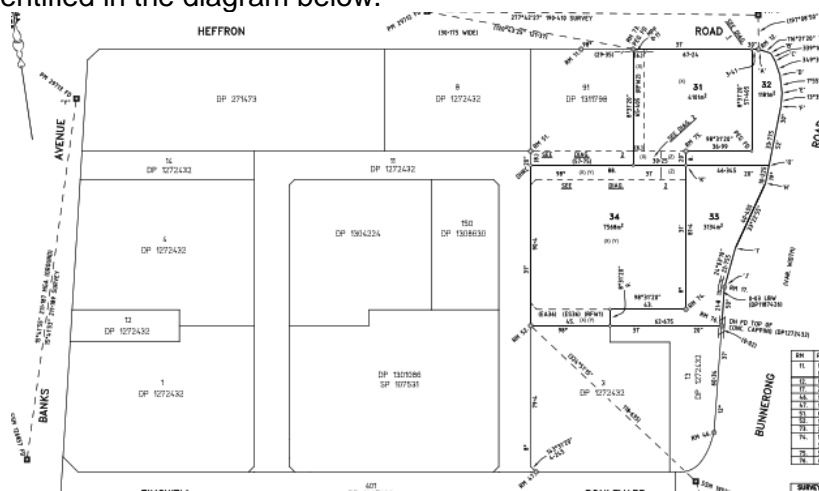
The development application (“DA”) has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* (“the Act”) and is recommended for Approval.

The officers involved in writing and authorizing this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Following a detailed assessment of the proposal, DA-2024/169 is recommended for Approval subject to the imposition of standard and specific conditions of consent.

1. THE SITE AND LOCALITY

The BATA 2 Precinct is an expansive property which has been torrens title subdivided into numerous mega lots and occupies a total area of 89,570sq/m. Lots and the precinct overall are identified in the diagram below.



Registered subdivision plan of precinct

The BATA 2 Precinct benefits from an existing concept plan approval and multiple development consents for a range of building forms and housing typologies including high rise mixed use commercial / residential towers up to 21 storeys in height and two storey residential terraces fronting Heffron Road. A range of public open space is incorporated into the precinct, including but not limited to two community parks.



Approved Concept Plan



Lot J as viewed from site looking North

Lot J is located fronting Heffron Road, directly to the west of Lot J is Lot H of which benefits from an existing approval for 14 x 3 storey townhouses with associated parking and driveway, tree removal, landscaping and the creation and embellishment of a recreation park located between Lots G and H (known as Open Space 03).

Lot J is generally flat with an approximate RL of 22AHD. A dip is located in the centre of the site, its lowest RL is 20.73AHD. This is 1.27m lower in the central portion of the site as depicted in the survey excerpt above.

On the northern side of Heffron Road are single and two storey detached low density residential dwelling forms, within the boundaries of the Randwick City Council local government area. These dwellings are located within an existing low density zone, thus the subject site is at the zone interface.



Dwellings on northern side of Heffron Road

Further to the north east and east are single / two storey commercial building forms at the intersection of Bunnerong and Heffron Roads, including an existing service station, KFC, licensed premises (i.e. pub), café's etc. Existing development on the eastern side of Bunnerong Road, a 6 lane classified road includes a 4 storey mixed use development with ground level commercial and upper level residential dwellings. Other residential building forms are primarily single / two storey dwellings and older style two storey flat buildings.



North east of site along Bunnerong Road

A range of existing trees are scattered across Lot J and within the public domain along its frontage to Heffron Road.

Council records identify that the subject site is affected by the following constraints;

- Potential Contamination
- Heritage items nearby (I155 and I66 – Local parkland)
- Flood affected

2. BACKGROUND

The BATA 2 Precinct is an expansive property which has been torrens title subdivided into numerous mega lots and occupies a total area of 89,570sq/m. On 22 November 2019 the precinct was rezoned from IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential and granted substantial uplift in height and FSR.

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

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

A Planning Agreement for the subject site was executed on 28 October 2021. The benefits of the Planning Agreement are detailed further in this report. Primary development consents to date within the precinct are as follows;

DA-2020/303 – Lot B (6 Tingwell Boulevard)

Construction of a mixed-use development comprising two residential flat buildings of 20 and 21 storeys in height containing 375 residential units, communal recreational facilities, ground floor residential and retail including supermarket, basement parking, construction & embellishment of two private roads and landscaping.

DA-2021/1 – Lot E (10 Finch Drive)

Construction of a mixed-use development comprising two residential flat buildings up to 17 storeys in height containing 296 residential units, communal recreational facilities, ground floor residential and retail, basement car parking; Publicly accessible through site pedestrian

link; removal of three trees, construction and embellishment of two private roads and a future public open space component.

DA-2021/627 – Lot A (10 Tingwell Boulevard)

Construction of two (2) mixed use buildings of 18 and 20 storeys accommodating 372 apartments, communal recreational facilities, child care centre, three (3) levels of basement car parking, associated landscaping and construction and embellishment of a private road

DA-2021/208 – Lot G (18 Heffron Road)

Construction of 42 x two (2) storey terraces with detached garages, eight (8) secondary dwellings, tree removal, landscaping and construction and embellishment of private access ways.

DA-2022/268 – Lot H & Open Space 3 (12 and 16 Heffron Road)

Construction of 14 x 3 storey townhouse development with associated parking and driveway, tree removal, landscaping and the creation and embellishment of a recreation park located between Lots G and H (known as Open Space 03)

DA-2024/172 – Lot C (2 Tingwell Boulevard) – To be determined 1 May 2025

Excavation, construction of three connected buildings of between 7 - 13 storeys. Three (3) basement levels accommodating car parking, residential apartments (232 units) together with communal recreational facilities; retail premises (2 tenancies) associated landscaping and servicing infrastructure.

DA-2024/190 - Lot D (106 Banks Avenue)

Lot D – excavation, removal of eleven (11) trees, and construction of two (2) connected buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, and construction of a private road

DA-2024/169 – Lot J (8 Heffron Road) – To be determined 29 April 2025

Construction of two (2) residential apartment buildings of 7-8 storeys, including two (2) levels of basement car parking, 92 residential units, communal recreational facilities, childcare centre for 60 children, associated landscaping, tree removal.

DA-2024/205 – Lot F (16 Studio Drive) – To be determined 1 May 2025

Removal of trees, excavation, and construction of three (2) connected buildings of 6-13 storeys comprising two (2) levels of basement car parking, 224 residential units, communal recreational facilities, associated landscaping, and construction of a private road.

3. THE PROPOSAL

The proposed development seeks to undertake the removal of trees, retain the existing mature Fig tree to the Heffron Road frontage of site, construct two (2) residential apartment buildings of 7-8 storeys, including two (2) levels of basement car parking, 92 residential units (22 x 1 bed / 51 x 2 bed / 19 x 3+ bed), communal recreational facilities, childcare centre for 60 children, associated landscaping and roof top plant. The proposal is described in more detail below.

Tree Removal

The proposal seeks to remove 36 trees from within Lot J and 9 trees along the Heffron Road public domain frontage of the site to facilitate future public domain upgrade works.

Basement 2

72 car spaces, 4 motorcycle spaces, bicycle storage, 2 x dual residential lift cores / 1 x single commercial lift and fire stairs with adjoining lobbies, residential storage, sewer pump out room, vehicular and pedestrian circulation.

Basement 1

57 car spaces, 5 motorcycle spaces, bicycle storage, 2 x dual residential lift cores / 1 x single commercial lift and fire stairs with adjoining lobbies, residential storage, various plant rooms, vehicular and pedestrian circulation and toilet facility.

Ground Floor Level

1. Child Care Centre

A 60 place child care facility with blank floor plate, incorporating indoor / outdoor connections to external play area to the north and east of the built form. Outdoor play area comprises a raised deck to facilitate retention of the existing fig tree along the Heffron Road frontage of the site. 1.8m high acoustic perforated metal panels (bronze metallic) and grey frosted glass make up the periphery fencing to the outdoor play area.

Pedestrian access to the facility is provided internally from the carparking spaces provided at ground level / basement 1 and via the Heffron Road primary frontage of the development. The fit out of the child care centre is subject to a future separate development application.

2. Residential / Communal Component

Primary communal lobby via Heffron Road frontage incorporating stair and ramp access behind building setback. Secondary residential lobby to the southern façade of the development. Mail and managers rooms incorporated into residential lobbies.

Three residential units are proposed at ground level, being 1 x 2 bed / 1 x 2bed + study and 1 x 1 bed + study. Each of these units are west facing, adjoining a landscaped pedestrian through site link into the BATA 2 precinct. POS is provided to adjoin each unit. Private open space fencing incorporates masonry base with dark grey aluminium slats to a maximum height of 1.5m.

Each unit is provided with independent pedestrian access via communal fire exits adjoining the western pedestrian through site link. Internal access from the development is also provided.

Hydrant booster incorporated into building form fronting Heffron Road. Substation incorporated into development at the southern façade adjoining the driveway entry.

Vehicular access via a 7.9m width driveway is provided to the site via an internal spur road to the south. Two car parking spaces, a loading / unloading area for a medium rigid vehicle, waste storage rooms, plant room, OSD tank and vehicular / pedestrian circulation is provided internally within the development.

Landscaped planting is provided to the southern edge of the development adjoining the secondary residential lobby and southern façade of the child care centre.

A range of landscaping is provided forward of the building line, incorporating native greening and tile paving for pedestrian access. A mix of trees, shrubs and ground covers are provided at the interface with the public footpath along Heffron Road, this is detailed in the section below.



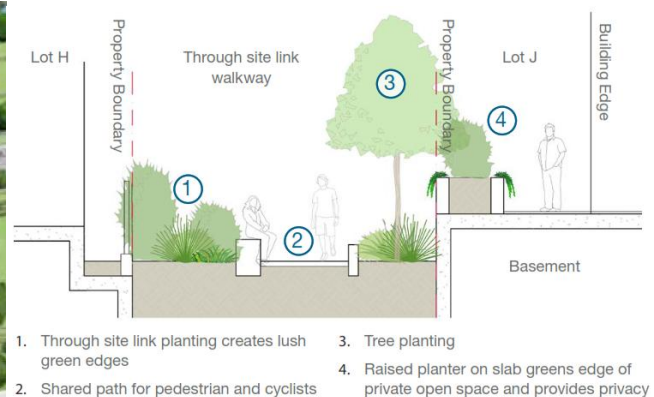
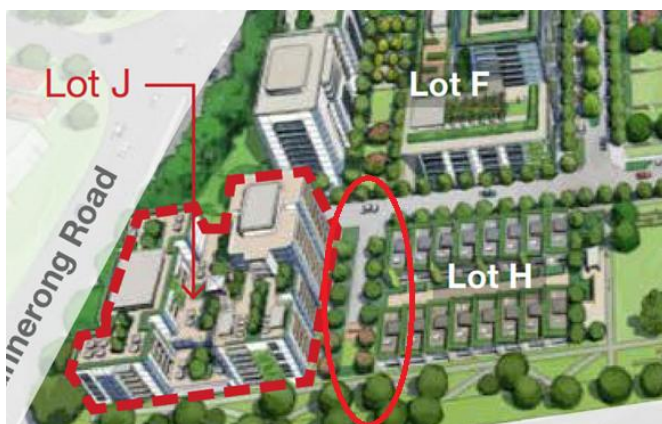
Heffron Road interface section

3. Pedestrian Through Site Link

Pedestrian through site link, from Heffron Road frontage into the site along the western side boundary. Pedestrian pathway with landscaped buffer periphery adjoining the POS the 3 proposed units within Lot J and to the west adjoining two x townhouse dwellings recently constructed within Lot H.



Through site link



Location of through site link as per approved Concept Plan & Section of Through Site Link

The through site link incorporates a shared concrete pedestrian / cyclist pathway which is level to facilitate access for persons with a disability / mobility impairment. Layered mass planting is provided adjoining building forms, incorporating trees, shrubs and ground covers. Bicycle racks and seating are provided within the through site link.

Level 1

2 x dual lift cores with associated internal pedestrian circulation, service cupboards, waste chutes and exhaust ducts. Air conditioning plant is integrated into the building form, within the western façade break of the development.

13 residential units (4 x 1 bed / 6 x 2 bed / 3 x 3 bed) with associated private open space. Several units are provided with studies. Five residential units adjoin and are provided with independent pedestrian access from their private open space areas to the level 1 communal open space. Landscaped planters with layered planting adjoin the access points and extent of terraces to these units. Private open space fencing incorporates masonry base with dark grey aluminium slats to a maximum height of 1.5m.

Primary communal open space area includes pathways, open lawn, deck area with picnic table, bench seating and extensive periphery planters (1.1m soil depth) with mass planted gardens including groundcovers, shrubs and trees. A 4.4m width x 19.7m length swimming pool, pool lounges, spa, gym, sauna and toilet facilities are provided at this level. Planters are provided to the northern periphery of the development, these incorporate cascading plants to trail over the façade to Heffron Road.

Level 2 / 3 / 4 / 5

2 x dual lift cores with associated internal pedestrian circulation, service cupboards, waste chutes and exhaust ducts. Air conditioning plant is integrated into the building form, within the western façade break of the development. Landscape planter incorporated into east facing façade break of western building adjacent to units 204/205 and subsequent above.

Building A (Western Tower)

8 x residential units with associated private open space areas.

Building B (Eastern Tower)

8 x residential units with associated private open space areas.

Level 6

2 x dual lift cores with associated internal pedestrian circulation, service cupboards, waste chutes and exhaust ducts. Air conditioning plant is integrated into the building form, within the western façade break of the development. Landscape planter incorporated into east facing façade break of western building adjacent to unit 602.

Building A (Western Tower)

8 x residential units with associated private open space areas. Communal open space area to the north fronting Heffron Road, incorporating sheltered BBQ and seating area, raised open lawn, viewing area with integrated seating orientated toward city views, picnic tables, mounded planters, integrated seating and periphery planters including groundcovers, shrubs and small trees.

Building B (Eastern Tower)

8 x residential units with associated private open space areas. Communal open space area to the centre of the development oriented north south. This space incorporates sheltered bbq area on decking with picnic tables, mounded planters, integrated seating and periphery planters including groundcovers, shrubs and small trees. A community garden area is also provided.

An enclosed services area is provided at this level to house air conditioning units for this building.

Level 7

Dual lift core with associated internal pedestrian circulation, service cupboards, waste chutes and exhaust ducts. Air conditioning plant integrated into the building form, within the western façade break of the development. Landscape planter incorporated to northern façade of Building A (western tower).

Building A (Western Tower)

4 x residential units with associated private open space areas.

Building B (Eastern Tower)

Non trafficable rooftop (access for maintenance only) incorporating solar panels, building parapet, services enclosure (hot water / fans) and lift / stair overrun.

Level 8

Building A (Western Tower)

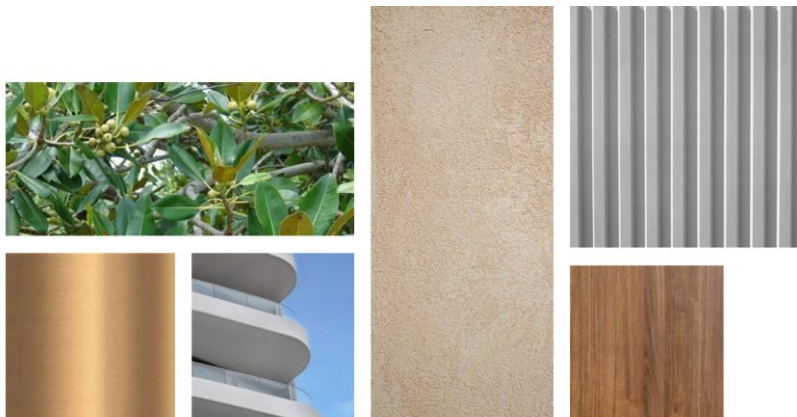
Non trafficable rooftop (access for maintenance only) incorporating solar panels, building parapet, services enclosure (hot water / fans) and lift / stair overrun.

Periphery of Development

A range of landscaping and public domain treatments are proposed within deep soil setbacks along the periphery of the development including a mix of native and exotic and tree, shrub and hedge planting.

Materials / Finishes

The proposal incorporates a range of contemporary materials to provide colour, texture and visual interest to the proposed development. Colours, finishes and treatments are depicted below and incorporate painted finishes, wall cladding in timber look, ribbed concrete and tinted concrete stain. Fencing incorporates grey frosted glass, dark grey metal slats and acoustic perforated metal panel in a bronze.



Materials Palette



*Photomontage of proposal viewed from Heffron Road
(Fig tree to be retained and protected despite not being depicted in this photomontage)*



Photomontage of development from east

The table below is a summary of key development data for the proposed development.

Control	Proposal	
Site area	4,101sq/m sq/m	
GFA	9,533sq/m Proposed	
FSR (retail/residential)	9,083sq/m Proposed 450sq/m Proposed	
Clause 4.6 Requests	No	
No of apartments	92 (22 x 1 bed / 51 x 2 bed / 19 x 3+ bed)	
Max Height	<i>Western Building</i>	<i>Eastern Building</i>
	30.21m top lift overrun	27.46m top lift overrun
	21.92m – 28.32m to non trafficable rooftop	26.4m – 25.36m to non trafficable rooftop
Landscaped area	804sq/m of deep soil equivalent to 19.6% of the site	
Car Parking spaces	129	

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

Further to the above, the provisions of s4.23 - Concept development applications as alternative to DCP required by environmental planning instruments apply to the proposal and have been considered below.

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

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

Lot J forms part of an overall precinct of which is subject to the requirements of a Concept Plan approved on 26 November 2020 by the Sydney Eastern City Regional Planning Panel.

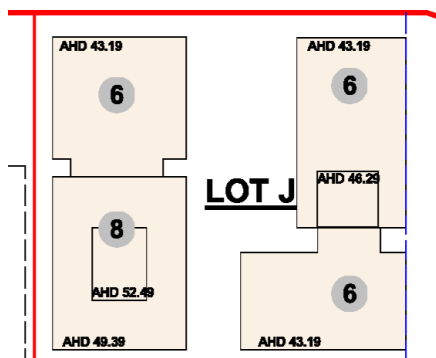
The concept plan contains the relevant information required to be included as required by BLEP 2021 and the Regulations. An assessment of the Concept plan has been carried out and forms the basis of this report. The proposal is therefore consistent with this part of the Act. An assessment against the relevant conditions of the Approved Concept Plan is provided below;

Concept Plan Conditions

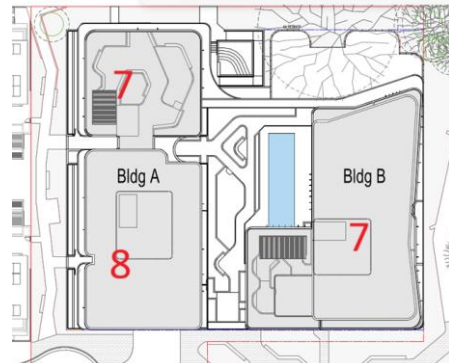
a) Condition 1 – Approved Documents

The concept plan approval incorporates indicative building storey heights, footprints, road plan and setbacks. A comparison of the indicative approved and proposed number of storeys, building footprints and setbacks is provided below.

Indicative Number of Storeys / Footprint



Proposed Number of Storeys / Footprint



As indicated above, a minor variation to the number of storeys is proposed from 6 to 7 to the eastern and north western components of the proposed building form. This is proposed following negotiations to retain the existing mature fig tree at the Heffron Road frontage of the site.

The shifting of massing and gross floor area has facilitated the retention of this tree which is deemed to be a much improved outcome than the original scheme which sought its removal.

Following a full assessment of the revised scheme and due consideration of potential impacts including overshadowing, it has been determined that nil adverse amenity impacts arise from the aforementioned design modification.

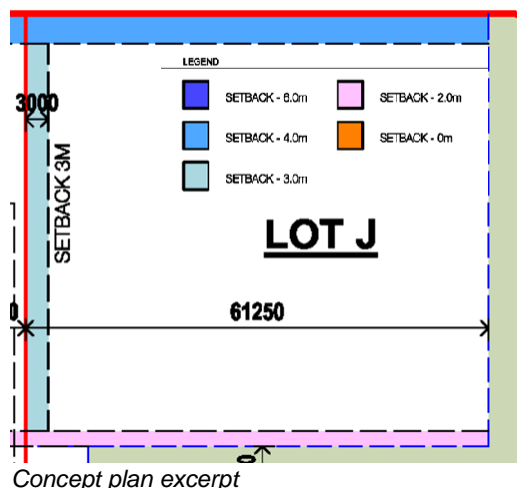
The proposal remains generally consistent with the bulk, height and scale of the envisaged future desired character of the precinct. Modifications do not result in adverse amenity or shadow impacts within Lot J, to neighbouring dwellings within Lot H to the west nor to the proposed development to the south within Lot F which is due to be determined by the Regional Panel on 2nd May 2025. Submitted elevational shadow, sun eye view and shadow diagrams confirm the aforementioned.

Units within the proposed development to the south within Lot F retain a minimum of 2 hours of solar access in midwinter to their habitable rooms as required by the Apartment Design Guide.

Further to the above it is confirmed that proposed building heights do not exceed the maximum 91m AHD Sydney Airport height restrictions and comply with the height standard for the site. The proposal is satisfactory in this regard.

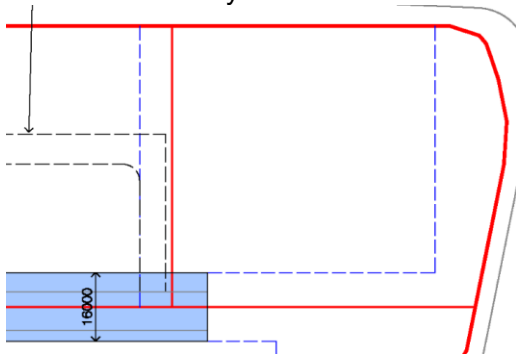
Setbacks

Setbacks as proposed, being 4m to northern, 3m to western and 2m to southern boundaries of the site, comply with the requirements of the Concept Plan.



Roadway

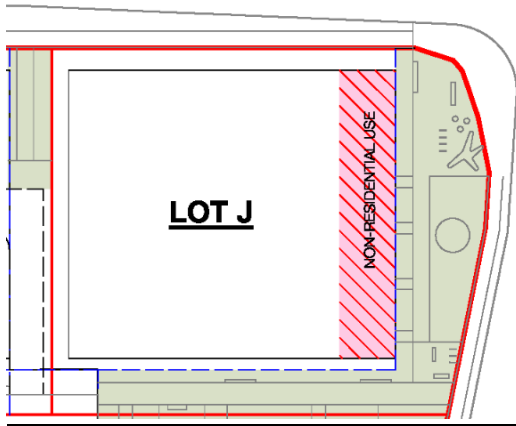
The proposed vehicular access road and its overall 8m width adjoining the south western boundary of the site is consistent with the requirements of the concept plan.



Concept plan excerpt

Non Residential Component

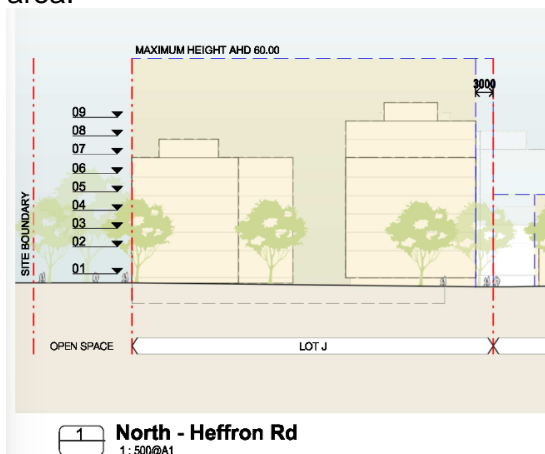
The proposal incorporates a child care centre as a '*non residential use*' in the location identified in pink below as required by the Concept Plan.



Concept Plan excerpt

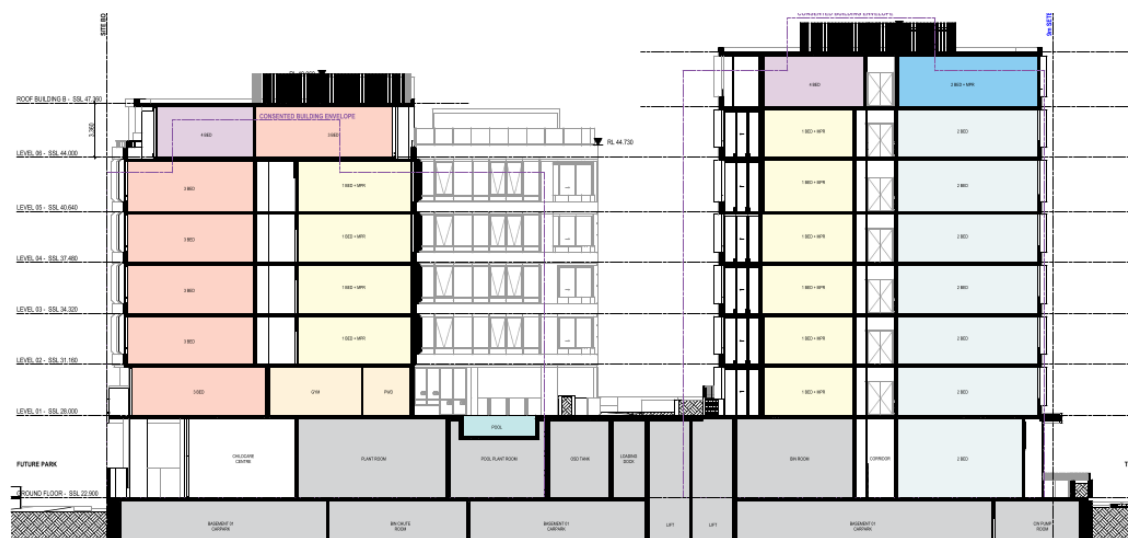
Block Section

The below block section is incorporated in the Concept Plan. This depicts a 7 and 9 storey built form. The lower built form is positioned on the eastern portion of the site in order to ensure nil adverse overshadowing impact onto low density residential dwellings on the eastern side of Bunnerong Road within the Randwick Council local government area.



Concept Plan Excerpt

The proposal as depicted below is compared to the indicative block section of the concept plan (purple hatched line).



Indicative block section of approved concept plan

Protrusions to the top levels of the indicative block section of the concept plan are evident, however as previously discussed in *Condition 1 – Approved Documents* design modifications were warranted in order to retain the existing mature Fig on site. The revised scheme is an improved outcome for the site and remains generally consistent with the indicative block section of the approved concept plan for Lot J.

b) Condition 9 – Design Excellence

The proposal was peer reviewed by the Design Excellence Panel on 3 occasions as detailed below and it was concluded in February 2025, subject to minor amendments that the final scheme achieves Design Excellence.

c) Condition 10 - Local Contributions

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

d) Condition 11 – Contamination

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

e) Condition 12 - Maximum Gross Floor Area

The maximum gross floor area of the entire BATA 2 Precinct is 210,520sq/m. The table below confirms the maximum GFA approved and proposed to date.

The proposal for Lot J adheres to and is below the anticipated overall GFA for the lot, which was envisaged at Concept Plan Stage. i.e. 11,000sq/m GFA anticipated for Lot J, 9,533sq/m as proposed. Targets are achieved by the current and subsequent applications with respect of maximum GFA on site.

DA Number	Lot	Residential GFA	Non Residential GFA	Total
DA-2020/303	B	35,269sq/m Approved	3,428sq/m Approved	38,697sq/m Approved
DA-2021/1	E	31,660sq/m Approved	505sq/m Approved	32,165sq/m Approved
DA-2021/208	G	5,635sq/m Approved	N/A	5,635sq/m Approved
DA-2021/627	A	38,428sq/m Approved	538sq/m Approved	38,966sq/m Approved
DA-2022/268	H	2,390sq/m Approved	N/A	2,390sqm Approved
DA-2024/190	D	38,570sq/m Proposed	N/A	38,570sq/m Approved
DA-2024/205	F	22,500sq/m Proposed	N/A	22,500sq/m Proposed
DA-2024/169	J	9,083sq/m Proposed	450sq/m Proposed	9,533sq/m Proposed
DA-2024/172	C	21,059sq/m Proposed	449sq/m Proposed	21,508sq/m Proposed
TOTAL				209,994sq/m

f) Condition 13 - Minimum Non Residential Gross Floor Area

A minimum of 5,000sq/m of gross floor area for non-residential purposes shall be provided across the entire BATA 2 site. The table below indicates the approved / proposed non-residential GFA to date within the precinct. Targets are achieved by the current and subsequent applications.

DA Number	Lot	Non Residential GFA
DA-2020/303	B	3,428sq/m Approved
DA-2021/1	E	505sq/m Approved
DA-2021/627	A	538sq/m Approved
DA-2024/169	J	450sq/m Proposed
DA-2024/172	C	449sq/m Proposed
<i>Total = 4,471sq/m approved + 449sq/m proposed in Lot C + 450sq/m proposed for Lot J = 5,370sq/m provided within the precinct.</i>		

g) Condition 14 - Maximum Residential Gross Floor Area

A maximum 205,520sq/m of gross floor area for residential accommodation shall not be exceeded upon the subject site. Plans indicate the provision of 9,083sq/m of residential GFA as part of the redevelopment of Lot J. The table below indicates the approved / proposed residential GFA to date. Maximum residential GFA targets are adhered to.

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

DA-2022/268	H	2,390sq/m Approved
DA-2024/190	D	38,570sq/m Proposed
DA-2024/205	F	22,500sq/m Proposed
DA-2024/169	J	9,083sq/m Proposed
DA-2024/172	C	21,059 sq/m Proposed
<i>Total = 204,594sq/m</i>		

h) Condition 17 – Sample Boards

As per the requirements of 17(b), 'two (2) sample boards containing original samples and swatches of all external materials and colours' shall be submitted. Physical samples of proposed colours, finishes and materials are required to be submitted to Council for assessment. Digital sample boards have been provided and are satisfactory with respect of this condition. The proposal has been conditioned to require the submission of physical samples post determination prior to the issue of any construction certificate.

i) Condition 19 – Ground Level Interface

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

The proposed development does not incorporate any subterranean spaces and proposes a ground floor level which no greater than 0.5m above existing ground level. The proposal incorporates appropriate steps and ramps where required to provide direct access and an appropriate interface with the adjoining public domain.

The proposal provides an appropriate interface with the public domain and finished RL for the development.

j) Condition 20 – Finished Ground Floor Level

Proposed finished ground floor levels are positioned up to a maximum of 0.5m above existing natural ground level to ensure the development is safeguarded against any potential future flooding inundation.

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

k) Condition 21 – Height of Buildings

The proposed development adheres to the maximum height standard permitted for the site. i.e. 37m maximum. The development has a maximum compliant height of building as follows.

<i>Height Standard</i>	<i>Western Building</i>	<i>Eastern Building</i>
37m	30.21m top lift overrun 21.92m – 28.32m to non trafficable rooftop	27.46m top lift overrun 26.4m – 25.36m to non trafficable rooftop

l) Condition 22 – Floor to Floor Heights

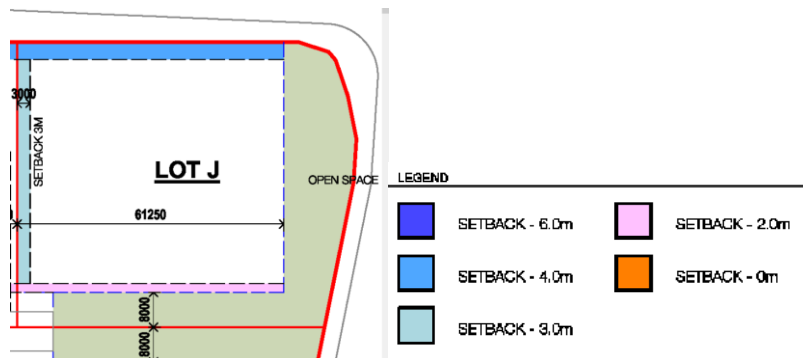
This condition requires compliance with ADG floor to floor heights. Compliance is detailed below;

Level	ADG	Proposed	Complies
Ground	4m for commercial	5.1m	Yes
Residential Levels	3.1m	3.16m & 3.36m	Yes

The proposal is satisfactory in this regard.

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

As per the requirements of this condition, basement levels must not encroach into street setback areas as depicted in various shades of blue within A0105 Rev 14— Site Setbacks Plan as approved in the Concept Plan and illustrated below indicate required deep soil setbacks of 2m to the south, 4m to the east and north and 6m to the west.



The proposal complies with and exceeds the required setbacks given the retention of the existing Fig tree along the Heffron Road frontage and provides appropriate deep soil zones along the frontages of the developable lot to facilitate appropriate landscaped planting and ensure its longevity into the future.

The proposal incorporates 804sq/m of deep soil areas for planting within Lot J, this is equivalent to 19.6% of the site area and exceeds the 15% requirement of the Apartment Design Guide. Deep soil areas within Lot J are identified in green below.



Hard paving at ground level within these deep soil zones is minimised and basement levels are positioned beyond these deep soil zones as required.

n) Condition 25 – Wind Report

A wind report prepared by Windtech dated, 11 March 2025 was submitted with the application. The report nominates recommended wind mitigation measures as follows.

Ground Level

- *Inclusion of impermeable awning over the outdoor childcare area.*
- *Inclusion of 1.5m high impermeable screening along the perimeter of the outdoor childcare area.*
- *Inclusion of densely foliating tree planting (at least 1.8m in height) within the outdoor landscaping features. Tree planting may be deciduous.*
- *Retention of proposed landscaping planters and including 1.2-1.5m high densely foliating hedges/shrubs.*
- *Inclusion of full height impermeable end screen along the western aspect of the north-western private terrace.*
- *Inclusion of 1.8m high impermeable end screen / inter-tenancy walls for all ground level terraces.*

Level 1 Communal

- *Inclusion of 1.8m high impermeable screens at the northern and southern perimeters of the communal area.*
- *Inclusion of densely foliating tree planting (at least 1.8m in height) within the outdoor landscaping features. Tree planting may be deciduous.*
- *Retention of proposed landscaping planters and including 1.2-1.5m high densely foliating hedges/shrubs.*
- *Inclusion of 1.2m high impermeable balustrades for all private balconies.*
- *Inclusion of full height impermeable end screen along the western aspect of the north-western private terrace.*

Level 6 Communal

- *Inclusion of 1.5m high impermeable screening along the perimeter of the Level 06 communal open areas.*
- *Retention of proposed landscaping planters and including 1.2-1.5m high densely foliating hedges/shrubs.*

Private Balconies

- *Inclusion of 1.2m high impermeable balustrades for all corner private balconies.*
- *Inclusion of full height impermeable end screens for western aspect of north-western corner balconies.*

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

o) Condition 26 – Reflectivity Report

An environmental glare and reflectivity assessment prepared by SLR dated 16 July 2024 was submitted with the application. The report provides an assessment of the reflectivity and glare of the proposed development to both traffic and pedestrians.

The report concluded as follows;

‘Noting that the above recommendations have all been implemented with the latest façade design of the proposed development, the detailed reflectivity assessment undertaken in this study shows that the development will cause neither Motorist Disability Glare nor Pedestrian Nuisance Glare on all surrounding public areas.’

The proposal has been conditioned to ensure the recommendations of the report are adhered to i.e. glazing to have a reflectivity coefficient not greater than 20%, landscaping surrounding the development to be retained, façade elements including setbacks, building orientations, articulations and protrusions to be retained etc.

The proposal is therefore satisfactory in this regard.

p) Condition 27 – Emergency Services Access and Egress

Documentation provided with the application confirms that emergency service vehicles can access the site in the event of an emergency situation. Sufficient turning areas and circles are provided within the site to facilitate access for such vehicles. The proposal is satisfactory in this regard.

q) Condition 28 – CPTED

The proposal was accompanied by a CPTED Assessment prepared by Meriton and dated 28 June 2024. The report identifies potential opportunities for crime and the perceived fear of crime resulting from the design of the development. It considers the proposed built form, land uses and their relationship with the surrounding environment. The aforementioned report outlines the following design measures incorporated in order to ensure CPTED has been integrated into the development.

Territorial Reinforcement

- *Establishment of a comprehensive landscape maintenance plan to ensure landscaping enforces territorial ownership.*
- *Tree planting has been located strategically to minimise opportunities for climbing.*
- *Where necessary, landscaping has been used to restrict points of access*
- *All ground level private residences have fencing to their front boundaries which clearly delineates between public and private space*

Surveillance

- *Lighting is necessary to allow passive surveillance from surrounding residences and public spaces. Lighting will deter potential offenders from committing crime and provide a level of perceived and real safety to people.*
- *Landscaping should not screen or inhibit natural lines of sight.*
- *Proposed planting on private lots, the internal laneway and through site links are compatible with CPTED and allow for passive surveillance from surrounding residential uses.*
- *Buildings are designed to a high standard and promote passive surveillance through the placement of high use areas such as living rooms and kitchens for ground floor apartments. Additionally, bedrooms have windows facing public internal and external areas allowing for all hours surveillance potential.*
- *Additionally, building design allows for constant passive surveillance to the adjoining streets and through site links, deterring any potential perpetrators of crime from entering or loitering in the area*
- *Fencing is low at building frontages to allow outward surveillance. Fencing along property boundaries is 1.8m for resident privacy but allows for surveillance from upper levels.*

Access Control

- *Landscaping has been employed across the site to create clear entry points and through site links.*
- *Landscaping has been designed to act as a boundary device between public and private land.*
- *Fencing, in conjunction with relevant landscaping, create a clear delineation between public and private space and allows for effective perimeter control.*

Space / Activity Management

- *The Strata Management will be responsible for the orderly and timely maintenance of the site.*
- *Landscaping will be maintained in accordance with the landscape management as outlined in the landscape drawings accompanying the DA. All plants will be irrigated.*

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

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

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

The proposal depicts the provision of the through site pedestrian link on site adjoining the western façade of the development and the eastern building line of approved and constructed townhouses within Lot H to the west.

The proposal has been conditioned to ensure publicly accessible through site links and access is provided on site where necessary. i.e. north south through site link to the west, vehicular / pedestrian access to the south via the proposed driveway access point to facilitate pedestrian connection to the future open space to the east of Lot J.

The proposal is satisfactory in this regard.

s) Condition 32 – Services

This condition requires that utility services be provided onsite and further that hydrants, substations and the like be provided within the building footprint.

The proposal incorporates the required substation and hydrant booster within the building footprint and adheres with this requirement. The proposal is satisfactory in this regard.

t) Condition 33 – Public Art

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

u) Condition 34 – Wayfinding Signage Strategy

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

v) Trees – Condition 41

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

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

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

The proposal complies with the intent and requirements of the above concept plan conditions, providing 30% tree canopy cover, of which 50% are endemic trees, to public domain landscaped areas, ensuring all landscaped areas on site facilitate accessible paths of travel, a cohesive mix of Australian endemic, native and low water use plant

material are incorporated and that 50% of shrubs and groundcovers used in landscaped areas comprise native vegetation. Trees and species selected are proven to perform well in the locality.

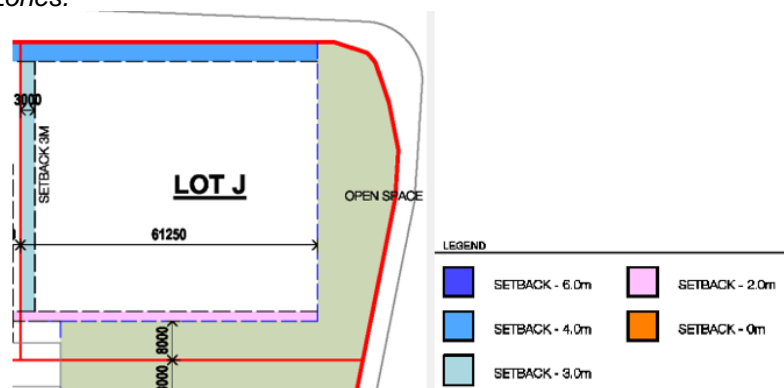
As designed, landscaping positively contributes to the proposed building form and enhances environmental performance on site. Accessible private and public landscaped areas are provided as are opportunities for interaction and recreation for a diverse community. i.e. lawn spaces, native planting etc

The proposal provides a variety of pavement treatments on site including concrete, tiled and decking surfaces. Water sensitive urban design elements are incorporated, ie. low water and low maintenance plant species. The proposal complies with and is satisfactory with regards to the subject conditions of the concept plan.

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

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

- a. *All site setbacks as depicted in various shades of blue within A0105 Rev 14 — Site Setbacks Plan, with the exception of the 3m setback adjoining Lot J to the west and those identified in Green within A0109 Rev 14— Deep Soil Plan prepared by SJB Architects, shall comprise deep soil zones.*



- b. *Soft landscape treatment with canopy cover is to be maximized within deep soil zones. Deep soil zones shall not be covered by buildings, hard surfacing or structures, except for footpaths / driveways / fire egress leading into / from buildings, plant / services required by relevant service providers and the like, of whose extent shall be minimized. Details shall be determined in Stage 2 Development Applications.*

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

i. Condition 42(c) - Planters

The intent of Condition 42(c) is the incorporation of planters to levels above 2-4 storey podium to soften facades. The condition reads as follows;

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

Plans illustrate the provision of periphery landscape planters at level 1 fronting Heffron Road and in various façade locations. Such planters incorporate a range of planting of varying height and spread, of which will be visible from the public domain and aid in providing a green element to soften facades of the development. The proposal is satisfactory with regards to this condition.

j. Condition 45 – ESD

This condition states that any future Development Application must demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases to the satisfaction of Council.

An Ecologically Sustainable Design Report (Issue H), prepared by SLR Consulting, dated 12/08/2022 was submitted with this application. This ESD plan forms part of the concept plan consent for the site.

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

<u>Initiative</u>	<u>Commitment</u>
Community Vegetable Garden	Garden bed for resident use within podium level community spaces. Proposal has been conditioned accordingly.
Composting facilities	Worm farm available for resident use to be provided within podium level community spaces. Proposal has been conditioned accordingly.
Electric Vehicles	100% of all residential parking spaces will be 'EV Ready'. Proposal has been conditioned accordingly.
Car Share	Car share spaces will be provided at a rate of 1 per 50 dwellings and 1 space per 500sqm non-residential GFA.
Bicycle Facilities	Bicycle racks and end of trip facilities will be provided. 5% of bicycle parking spaces will have access to electric bike charging.
Green Roof Tops	Podium roof tops will be planted.
WSUD	Stormwater run-off will be treated with permeable paving, road swales, car park WSUD bays and share-way WSUD bio-retention links.
Fauna and Flora	Appropriate native and low water plant species will be chosen for the planting on site.
30% Tree Canopy Cover	At least 30% of the public domain areas will have large canopy tree cover.
Solar Power	Solar panels will be provided on the roof tops to serve the common area demand.
Rainwater connected to garden	Rainwater tanks connected to the irrigation system and toilets.
Embedded Energy Network	Origin Energy has been signed up to provide an embedded energy network.
Building Management System	BMS will be included where practical
Real-time Energy Usage App	Will be provided to residents free of charge.
Lifts with regenerative drives	All lifts will have regenerative drives
Low VOC finishes	Paints, carpets and floor finishes will be low VOC.

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

k. Condition 46 – Site Specific Sustainable Travel Plan

A Green Travel Plan and Transport Access Guide is to be provided for each building proposed on site. The application was accompanied by a 'Green Travel Plan' (GTP) prepared by Genesis Traffic dated 18 July 2024.

The GTP identifies and proposes initiatives for the development which aim to influence the behaviour of residents and visitors and encourage sustainable transport options and patterns. i.e. identification and promotion of nearby public transport links, bicycle routes,

car share options, electric vehicle charging stations, monitor the use of car spaces, surveys / questionnaires of residents etc. The proposal is satisfactory with respect of this condition.

l. Condition 47 - Car Parking

This condition identifies car parking rates within the BATA 2 precinct. Parking provision greater than the maximum rate not permitted. A total of 129 car parking spaces are provided on site and are proposed to be allocated as follows;

Category	Development Type	Proposed Units	Concept Plan Rate	Required	Provided
Residential Car parking	1 bedroom/1 bed + S	22	Max 1 space per unit	22	109 Complies
	2 bedroom /2 bed + S	51	Max 1 space per unit	51	
	3 or more bedroom	19	Max 2 spaces per unit	38	
	Residential sub-total for 92 units			Max 111	
	Residential visitors	92 units total	1 space per 20 units	5	5 Complies
	Car Wash Bays	109 residential car spaces	1 space per 200 residential car parking spaces (3.5m wide)	1	0 Non compliant – Conditioned
Childcare parking	Childcare	60 children 17 staff	1 space per 2 Employees 1 pick-up and set-down space per 10 children	15 spaces (9 staff / 6 pick-up/drop-off)	15 Complies however conditioned to improve safety

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

m. Condition 48 – Loading / Unloading

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

Sufficient head height clearance is provided in order to enable waste collection on site. The proposal is satisfactory in this regard and the proposal has been conditioned to require the provision of a Loading Dock Plan of Management prior to the issue of any Occupation Certificate.

n. Condition 49 – Car Wash Bays

This condition requires the provision of 1 car wash space per 200 car spaces provided. A car wash bay is not strictly required for the development given a maximum of 129 car spaces are provided on site. Notwithstanding, to maximise future residential amenity the proposal has been conditioned to require 1 car wash space. As conditioned the proposal is satisfactory in this regard.

o. Condition 50 – Car Share

A total of three (3) car share spaces are required to be provided by the requirements of this condition, being 2 x residential and 1 x child care centre. The proposal indicates the provision of 2 car share spaces within the development and given this non compliance the proposal has been conditioned accordingly. As conditioned, the proposal is satisfactory in this regard.

p. Condition 51 - Electric Vehicle Charging

This condition requires that all residential car parking spaces for future occupants be equipped with the necessary cabling and infrastructure, so as to facilitate the simple installation of an electric vehicle charger, in the event that the future owner / occupant has an electric vehicle.

The Traffic and Transport report dated 7 February 2025 prepared by Genesis Traffic submitted with the proposal confirms the intention to ensure all residential car parking spaces be provided as EV-Ready. The proposal is satisfactory in this regard and has been conditioned accordingly.

q. Condition 52 – Bicycle Facilities

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

A total of 65 bicycle spaces are required for the overall development. The proposal provides for 4 bicycle spaces, indicating a deficiency of 61 bicycle spaces. Nil end of trip facilities are depicted on plans.

The proposal has been conditioned to ensure the relevant bicycle spaces and end of trip facilities as noted below are provided.

- i. 4 personal lockers
- ii. 1 shower
- iii. 1 bicycle repair toolkit and pump.
- iv. 1 toilet and hand washing facility.

As conditioned, the proposal is satisfactory in this regard.

r. Condition 53 – Motorbike Facilities

This Condition requires the provision of 1 motor bike space per 15 car parking spaces equating to a minimum of 9 spaces. Plans illustrate 9 motor bike spaces provided, and the proposal is satisfactory in this regard.

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

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

The development incorporates 92 residential units, being (22 x 1 bed / 51 x 2 bed / 19 x 3+ bed) dwellings. Of the aforementioned mix provided, 19 units are provided as adaptable, with level transition between indoor / outdoor areas and sufficient circulation space to accommodate mobility aids.

Additionally, 19 units within the development are designed as Silver level units, as per the Liveable Housing Design Guidelines. Silver level units incorporate design elements which accommodate ageing in place and people with higher mobility needs. i.e. more generous dimensions, benches to enable future adaptation, windows sills installed at a height that enables home occupants to view the outdoor space from either a seated or standing position etc. The proposal as designed is satisfactory with respect of this condition.

t. Condition 55 – Residential Amenity

An assessment against the relevant requirements of the Apartment Design Guide has been undertaken further in this report. The proposal is satisfactory in this regard.

u. Condition 56 – Groundwater Management

This condition requires a report prepared by a qualified Geotechnical Engineer that models the potential consequences of any proposed basement construction onto groundwater flow, flooding, building stability and groundwater levels.

A Geotechnical Investigation, prepared by Douglas Partners and dated June 2024 was submitted with the application. The report assessed subsurface conditions across the site to inform the planning and design of the proposed development. The investigation included the drilling of boreholes, cone penetration testing, installation of groundwater monitoring wells, in situ testing and laboratory testing of selected samples.

The recommendations relevant to the proposed development are include requirements for dilapidation surveys, ground water monitoring, placement of granular material for trafficability, working platforms etc.

The aforementioned report was peer reviewed by Councils Development Engineer and nil objections on findings or recommendations were raised. Based on the above, this Condition has been satisfied.

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

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

This site is located in the north eastern corner of the precinct and is affected by potential flood inundation. Accordingly, minimum habitable floor levels are required for the development.

The proposal was accompanied by a Site Flood Assessment Report prepared by WMA Water, dated 27 June 2024 which concludes as follows;

“The proposal meets the adopted flood-related planning requirements. Proposed floor levels meet the minimum floor level requirements and are protected from inundation up to the PMF. The proposed development is designed in a way that there is no requirement for an awareness strategy, active emergency response management plan, flood monitoring/warning, or an evacuation plan for the site, as the flood risks and hazard are fully mitigated to typical urban standards by the design of the buildings and roadways around the site.”

The proposal was peer reviewed by Councils Development Engineer who raised no objection to the flood modelling which has been updated to reflect the changes to the overall grading of the site since the flood modelling the original concept plan was approved.

The proposed development has been designed in accordance with the relevant flood levels required by Council and is satisfactory with respect of the relevant concept plan conditions.

w. Condition 59 – Stormwater Management

The application was accompanied by a Civil and Stormwater Report prepared by at&I pty ltd, dated 10/02/2025. Accompanying stormwater plans were also provided.

Stormwater for the development will drain via an On-Site Detention (OSD) tank which is positioned between ground and podium levels. Stormwater will subsequently drain via water quality filtration devices within the OSD prior to discharging into the private road to the south of the site and will be covered by relevant easements.

Councils development engineer reviewed the aforementioned plans and report and noted that further revisions and information are warranted to ensure consistency with submitted MUSIC modelling and the concept plan.

The proposal has been conditioned to ensure that stormwater from the proposed development can be managed in accordance with Council requirements and the approved concept plan. As conditioned the proposal is satisfactory with respect of this condition.

x. Condition 62 – Staging and Timing of Works / Dedication of Public Open Space

This condition requires that works related to Open Space 06 are to be completed prior to the issue of the Occupation Certificate of the final building in Lot J. The proposal has been conditioned to ensure compliance with the concept plan requirement.

The proposal generally satisfies the requirements of the Concept Plan.

S4.46 – Development that is Integrated Development

The development application has been lodged as Integrated Development, as an approval under the *Water Management Act 2000* is required, and specifically the development involves a temporary construction dewatering activity.

The application was referred to Water NSW for concurrence. In January 2024 Water NSW requested further information with respect of the proposed basement level of the development, its proposed depth and whether groundwater or seepage will be required. The applicant submitted additional information which was referred to Water NSW for review.

On 18 September 2024 Water NSW provided their General Terms of Approval (GTA) for the proposal and raised no objections. GTA have been incorporated within the recommended conditions of consent.

4.1 S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application.

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience & Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Bayside LEP 2021*

State Environmental Planning Policy (Planning Systems) 2021

In accordance with Schedule 6 subclause 2 of the SEPP, as the proposed development has a capital investment value of greater than \$30 million i.e. \$62,719,531.30 it is thus referred to the Regional Planning Panel for determination.

State Environmental Planning Policy (Sustainable Buildings) 2022

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 1756450M_.2. Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been recommended to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard with respect of Chapter 2 of the SEPP.

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy Amendment (Housing) 2023 (Housing Amendment SEPP) came into effect on 14 December 2023, consequently repealing State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

Relevant provisions relating to the design of residential flat development, and the application of the Apartment Design Guide are now integrated into Chapter 4 – Design of Residential Apartment Development of State Environmental Planning Policy (Housing) 2021.

Chapter 4 – Design of Residential Apartment Development

145 Referral to Design Review Panel (DRP)

The proposal was considered by Councils Design Excellence Panel on three occasions, with the final review in February 2025. At its final review the Panel deemed, subject to minor modifications to the scheme that the proposal satisfied the design excellence provisions of BLEP 2021, that the scheme was an appropriate contextual response, consistent with the intended future desired character of the locality and demonstrated design excellence subject to the recommended minor modifications.

147 Determination of development applications and modification applications for residential apartment development

The provisions of this section state that development consent must not be granted unless the consent authority has considered the following.

- a. *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- b. *the Apartment Design Guide,*
- c. *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

An assessment has been undertaken below.

Principle 1 – Context and Neighborhood Character

The Panel *“is comfortable with the proposed height under the latest proposal and is supportive of the general building forms and disposition on the site which allow for the retention of the existing fig tree.”*

Comment

The site is located within the BATA 2 Precinct. The site benefits from an R4 high density residential zoning, a 37m height limit and 2.35:1 FSR. A Concept Plan has been approved for the precinct, as previously stated.

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

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

The proposed development provides for a mixed use development at the junction of Bunnerong and Heffron Roads within Lot J. In the design of the proposed development, consideration has been given to the constraints and opportunities of the site, the context of existing and emerging development in the locality and the future desired character of the area.

The proposal as designed responds to and provides an appropriate transition in building form, height and typology upon the subject site, taking into account existing, approved and emerging built forms within the BATA 2 precinct and those anticipated to the north on the opposite side of Heffron Road within the low density residential area.

The development has been designed with façade indentations to provide visual interest and depth, vertical and horizontal elements, solid spandrels, soft curved elements, balcony articulation and fenestration to provide a contemporary building form which is consistent with the desired future character of the precinct as envisaged by the approved Concept Plan for the site.

Open space 06 is located to the east of Lot J, along with an internal access road to the south, as approved by the Concept Plan. A separate development application is currently under assessment by Council for the design of the future public open space.

Further to the above, it is reiterated that the original scheme was revised to ensure the retention of the existing mature and prominent fig tree along the Heffron Street frontage of the site. This aids in softening the built form and assists in integrating the development within its local context.

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

Principle 2 – Built Form and Scale

The Panel supported the revised built form, massing and scale of the proposal. The panel supported the retention and integration of the existing fig tree at the Heffron Road frontage of the site into the development.

Comment

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

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

The proposal incorporates a strong horizontal articulated base which is defined with tower forms above. The eastern tower is substantially setback from the Heffron Street frontage given the retention of the existing mature fig tree and the western tower protrudes forward in line with the setback requirements of the Concept Plan.

The stepped massing of the development and difference in height between tower forms reduces the visual bulk of the development. The development is further softened by the presence of the retained mature Fig tree forward of the building line. Tower forms are differentiated by their massing, height, position and external finishes which provide visual interest.

The proposal as designed complies with the FSR and Height development standards for the site, is consistent with the requirements of the concept plan, the general requirements of this principle and is thus satisfactory in this regard.

Principle 3 – Density

The Panel confirmed that the density of the proposal as revised was satisfactory for the site.

Comment

The Concept Plan approval permits a total of 210,520sq/m of gross floor area across the entire BATA 2 site. At Concept Plan stage, an indicative GFA of 11,000sq/m was envisaged for Lot J. The subject DA proposes 9,533sq/m of GFA for Lot J, which is consistent with that envisaged by the Concept Plan approval.

The quantum of gross floor area and subsequent FSR sought to be achieved on Lot J, complies with the 2.35:1 FSR standard i.e. 2.32:1 and Condition 1 of the Concept plan which restricts the overall extent of GFA across the precinct.

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

Principle 4 – Sustainability

The Panel supported the retention of the existing mature fig tree on site and noted proposed sustainability measures.

Comment

The development is oriented and designed to maximise the number of units which benefit from direct sunlight and cross ventilation and incorporates solar panels at rooftop level.

Communal corridors at residential levels are provided with natural light and opportunity for natural ventilation.

The proposal incorporates a 20,000kl rainwater tank which is conditioned to be connected to all ground floor toilet flushing, the cold water tap that supplies all ground floor clothes washing machines, the car wash bays, and the entire landscape irrigation system for non-potable stormwater re-use.

Recommended conditions of consent will require sensor controlled and zoned internal lighting within the building's car park and common areas, use of admixtures in concrete to minimise cement and reduce embodied carbon, separate circuiting for temporary power to minimal stair and corridor lighting and use of LEDs and other low energy flicker free lighting resources.

Further to the above, sustainability measures proposed within the development have been previously detailed within *Condition 45 – ESD* of this report, as sustainability commitments are enshrined in the concept plan approval for the precinct.

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

Principle 5 – Landscape

The Panel stated that as follows;

- a) *“Level 1 planters to building edge are to extend and wrap around the north-western portion of the building where ballast is currently provided to provide a consistent treatment facing Heffron Rd”.*
- b) *“The small communal seating area on the Level 1 COS, between the towers, should be revised in layout so that access to gates into adjacent units POS are not in conflict with this areas use”*

The Panel was otherwise generally supportive of the landscape design for Lot J.

Comment

Revised plans confirm compliance with the above recommendations of the Panel as follows.

- a) Planters are now provided at the level 1 periphery of the development fronting Heffron Road and wrapping to a portion of the western side of the development. The aforementioned will maximise visual amenity of the development when viewed from the public domain and assist in softening the façade.



Periphery landscape planters to level 1 building edge

- b) Plans were revised by the applicant to delete seating from this area and minimise conflict between private and communal uses.

Further to the above, it is noted that an indicative landscape plan was approved as part of the Concept Plan consent for the site. Concept plan approval documents illustrate the provision of an extensive area of publicly accessible open space to be distributed across the entire BATA 2 precinct within various stages.

An area of open space is located directly to the east of the building form of Lot J, this is colloquially known as 'Open Space 6'. A separate development application is currently under assessment by Council for Open Space 6. The area within Open Space 6 will be dedicated to Council for the purposes of public open space post completion of the development of Lot J as required by the Concept Plan and executed planning agreement on site.

The proposal for Lot J delivers as follows in compliance with the requirements of the concept plan approval.

- 30% tree canopy cover, of which 50% are endemic trees.
- All landscaped areas facilitate accessible paths of travel
- A cohesive mix of Australian endemic, native and low water use plant material is proposed.
- 50% of shrubs and groundcovers used comprise native vegetation.
- Opportunities for interaction and recreation for a diverse community are proposed i.e. gym, pool, lawn spaces etc.
- A variety of pavement treatments are proposed, including pervious surfaces, granite and tile pavers, exposed / washed aggregate concrete.
- Incorporates water sensitive urban design elements i.e. low water and low maintenance plant species.

The proposed development incorporates communal open space at levels 1 and 6 of the development. Level 1 is intended as the primary active area of communal open space and incorporates a range of facilities and spaces, including but not limited to a swimming pool with sun lounges, gym, sauna, spa, change rooms / toilet facilities, open lawn for passive recreation, deck area with picnic tables, seating nooks and raised planters with layered planting.



Level 1 COS

Level 6 communal open space areas are intended as a passive spaces, and incorporate sheltered bbq areas with seating, raised open lawn spaces, viewing areas north towards city

views, picnic tables, mounded planters, integrated seating and periphery landscaped planters.



Level 6 COS area - Western Building



Level 6 COS area - Eastern Building

As per the requirements of the concept plan, communal areas within the development are to be provided with community gardens and composting (worm farm) facilities for future residents, as required by Condition 45 – ESD of the Concept Plan consent. The aforementioned have not been detailed on landscape plans and accordingly the proposal has been conditioned to ensure their installation.

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

Further to the above, it is reiterated that the proposal incorporates 804sq/m of deep soil areas for planting within Lot J, this is equivalent to 19.6% of the site area and exceeds the 15% requirement of the Apartment Design Guide. Deep soil areas within Lot J are identified in green below.



Hard paving at ground level within these deep soil zones is minimised and basement levels are positioned beyond these deep soil zones as required. Given the above, the proposal as revised is satisfactory with respect of this principle.

Principle 6 – Amenity

The Panel stated that previous concerns raised by the panel have now been resolved. The panel noted as follows;

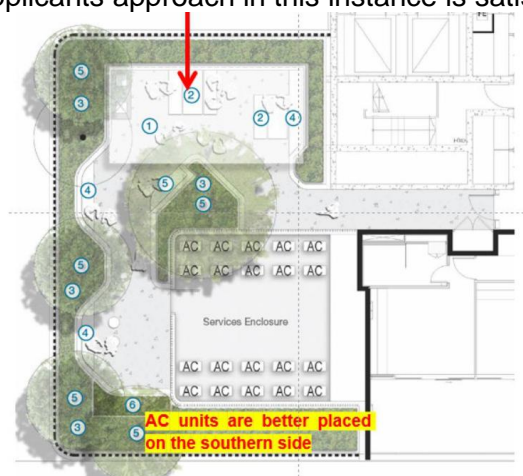
- a) *“A minor revision to the geometry of the COS on Building B, by placing the AC units in two pods against the building, may provide a more cohesive COS arrangement”.*
- b) *“A signage strategy for the location and seamless integration of commercial advertising signage in relation to the childcare centre should form part of this submission. The pylon sign should be deleted until this is provided”*

The panel were otherwise supportive of the proposal in this regard.

Council Comment

Revised plans have addressed the above items raised by the Panel as follows.

- a) Air conditioning units are retained at the southern end of the rooftop to maximize useability of the northern portion of the rooftop COS at this level and solar access to this space. The applicants approach in this instance is satisfactory.



- b) A signage strategy is not deemed necessary at this stage, any signage for the child care centre use is subject to a future development application and can be considered at a later stage.

The proposal satisfies the solar access and ventilation requirements of the Apartment Design Guide (ADG). Natural light and ventilation are also provided to communal corridors within the development, ensuring a high quality space for future occupants.

In general, unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces and rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary at basement level. Security parking is provided at basement level with direct lift access.

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

Where unit balconies adjoin the level 1 communal open space area, layered planting is provided adjoining, along with 1.8m high fencing to the periphery of private open spaces to maximise privacy and amenity.

Upper level rooftop communal open spaces accommodate small canopy trees, BBQ and seating areas. Aluminium framed awning structures, 3m in overall height are proposed above bbq areas, these comprise 45 degree angled timber look aluminium louvres to provide a canopy for weather protection. The proposal is satisfactory with respect of amenity and satisfies this principle.

Principle 7 – Safety

The Panel noted that *“The fire exit on the ground floor of the north-eastern façade into the site through link should be gated to avoid the creation of CPTED issues”*

Comment

Revised plans have addressed the above issue raised by the Panel. Plans show a secure and gated fire exit to the western side of the development, ensuring safety or security issues do not arise.

The proposal provides clearly identifiable and prominent communal lobbies, with dwellings, communal open space and car parking areas on site to be accessible via a secure electronic system. Common areas will be well lit with clearly defined and legible pathways.

Units at ground level and at levels above provide passive surveillance of adjoining public spaces and the pedestrian through site link to the west of the development.

The proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries and within basement levels and to require the provision of clear directional signage to advise users of security measures in place. The proposed design is satisfactory in this regard.

Principle 8 - Housing Diversity and Social Interaction

The Panel were supportive of the proposal with respect of this principle. Nil issues were raised at the final DRP meeting by the Panel.

Comment

The development incorporates 92 units of an appropriate mix, being 22 x 1 bed / 51 x 2 bed / 19 x 3+ bed dwellings. A varied range and size of units is provided within the development which will accommodate a varied demographic and different household types, specifically catering for larger families and family types given the unit mix provided.

The subject site is located close to existing public transport routes and local community facilities and is capable of sufficiently accommodating the proposed increase in density.

Further to the above, 19 units are provided as adaptable, with level transition between indoor / outdoor areas and sufficient circulation space to accommodate mobility aids. A total of 19 units are also designed as Silver level units, as per the Liveable Housing Design Guidelines. Silver level units incorporate design elements which accommodate ageing in place and people with higher mobility needs. i.e. more generous dimensions, benches to enable future adaptation, windows sills installed at a height that enables home occupants to view the outdoor space from either a seated or standing position etc Dwellings as proposed allow for ageing in place.

The development provides well landscaped areas on site, with communal amenities including bbq, kitchenette and toilet facilities, which will encourage social interaction and resident well being for future occupants.

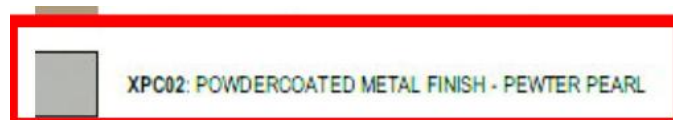
The assessing officer is supportive of the proposal in regards to this principle.

Principle 9 – Aesthetics

The Panel stated “A minor revision to the glass and mullion colours of both buildings was discussed. It was agreed that more subtle colour on the detailing, as illustrated in updated renderings, provided a better outcome.” The proposal was otherwise supportive of the proposal in its current form.

Comment

Revised plans indicate that the above matter has been resolved. A lighter colour for glass and mullions was proposed by the applicant. The following colour was selected which is considered to be appropriate.



The proposal will integrate contemporary materials including paint finishes, wall cladding, clear and tinted glazing, metal perforated screens, aluminum framed windows / doors, ribbed concrete, vertical extruding fins for sub shading etc. Selected materials are strategically located so as to differentiate the various elements of the development.



Photomontage from Heffron Road

Materials as proposed are satisfactory, and the aesthetic design of the proposal is well resolved. Materials will provide a modern, contemporary, high quality and visually appealing development on site. The proposal is satisfactory in regards to this principle.

148 Non-discretionary development standards for residential apartment development—the Act, s 4.15

The object of this section is to identify development standards for particular matters, if complied with, prevent the consent authority from requiring more onerous standards for the matters. The following are non-discretionary development standards.

- a. *the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- b. *the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,*
- c. *the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

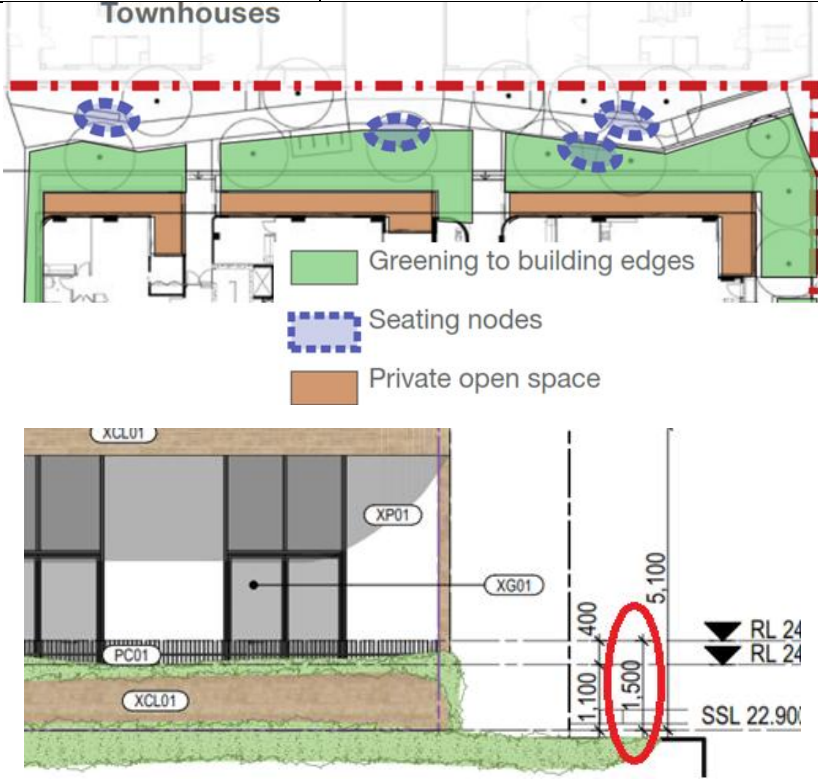
Council Comment

- a. The proposal adheres to the car parking requirements of the Concept Plan.
- b. The proposal adheres to the minimum internal area requirements of the ADG.
- c. The proposal adheres to the minimum ceiling height requirements of the ADG.

149 Apartment Design Guide prevails over development control plans

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN GUIDANCE	COMMENTS	COMPLIES
3C – Public Domain Interface	Max 1m level change from footpath to ground floor of building. Landscaping to soften building edge and interface.	Ground floor level with adjoining public domain	Yes

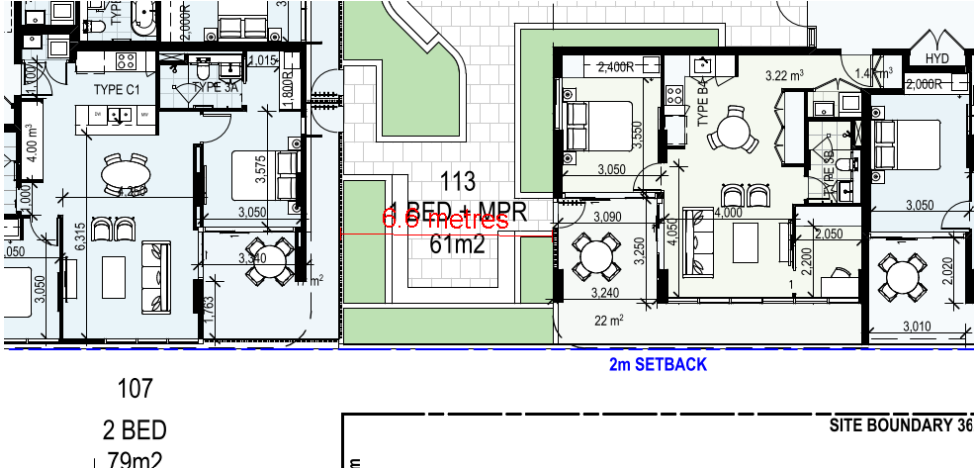
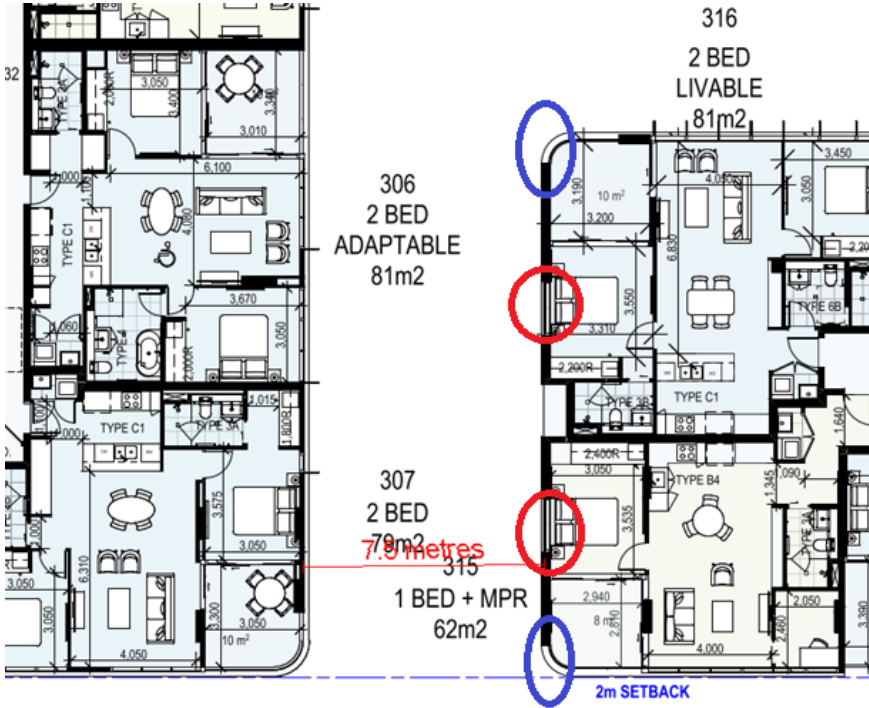
	Courtyard units to have direct street entry, where appropriate.	Direct independent access to units at ground level	Yes
	Solid element of front fences / walls along street frontage to be limited to 1m	Nil front fencing to Heffron Road. Units facing west at ground level provided with maximum 1.5m high fencing as measured from finished ground level and behind layered planting within pedestrian through link.	Yes
	<p>Townhouses</p> 		
	Mailboxes located in lobbies or integrated into front fence	Mailboxes integrated into lobby	Yes
3D - Communal Open Space	25% (1,025sq/m) of Site Area	740.6sq/m Podium 358.2sq/m Level 6 (western building) 167.2sq/m Level 6 (eastern building) Total = 1098.8sq.m	Yes
	50% (512.6q/m) of principle useable area to receive 2 hours solar access in midwinter 9am - 3pm	525.4sq/m at level 6	Yes
3E - Deep Soil Zone	15% (615sq/m) of site area Minimum Dimensions 3m	804sq/m of deep soil areas for planting within Lot J, this is equivalent to 19.6%	Yes

3F - Visual Privacy	Up to 12m (4 storeys) Hab. Rooms / Balconies – 6m	Levels 1 / 2 / 3 6.6m / 7.5m – 18.2m	Partial– Refer to discussion below.
	Up to 25m (5-8 Storeys) Hab. Rooms / Balconies – 9m	Levels 4-5 7.8m – 19.2m	Partial – Refer to discussion below.
3G – Pedestrian Access and Entries	Multiple entries provided to activate street edge	Communal residential entries activate street edge to Heffron Road and southern share way link.	Yes
	Building access clearly visible from public domain / communal spaces	Clear and recognisable building access points both vehicular and pedestrian.	Yes
	Steps / ramps integrated into building and landscape design	Level accessible entry provided to communal entries. Ramp provided behind 4m setback to Heffron Road and integrated into landscaping.	Yes
	Electronic access to manage access	Secure electronic access to be provided.	Yes
3H – Vehicular Access	Car park access integrated with building facade.	Car park access behind building line and integrated into facade	Yes
	Car park entries behind building line		
	Car park entry / access located on secondary street / lane where available	Car park and vehicular access via spur road.	Yes
	Garbage collection, loading and servicing areas screened	Waste storage and loading areas internalised	Yes
	Pedestrian / vehicle access separated and distinguishable.	Clearly identifiable and delineated pedestrian / vehicular access.	Yes
3J - Bicycle and Car Parking	Refer to assessment previously in report.		Yes
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (65 of 92) of apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	82% (75 of 92)	Yes
	Max 15% (14 of 92) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	5% (5 Units)	Yes
4B – Natural Ventilation	Min 60% (55 of 92) of apartments are naturally cross ventilated in the first nine storeys of the building.	60% (55 of 92)	Yes

	Depth of 18m max. measured glass line to glass line.	Maximum depth <18m	Yes
4C – Ceiling Heights	Habitable – 2.7m Non Habitable - 2.4m	2.4m non habitable 2.7m habitable	Yes
4D – Apartment Size and Layout	1 bed – 50sq/m	58sq/m – 65sq/m	Yes
	2 bed / 2 bath – 75sq/m	75sq/m – 90sq/m	Yes
	3 bed / 2 bath – 95sq/m	103sq/m – 105sq/m	Yes
4E – Private Open Space and Balconies	1 bed – 8sq/m 2m min depth	8sq/m	Yes
	2 bed – 10sq/m / 2m min depth	10sq/m	Yes
	3 bed – 12sq/m / 2.4m min depth	12sq/m – 14sq/m	Yes
	Ground level /Podium - min 15m ² / min depth 3m.	Unit 104 – 15sq/m Unit 105 – 16sq/m Unit 106 – 22sq/m Unit 107 – 17sq/m Unit 113 – 22sq/m	Yes
4F – Common Circulation Spaces	Max apartments off a circulation core on a single level is eight.	8 maximum off circulation core	Yes
4G – Storage <i>50% is located within apartment</i>	1 bed - 6 cubic metres	Sufficient storage internally with supplementary at basement level.	Yes
	2 bed - 8 cubic metres		
	3 bed - 10 cubic metres		
4H – Acoustic Privacy	Noise sources i.e. driveways, service areas, plant rooms, communal open spaces located at least 3m away from bedrooms	Service areas / rooms located away from residential / habitable areas	Yes
4K – Apartment Mix	Variety of apartment types provided	Variety of unit sizes and layouts provided	Yes
	Flexible apartment configurations to support diverse household types and stages of life	Range of flexible apartment options provided	Yes
	Larger apartment types located on ground / roof level where there is potential for more open space and corners where more building frontage is available	Larger units located at corner locations with generous private outdoor spaces	Yes
4L – Ground Floor Apartments	Direct street access to ground floor apartments	Direct independent access provided to units at ground floor level.	Yes

3F – Visual Privacy

As required by the Apartment Design Guide, a minimum building separation of 12m is required between habitable rooms up to 4 storeys, with 18m provided at upper levels 5-8 storeys. The proposal indicates a partial variation to the building separation requirements in the following locations.

Location	Variation
<p>Level 1</p>  <p>107 2 BED 79m²</p> <p>113 1 BED + MPR 61m²</p> <p>6.6 metres</p> <p>2m SETBACK</p> <p>SITE BOUNDARY 36</p> <p>As identified above, two units are separated 6.6m at level 1 in lieu of the required 12m. Whilst this is a variation, it is evident from the plan excerpt above that satisfactory visual amenity will be retained, given windows, doorways and balcony spaces are offset, buffer landscaping and 1.5m high screening is provided to balcony spaces at this level.</p>	<p>4.6m</p> <p>i.e. 6.6m - 7.4m in lieu of 12m.</p>
<p>Levels 2 / 3</p>  <p>306 2 BED ADAPTABLE 81m²</p> <p>307 2 BED 79m²</p> <p>316 2 BED LIVABLE 81m²</p> <p>7.8 metres</p> <p>2m SETBACK</p>	

As identified above, there are four units at level 2 and further four at level 3 of which are separated by 7.5m in lieu of 12m. Direct overlooking from bedroom windows, circled in red, is alleviated given highlight windows are provided in these locations at each level.

Whilst plans have endeavoured to offset balconies, there remain concerns with respect of visual privacy as balconies are not entirely offset. Accordingly, in the areas circled in blue above to 4 units 215/216/315/316, the proposal has been conditioned to require the addition of privacy screening to maximise visual privacy between dwellings at these levels.

Levels 4 & 5



10.2m i.e.
7.8m in lieu
of 18m

As identified above, there are four units at level 4 and further four at level 5 of which are separated by 7.8m in lieu of 18m. Direct overlooking from bedroom windows, circled in red, is alleviated given highlight windows are provided in these locations at each level.

Whilst plans have endeavoured to offset balconies, there remain concerns with respect of visual privacy as balconies are not entirely offset. Accordingly, in the areas circled in blue above to 4 units 415/416/515/516, the proposal has been conditioned to require the addition of privacy screening to maximise visual privacy between dwellings at these levels.

State Environmental Planning Policy (Biodiversity & Conservation) 2021

The SEPP applies to the proposal as the site contains trees of which consent is required for their removal given they are not exempted by Bayside DCP 2022.

The proposal seeks to remove 36 trees from within Lot J and 9 trees along the Heffron Road public domain frontage of the site to facilitate future public domain upgrade works. The following 45 trees are proposed to be removed.

Heffron Road Frontage		
Tree	Species	Height / Spread
439	Melaleuca quinquenervia	5m / 9m
440	Melaleuca quinquenervia	7m / 3m
441	Eucalyptus botryoides	18m / 20m
442 - 445	Melaleuca quinquenervia	7m / 3m
446	Melaleuca quinquenervia	7m / 2m
447	Melaleuca quinquenervia	4m

Lot J					
Tree	Species	Height / Spread	Tree	Species	Height / Spread
26	Eucalyptus microcorys	4m / 1m	289	Dead Tree	-
264	Melaleuca quinquenervia	8m / 3m	290	Eucalyptus microcorys	12m/10m
265	Casuarina glauca	11m / 4m	291	Eucalyptus microcorys	12m / 4m
266	Casuarina glauca	8m / 1m	302	Corymbia citriodora	16m / 8m
268	Casuarina glauca	12m / 6m	303	Casuarina glauca	16 / 6m
270	Casuarina glauca	12m / 5m	304	Corymbia citriodora	14m / 12m
271	Casuarina glauca	9m / 3 m	305	Corymbia citriodora	12m / 10m
272	Lophostemon confertus	7m / 3m	306	Corymbia citriodora	8m / 6m
273	Acacia binervia	12m / 5m	307	Corymbia citriodora	12m / 10m
274	Casuarina glauca	14m / 8m	308	Corymbia citriodora	12m / 12m
275	Casuarina glauca	14m / 6m	309	Corymbia citriodora	12m / 8m
276	Lophostemon confertus	7m / 3m	310	Corymbia citriodora	12m / 10m
277	Casuarina glauca	8m / 3m	311	Corymbia citriodora	12m / 12m
278	Lophostemon confertus	7m / 4m	312	Corymbia citriodora	12m / 12m
279	Lophostemon confertus	7m / 4m	348	Araucaria heterophylla	16m / 8m
280	Acacia binervia	10m / 8m	356	Casuarina glauca	11m / 3m
281	Lophostemon confertus	7m / 4m	360	Corymbia citriodora	12m / 7m
288	asuarina glauca	7m /1m	361	Corymbia citriodora	10m / 8m

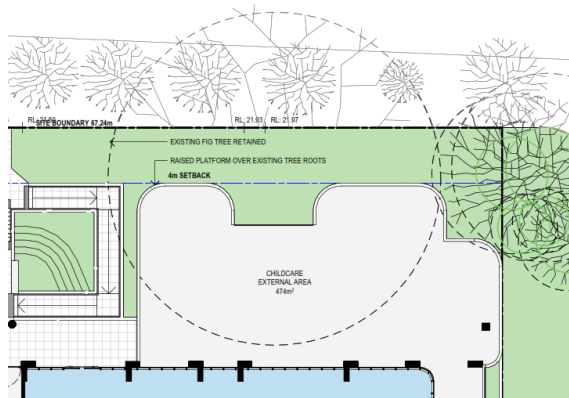
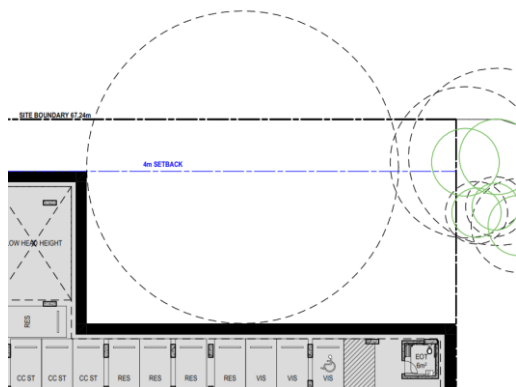
A revised Arborist report prepared by Jacksons Nature Works dated 5th February 2025 was submitted with the proposal. The report outlines the health and condition of the subject trees, their remaining life expectancy, identifies visible defects, describes trees require pruning, removal, retention or those which may represent a potential hazard. The report additionally provides recommended tree protection measures to ensure the long-term preservation of trees to be retained.

The revised proposal retains the existing mature fig (*Tree 287 Ficus microcarpa var. hillii*.) along the Heffron Road frontage as circled in red below. The canopy of T287 extends 15m to east & west, this is a healthy specimen and Council did not support its removal.

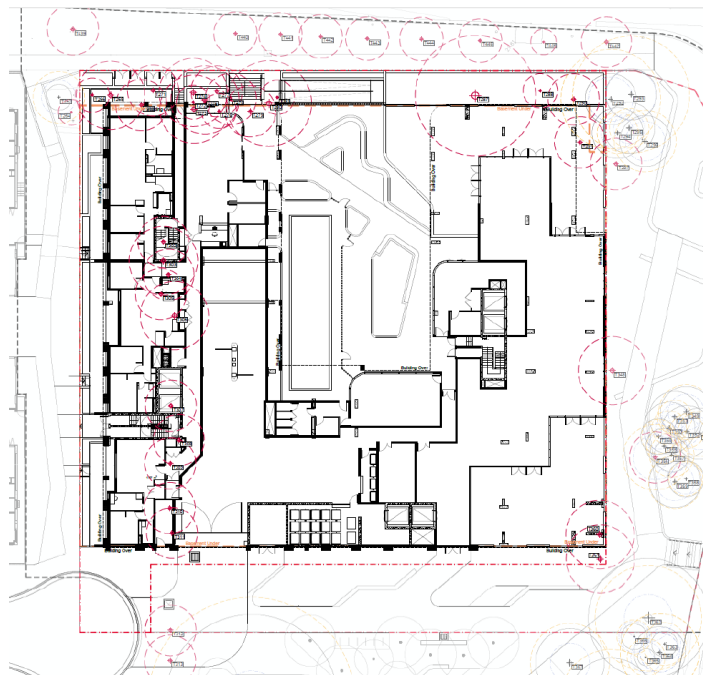


Existing mature fig fronting Heffron Road, to be retained.

Final revised plans indicate basement levels significantly setback to facilitate the tree protection zone required, with a raised platform outdoor play area incorporated at ground level to protect the roots of this tree.



Basement and Ground level Plans



Council's Tree Management Officer reviewed the submitted arborist report and revised scheme for the site. Removal of the aforementioned trees to facilitate the proposed development was deemed acceptable, subject to the imposition of standard conditions of consent to ensure sufficient landscaping is provided on site in accordance with submitted

landscape plans. The proposal has been conditioned accordingly and is satisfactory with respect of the SEPP.

State Environmental Planning Policy (Resilience & Hazards) 2021

Chapter 4 – Remediation of Land / 4.6 - Contamination and remediation to be considered in determining development application

The provisions of Chapter 4 of the SEPP have been considered in the assessment of the development application. Section 4.6 of the SEPP requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The subject site has a history of industrial uses i.e. tobacco factory. 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.

The applicant submitted the following reports associated with the application:

1. Detailed Site Investigation dated 27 November 2024 (Revision 2)
2. Site Audit Statement Interim Audit Advice – Audit Status dated 10 February 2025.

The report concluded that the site can be made suitable subject to;

- *Following the construction of the building, ambient air sampling is to be carried out in the basement to assess / validate the risk from VOC in ambient air within the basement;*
- *Soils to be disposed off-site will need to have a formal waste classification and disposal records (landfill docket and tracking registers) kept for final validation reporting purposes;*
- *Imported aggregates and landscaping products (e.g. topsoil, garden soils, mulch) are subject to assessment on suitability by an Environmental Consultant. This includes a review of supplier documentation, visual assessment and checking sampling and testing, consistent with process undertaken for other Lots within the Pagewood Green development precinct; and*
- *An unexpected finds protocol must remain in place during future civil and construction works to enable identification and management of contamination that may not have been found during the current and previous investigation stages.*

The aforementioned documents were peer reviewed by Councils Environmental Scientist who confirmed that the suitability of the site is dependent on the completion of the above recommendations.

Councils Environmental Scientist supports the proposal based on recommended conditions of consent which ensure the implementation of the recommendations above. As conditioned, the proposal satisfies the requirements of the SEPP and secures the suitability of the site for the proposed development.

State Environmental Planning Policy (Transport & Infrastructure) 2021

2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to 2.48 of the SEPP as the proposed works are within the vicinity of electricity infrastructure and therefore, in accordance with Clause 2.48(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.

The application was referred to Ausgrid on 19/08/2024 for comment. No response was provided at the time of finalizing this report. Notwithstanding conditions of consent have been

incorporated within draft conditions of consent which require the applicant to liaise with and seek the approval of the relevant authority prior to the commencement of works on site. As conditioned, the proposal is consistent with the provisions of the SEPP and acceptable in this regard.

Part 3.3 – Early Education and Care Facilities

The proposal includes a ground level component of the development for the purposes of a 60 place centre based child care facility with 17 staff. Whilst the fit out of the facility is not sought as part of this application, the use is proposed. The fit out of the child care centre will be the subject of a future application.

Notwithstanding, consideration of the SEPP requirements is necessary in order to ensure any future application is capable of compliance. Accordingly an assessment has been undertaken below.

Part 3.3 Early education and care facilities - specific development controls

3.22 - Centre-based childcare facility—concurrence of Regulatory Authority required for certain development

This provision requires the concurrence of the NSW Department of Education where indoor or outdoor unencumbered open space does not comply with the Education & Care Services National Regulations. The proposal requires and provides as follows and is compliant in this regard.

<i>Required</i>	<i>Proposed</i>	<i>Complies</i>
Indoor 130sq/m	450sq/m	Yes
Outdoor 280sq/m	474sq/m	Yes

As the proposal complies with these requirements, the concurrence of the NSW Department of Education is not required.

3.23 - Centre-based child care facility—matters for consideration by consent authorities

3.23 of the SEPP requires the consent authority to take into consideration the applicable provisions of the ***Child Care Planning Guideline***. An assessment is undertaken below.

Guideline Design Quality Principles

This Section contains 7 principles for “good design”, being: Context; Built Form; Adaptive Learning Spaces; Sustainability; Landscape; Amenity, and; Safety. The proposal is acceptable in regard to the principles, noting the following:

Part 2 – Design Quality Principles

Principle 1 – Context

Assessment

The childcare centre is located on the ground floor of a mixed use development. The facility has been designed to respond and contribute to the existing features of Lot J, with the existing mature fig integrated to adjoin the external play area of the facility positioned to the north of the development. The existing fig will provide shade and visual interest to the raised external deck play area which has been designed to protect the existing root system of this tree.

The location of the facility is at the north eastern corner of the building with outlook onto what will be a public open space to the east and front landscaped building setback to the north. The orientation of the child care centre ensures appropriate solar access throughout the year is achievable to indoor and outdoor spaces.

The facility is integrated into the building form with landscaping forward of external fencing to play areas, thus obscuring the appearance of play areas from the public domain and maximizing privacy and safety of children.

Nil residential dwellings adjoin the proposed facility and access to the centre is segregated from residential dwellings. The facility is located within proximity of residential dwellings, local open space, local commercial premises and public transport.

Principle 2 – Built Form

Assessment

The centre has been taken into consideration in the overall design, height, bulk, scale and mass of the development which has been considered previously within this report. The child care centre is integrated into the overall built form for the site and is satisfactory in this regard.

Principle 3 – Adaptive Learning Spaces

Assessment

The internal layout of the facility has not as yet been confirmed. The floor plate proposed is generous in overall area and facilitates internal and external access for the future use sought. The generous overall area and dimensions of the floor plate indicate that a variety of rooms for different uses including separate playrooms, preparation rooms and outdoor areas are capable of being provided. Such areas can include a variety of different spaces and play equipment to be ascertained in a future application. The facility as depicted is capable of compliance with this principle and the required indoor and outdoor space requirements.

Principle 4 – Sustainability

Assessment

The floor plate is designed and located so as to accommodate adequate cross ventilation with openings around the perimeter of the facility to the outdoor play area. The external play area is provided with sufficient shade to provide protection from the sun.

Principle 5 – Landscape

Assessment

The design of external play areas is not yet ascertained and will be subject to a future development application.

Principle 6 – Amenity

Assessment

The facility is oriented to the north and east of Lot J and will receive direct sunlight to indoor and outdoor areas and sufficient levels of cross ventilation given the location of window / door openings. Outdoor spaces are located to the north and east and are provided with direct, level and unimpeded access to the indoor areas and toilet facilities.

Principle 7- Safety

Assessment

Sightlines between the indoor and outdoor areas are maintained to facilitate visual surveillance of children. Access to the facility and the arrangement of outdoor play areas will be assessed as part of a future application.

Part 3 - Guideline Matters for Consideration

Section 3.1 – Site Selection & Location

This Section contains the following objectives:

- *To ensure that appropriate zone considerations are assessed when selecting a site.*
- *To ensure that the site selected for a proposed child care facility is suitable for the use.*
- *To ensure that sites for child care facilities are appropriately located.*
- *To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.*

The proposal is acceptable in relation to these objectives, noting:

Matters for consideration		
C1 – For proposed development in or adjacent to a residential zone, consider: <ul style="list-style-type: none"> - the acoustic and privacy impacts of the proposed development on the residential properties - the setbacks and siting of buildings within the residential context - traffic and parking impacts of the proposal on residential amenity. 	Y	<p>The revised noise impact assessment submitted as part of this application prepared by Acoustic Logic dated 29/01/2025 confirms that a future application for the fit out of the facility will be accompanied by a separate acoustic report which will specifically ensure that overall noise emissions and external noise intrusions comply with relevant legislative criteria.</p> <p>The facility is located appropriately within a proposed mixed use development.</p> <p>Consideration has been given by Council Engineers as to the traffic and car parking impacts of the proposal. Sufficient on site car parking is provided for the facility and adverse traffic impacts are not anticipated.</p>
C2 – Establishes criteria for selecting a site	Y	Matters regarding site suitability such as contamination and natural hazards have been considered elsewhere in this report.
C3 – To ensure that sites for child care facilities are appropriately located	Y	Site suitability is discussed below.
C4 – To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards. A child care facility should be located to avoid risks to children, staff	Y	Proposed facility is located in excess of 50m from an existing service station to the east and on the opposite side of Bunnerong Road.

<p>or visitors and adverse environmental conditions arising from proximity to:</p> <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses 		<p>The proposed facility is deemed to be sufficiently distanced to ensure risk to health or safety of future users is not adversely impacted.</p>
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Section 3.2 - Local character, streetscape and the public domain interface

This Section contains the following objectives:

- *To ensure that the child care facility is compatible with the local character and surrounding streetscape.*
- *To ensure clear delineation between the child care facility and public spaces.*
- *To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain*

The proposal is acceptable in relation to these objectives, noting:

Matters for Consideration		
<p>C5 – The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognize predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	Y	<p>The facility is integrated into the ground floor of a mixed use development on site.</p> <p>The proposal is incorporated into the overall development and will not result in any adverse impacts on the existing or future desired local character, streetscape or public domain interface.</p> <p>Acoustic screen fencing proposed to the northern and eastern periphery of the outdoor play area to mitigate adverse acoustic impact.</p> <p>The proposal includes designated car parking for the facility in compliance with the requirements of the concept plan.</p> <p>Layered landscaping is proposed adjoining the external edge of the development to the north and east thus providing an appropriate interface with the public domain.</p> <p>Accordingly, the proposal is consistent with the existing and desired future local character of the area.</p>

<p>C6 – Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing. 	Y	<p>The proposal clearly delineates between private and public areas on site.</p> <p>Outdoor play areas are clearly defined and fenced from adjoining public open space, periphery fencing is designed to integrate with adjoining landscaped public domain areas.</p> <p>Glazed areas provide for passive surveillance of public open space beyond outdoor play areas to the east and north of the development and existing landscaping on site i.e. mature fig tree to the north is integrated into landscaped areas on site.</p>
<p>C7 – On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	Y	<p>The facility is situated within a mixed use building. Its pedestrian entry point is clearly identifiable from the Heffron Road frontage of the development, adjoining the lobby to building A on site.</p> <p>Vehicular access to the facility is via the common building driveway to the south.</p>
<p>C8 – Where development adjoins public parks, open spaces or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> • clearly defined street access, pedestrian paths and building entries • low fences and planting which delineate communal/ private open space from adjoining public open space • minimal use of blank walls and high fences. 	Y	<p>The development directly adjoins Open Space 06 to the east which will be dedicated to Council for the purposes of public open space as per an existing executed Planning Agreement for the site.</p> <p>The facility is designed to clearly delineate and identify between private and public domain areas, provides appropriate fence heights and minimizes expanses of blank walls.</p>
<p>C9 – Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p>	Y	<p>All fencing is recessed a minimum of 4m from the front setback of the site to Heffron Road and positioned behind layered landscaping. Fencing is visually permeable.</p>
<p>C10 – High solid fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the walls and the</p>	Y	<p>Acoustic perforated metal fencing is proposed to the periphery of the external play area.</p> <p>Such fencing is positioned atop a raised platform (up to 1.2m above existing</p>

boundary.		<p>ground level) which protects the roots of the existing fig tree to be retained and setback a minimum of 4m from the Heffron Road frontage of the site.</p> <p>Landscaping adjoins this fencing with planting including native greening and species including birds nest ferns 1m in height, swamp banksia 2m in height, blue flax lilly 1m in height, Woolly grevillia 1.5m in height, seaberry saltbush 1.5m in height etc.</p>
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Section 3.3 – Building orientation, envelope and design

This Section contains the following objectives:

- *To respond to the streetscape and site, while optimizing solar access and opportunities for shade.*
- *To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimized.*
- *To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.*
- *To ensure that buildings are designed to create safe environments for all users.*
- *To ensure that child care facilities are designed to be accessible by all potential users.*

The proposal is acceptable in relation to these objectives, noting:

Matters for consideration		
<p>C11 – Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • Ensure visual privacy and minimize potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> • Facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties. • Placing play equipment away from common boundaries with residential properties. • Locating outdoor play areas away from residential dwellings and other sensitive uses. • Optimise solar access to internal and external play areas. • Avoid overshadowing of adjoining residential properties. 	Y	<p>A reasonable level of visual privacy will be maintained to outdoor play areas given the provision of periphery fencing and the design of the building above being a defacto awning for shade.</p> <p>The proposal does not generate adverse visual privacy impacts as there are nil directly adjoining residential neighbors at ground floor level.</p> <p>The outdoor play area is oriented to the north and east and solar access is thus optimized.</p>

<ul style="list-style-type: none"> • Minimise cut and fill. • Ensure buildings along the street frontage define the street by facing it. • Ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 		
<p>C12 – The following matters may be considered to minimize the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • Building height should be consistent with other buildings in the locality. • Building height should respond to the scale and character of the street. • Setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility. • Setbacks should provide adequate access for building maintenance. • Setbacks to the street should be consistent with the existing character. 	Y	<p>The matters identified have been considered in the assessment of this application as a whole.</p> <p>The proposed childcare centre is to be located within the ground floor level of the mixed use building subject of this application.</p> <p>Accordingly, the proposal is acceptable in this regard.</p>
<p>C13 – Where there are no prevailing setback controls minimum setback to a classified road should be 10m</p>	N/A	<p>Setbacks have been considered previously in this report and are consistent with the concept plan requirements for the site. It is noted that the eastern boundary of the child care centre facility is located in excess of 10m from Bunnerong Road which is a classified road.</p>
<p>C14 - On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	N/A	<p>The proposed child care centre is located within a mixed use building.</p>
<p>C15 - The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • Respects and responds to its 	Y	<p>The building form has been considered as part of an overall assessment in this report.</p> <p>The height, bulk, scale and massing of the development is generally consistent</p>

<p>physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage.</p> <ul style="list-style-type: none"> • Contributes to the identity of the place. • Retains and reinforces existing built form and vegetation where significant. • Considers heritage within the local neighbourhood including identified heritage items and conservation areas. • Responds to its natural environment including local landscape setting and climate. • Contributes to the identity of place. 		<p>with the concept plan requirements for Lot J.</p> <p>The retention and integration of the existing mature fig into the design of the facility is a positive contribution to the local area and context.</p>
<p>C16 – Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • Located to allow ease of access, particularly for pedestrians. • Directly accessible for the street where possible. • Directly visible from the street frontage. • Easily monitored through natural or camera surveillance. • Not accessed through an outdoor play area. • In a mixed-use development, clearly defined and separate from entrances to other uses in the building. 		<p>The pedestrian entry point to the facility is clearly identifiable from the Heffron Road frontage of the development, adjoining the lobby to building A on site. The entry to the facility is separated from residential uses within the development.</p> <p>Safe, equitable, clear and defined pedestrian access</p> <p>Vehicular access to the facility is via the common building driveway to the south.</p> <p>All entries can be easily monitored through natural and camera surveillance.</p>
<p>C17 – Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • Providing accessibility to and within the building in accordance with all relevant legislation. • Linking all key areas of the site by level or ramped pathways that are accessible to pram and wheelchairs, including between all car parking 	Y	<p>The facility is provided with direct, level and unimpeded access for persons with a disability and/or mobility impairment. Lifts and accessible pathways provide direct access.</p> <p>Graded pathways are capable of accommodating prams, doorways will be of sufficient width to comply with relevant legislative requirements and accessible amenities are carparking spaces will be</p>

<p>areas and the main building entry.</p> <ul style="list-style-type: none"> • Providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible. • Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. 		provided.
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Section 3.4 - Landscaping

This Section contains the following objective:

- *To provide landscaping design that contributes to the streetscape and amenity*

The proposal is acceptable in relation to this objective, noting:

Landscaping		
<p>C18 - Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context. • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. 	Y	<p>Council's Landscape Officer reviewed the submitted landscape plan which confirms shrub, tree and ground cover planting adjoining the external face of the northern outdoor play area on site, within the front setback to Heffron Road.</p> <p>Landscaping as proposed is designed to incorporate existing vegetation i.e. existing mature fig, and introduce a range of native species as groundcovers, shrubs and trees to complement the development.</p> <p>Planting adjoining the eastern side of the outdoor play area within Open Space 06 is considered separately as part of DA-2024/230 by Council and will ensure suitable planting is provided which can grow to an acceptable height to screen periphery boundary fencing.</p> <p>Any landscaping of outdoor play areas will be considered as part of a future development application for the child care centre facility.</p>
<p>C19 - Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings 	N/A	<p>Car Parking is located internally within the development.</p>

<ul style="list-style-type: none"> • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas 		
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Part 3.5 - Visual and Acoustic Privacy

This Section contains the following objectives:

- *To protect the privacy and security of children attending the facility*
- *To minimise impacts on privacy of adjoining properties*
- *To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments*

The proposal is acceptable in relation to these objectives, noting:

Visual and Acoustic Privacy		
C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	Y	<p>Due to the nature of the mixed use building and location of the proposed facility at ground floor level, the majority of the outdoor play area is below units above.</p> <p>Notwithstanding, it is noted that a recommendation of the submitted Wind Report prepared by Windtech dated, 11 March 2025 is the inclusion of an impermeable awning over the outdoor play area of the proposed child care facility. The inclusion of the required awning will maintain adequate visual privacy .</p>
C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design 	Y	<p>Periphery fencing to outdoor play areas and buffer landscaping to the outer face of such fencing ensures that direct overlooking into the facility from public areas does not occur.</p>
C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	Y	<p>The outdoor play area will not overlook any residential units within the complex as it is located on the ground floor level.</p>

<p>C23 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	Y	<p>Fencing proposed to the perimeter of the outdoor play area is a minimum of 1.8m above finished floor level and visually permeable. The acoustic properties of such fencing will be considered in any future application for the fit out of the facility. Fencing as proposed is capable of being modified to ensure appropriate acoustic amelioration.</p>
<p>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	Y	<p>Consideration has been given to potential acoustic amelioration for the child care facility as part of this application.</p> <p>An Acoustic Report prepared by Acoustic Logic dated 29/01/2025 was submitted with the application.</p> <p>The following acoustic amelioration measures are required to be incorporated into the construction of the proposed facility.</p> <ul style="list-style-type: none"> - 10.38mm thick glazing to windows with acoustic seals - 40mm thick solid core timber doors with acoustic seals - Masonry external walls - 1.8m – 2.1m high acoustic screening to the periphery of the external play area.

Section 3.6 - Noise & Air Pollution

This Section contains the following objectives:

- *To ensure that outside noise levels on the facility are minimised to acceptable levels.*
- *To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.*

The proposal is acceptable in relation to these objectives, noting:

Noise and Air Pollution		
C25 Adopt design solutions to	Y	Refer to discussion in Part 3.5 - Visual

minimise the impacts of noise.		and Acoustic Privacy.
C28 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed childcare facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	Y	An Air Quality Assessment prepared by SLR Consulting dated 4 April 2025 was submitted with the application, which concluded that; <i>“the risk of significant exceedances of air quality criteria at the Project site where sensitive receptors are present are concluded to be low. It is therefore concluded that the air quality requirements specified by the Transport and Infrastructure SEPP, including the requirements on 2.119 (2)(c), are satisfied and that air quality would not be a constraint for the proposed development.”</i>

Section 3.7 - Hours of Operation

This Section contains the following objective:

- *To minimise the impact of the childcare facility on the amenity of neighbouring residential developments*

The proposal is acceptable in relation to this objective, noting:

Hours of Operation		
C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	N/A	The proposed hours of operation of the facility are subject to a future development application.
C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	N/A	The proposed hours of operation of the facility are subject to a future development application.

Section 3.8 - Traffic, Parking & Pedestrian Circulation

This Section contains the following objective:

- *To provide parking that satisfies the needs of users and demand generated by the centre.*
- *To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.*
- *To provide a safe and connected environment for pedestrians both on and around the site.*

The proposal is acceptable in relation to these objectives, noting:

Traffic Parking and Pedestrian Circulation		
C31 – As the Development Control Plan stipulates parking rates this section is not applicable.	Y	The facility is provided with sufficient car parking (15 car spaces) as required by the concept plan for the BATA 2 precinct.
C32 In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	N/A	The site relies on internal parking to meet the parking requirements.
C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: <ul style="list-style-type: none"> • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. 	N/A	<p>A Traffic Impact Assessment report prepared by Genesis Traffic, dated 7 February 2025 and was submitted with the application. The report concludes that the proposed facility will generate up to 67 vehicle trips per hour (vtp/h) during road network peak periods and that this aligns with the underpinning transport assessment by ARUP, which undertook extensive micro simulation at the concept plan stage to evaluate the potential impact of the entire BATA 2 precinct redevelopment, including projection to 2031.</p> <p>The proposal was reviewed by Council's Development Engineer who confirmed that the proposed facility is unlikely to result in adverse traffic impacts and that the amenity of the area is unlikely to be adversely impacted.</p>
C34 Alternate vehicular access should be provided where child care facilities are on sites fronting: <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to: <ul style="list-style-type: none"> • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic. 	Y	Vehicular access to the development is appropriately located.
C35 Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.	Y	Safe vehicular access and egress can be provided to and from the site via the southern spur road within the precinct. Emergency vehicles are capable of accessing the subject site via Heffron Road to the north and the spur road to the south of Lot J.

<p>C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment: • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction.</p>	<p>Y</p>	<p>Car parking spaces are provided internally within the development. Council's Development Engineer has reviewed the car parking arrangement and nil objection is raised.</p> <p>Car parking as proposed consistent with requirements and can service the needs of the likely parking demand generated by the use. Accordingly, the proposal is acceptable in this regard.</p>
<p>C37 Mixed use developments should include: • driveway access, maneuvering areas and parking areas for the facility that are separate to parking and maneuvering areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site • parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</p>	<p>Y</p>	<p>Car parking areas are appropriately located and designed within the development.</p> <p>The area of parking for the centre does not conflict with the areas that are dedicated to delivery vehicles and the residential occupants.</p> <p>While access is shared between the childcare centre, residential occupants, the site has suitable access from the internal spur road to the south, which is capable of accommodating the volume of traffic likely to be generated on the site.</p> <p>The application was referred to Council's Development Engineer who raised no objections to the proposal subject to the imposition of conditions of development consent.</p>
<p>C38 Car parking design should: • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking.</p>	<p>Y</p>	<p>An accessible car parking space has been provided for the childcare centre facility within basement level 1 within close proximity to direct lift access.</p>

Applying the National Regulations to Development Proposals

Part 4 of the Guideline provides guidance for applying the national regulation to

development proposals. This includes provisions related to: assessing indoor space; storage; laundry facilities; toilet and hygiene facilities; ventilation and natural light; administration spaces; nappy changing facilities; supervision; emergency and evacuation; outdoor space requirements; natural environment; shade; fencing and soil assessment.

It is noted that a License must be issued by the NSW Department of Education, who will assess the internal layout/design in deciding whether to issue a license.

3.24 - Centre-based child care facility in certain zones - additional matters for consideration by consent authorities

The proposed childcare centre is situated on the ground floor of a mixed-use building, with residential uses above and planned public open space directly adjoining to the east. The proposed child care centre use is considered compatible with surrounding land uses and is unlikely to be significantly impacted by existing industrial land use activities.

The nearest potentially conflicting land use is an existing service station, located over 50 meters to the northeast on the opposite side of Bunnerong Road. Given this separation, along with the buffer provided by the future adjoining open space and Bunnerong Road itself, the proposed facility is deemed to be appropriately sited.

3.25 - Centre-based child care facility- Floor Space Ratio

This provision sets a maximum FSR of 0.5:1 for the childcare facility, when located within the R2 Low Density zone and in instances where an LEP or DCP does not contain a FSR standard for the childcare facility.

As a FSR standard applies to the site in accordance with Clause 4.4 of Bayside LEP 2021 and the site is zoned R4 High Density Residential, this clause does not apply to the proposal.

3.26 - Centre-based child care facility - Non- Discretionary Development Standards

The purpose of this provision is to specify matters that, *“if complied with, prevent the consent authority from requiring more onerous standards for those matters”*.

The matters specified include:

- *Location may be any distance relative to another existing or proposed early education and care facility;*
- *Indoor and outdoor space where complying with the National Regulation;*
- *Site Area (of any size); and*
- *Colour of building materials or shade structures (unless a Heritage Item or Conservation Area).*

There are no recommended conditions of consent which contravene the requirements of this provision. Accordingly, the proposal is acceptable in respect to 3.26 of the SEPP.

3.27 – Centre-based child care facility - DCPs

The purpose of this provision is to specify matters that may be in a Development Control Plan (“DCP”), such that, if so, they have no effect.

The Clause states: *“A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility-*

- (a) *operational or management plans or arrangements (including hours of operation),*

- (b) *demonstrated need or demand for childcare services,*
- (c) *proximity of facility to other early education and care facilities,*
- (d) *any matter relating to development for the purpose of a centre-based child care facility contained in—*
 - (i) *the design principles set out in Part 2 of the Child Care Planning Guideline, or*
 - (ii) *the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

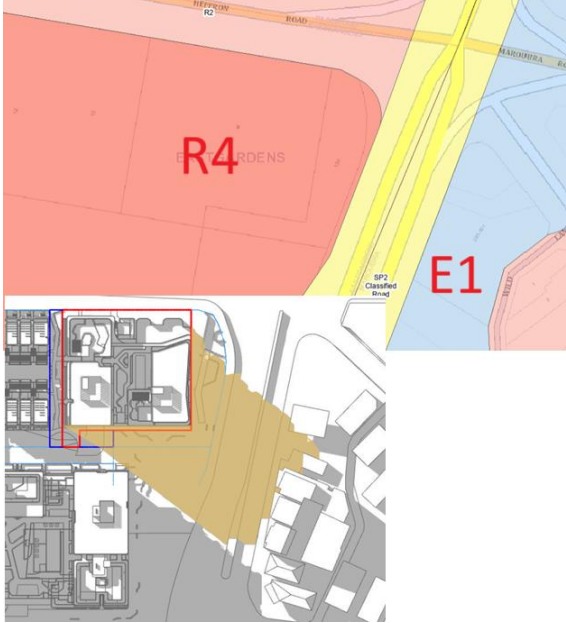
The above is noted.

Bayside Local Environmental Plan 2021

The following table outlines the relevant sections of Bayside Local Environmental Plan 2021 (“the LEP”) applicable to the proposal.

Clause	Requirement	Proposal		Compliance
2.3 – Zone	R4 – High Density Residential	Residential accommodation / Centre-based child care facilities permissible with consent		Yes
4.3 – Height of Buildings	37m	<u>Western Building</u> 30.21m top lift overrun 21.92m – 28.32m to non trafficable rooftop	<u>Eastern Building</u> 27.46m top lift overrun 26.4m – 25.36m to non trafficable rooftop	Yes
4.4 – FSR	2.35:1 9,637.35sq/m	2.32:1 9,533sq/m GFA		Yes
5.10 – Heritage Conservation	To conserve the environmental heritage of Bayside	Lot J is sufficiently distanced from the nearby heritage item Jellicoe Park. The northern boundary of Lot J which adjoins Heffron Road is in excess of 120m from this item. Given the aforementioned building forms on Lot J are unlikely to result in any adverse impact upon the item or its curtilage.		Yes
5.21 – Flood Planning	(a) To minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result	Appropriate flood mitigation measures proposed		Yes – conditioned.

Clause	Requirement	Proposal	Compliance
	<p>of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>		
6.2 – Earthworks	Ensure earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Conditions of consent have been imposed to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.	Yes
6.3 - Stormwater and WSUD	Minimise impacts of urban stormwater to adjoining properties, native bushland and receiving waters.	Stormwater mitigation measures proposed. WSUD incorporated into development i.e. rainwater used for irrigation etc.	
6.7 - Airspace Operations	The site is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24 metres)	<p>Airport approval to a maximum overall height of 91m AHD. Proposal has a maximum height of 30.21m and adheres to the aforementioned.</p> <p>Proposal conditioned accordingly.</p>	Yes
6.10 - Design Excellence	Deliver the highest standard of sustainable architectural and urban design.	Design Excellence confirmed by Councils Design Review Panel	Yes
6.11 – Essential Services	Essential services are or will be available	Existing sewer, water, electricity and gas connections are available.	Yes

Clause	Requirement	Proposal	Compliance
6.16 - Development requiring the preparation of a development control plan	To ensure that development on certain land occurs in accordance with a site-specific development control plan	<p>Assessment against Approved Concept Plan undertaken previously in this report.</p> <p>Documentation submitted confirms no additional overshadowing to low density residential buildings in R2 zone on the eastern side of Bunnerong Road between 9am and 3pm on 21 June. Minor additional shadows at 3pm onto E1 zoned land as depicted below.</p> 	Yes
6.17 - 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens—general	<p>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—</p> <ul style="list-style-type: none"> (a) residential accommodation, (b) car park, (c) telecommunications 	Refer to discussion in Condition 13 - Minimum Non Residential Gross Floor Area previously in this report.	Yes

Clause	Requirement	Proposal	Compliance
	facility.		

2.3 - Zone

The subject site is zoned R4 – High Density Residential under the provisions of Bayside Local Environmental Plan 2021 (BLEP 2021). The proposal is defined as a residential flat building and centre-based child care facility which constitutes a permissible development only with development consent.

The objectives of the zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development satisfies the objectives of the zone.

4.3 - Height of Buildings

A maximum height standard of 37m applies to the subject site. The proposal has a maximum height of 21.92m to 30.21m to the top of lift overrun of the western building which is the highest portion of the development proposed. The proposal complies with the relevant height standard.

4.4 – Floor Space Ratio

A maximum FSR standard of 2.35:1 (GFA of 9,637.35sq/m) applies to Lot J. The proposal has a maximum GFA of 9.533sq/m which equates to an FSR of 2.32:1 and complies with the FSR standard for the site.

6.10 – Design Excellence

As per the provisions of this section, development consent must not be granted to development to which this section applies unless the consent authority considers that the development exhibits design excellence.

The Design Excellence section applies to the proposal and requires that the development deliver the highest standard of architectural, urban and landscape design. Pursuant to subsection 5(a), development consent must not be granted unless a design excellence panel reviews the development and the consent authority takes into account the findings of the panel.

The proposed development was considered on three occasions by Councils Design Excellence Panel. At its final meeting in February 2025, the Design Excellence Panel confirmed that the proposal achieved Design Excellence subject to minor modifications to the scheme as discussed in the “*Chapter 4 – Design of Residential Apartment Development*” section of this report.

Amendments as noted by the panel were incorporated in the final rendition of plans and the final revised scheme has been considered against the design excellence provisions below.

- a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

Comment

The design review panel was supportive of the proposed built form on site, its design, form, materiality and streetscape response. The design of the development is responsive to its orientation and locational context.

The form and appearance of the development are consistent with the intended future desired character as per the relevant planning requirements for the site and context.

The proposal has been conditioned to require frontage works to be ascertained along the Heffron Road frontage within the public domain post determination in conjunction with Council to improve the public domain. Works to the east of the site within what will be future public open space are the subject of a separate development application.

The proposal will improve the existing quality and amenity surrounding the site.

- c) *whether the development detrimentally impacts on view corridors,*

Comment

There are no significant identified views or vistas which are detrimentally impacted by the proposed development.

- d) *The requirements of any development control plan made by the Council and as in force at the commencement of this section*

Comment

An assessment of the proposal with the relevant requirements of Bayside DCP 2022 has been undertaken further in this report. The proposal is satisfactory in this regard.

- e) *How the development addresses the following matters:*
 - i. *The suitability of the land for development,*
 - ii. *Existing and proposed uses and use mix,*
 - iii. *Heritage issues and streetscape constraints,*
 - iv. *The relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - v. *Bulk, massing and modulation of buildings,*
 - vi. *Street frontage heights,*
 - vii. *Environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - viii. *The achievement of the principles of ecologically sustainable development,*
 - ix. *Pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - x. *The impact on and any proposed improvements to, the public domain,*

- xi. *The achieving appropriate interfaces at ground level between the building and the public domain,*
- xii. *Excellence and integration of landscape design.*

Comment

- i. The suitability of the site has been discussed and previously demonstrated within this assessment report. It is reiterated that the proposal is suitable for the site.
- ii. The proposed development is permissible and satisfies the objectives of the zone as previously stated.
- iii. There are nil adverse heritage issues associated with the proposal or site. The proposal appropriately responds to the existing and future desired streetscape character as envisaged by the relevant planning controls for the site.
- iv. The proposal provides an appropriate relationship with adjoining existing and proposed development within the overall precinct and the locality as envisaged by the approved concept plan. The proposal provides compliant building separation, setbacks and ensures appropriate amenity is retained on site and to neighbouring properties. The proposed built form is an appropriate response to the existing and future desired building forms emerging within the precinct.
- v. The proposal was peer reviewed by Councils Design Review Panel on three occasions as previously stated. The bulk, massing and modulation of buildings was deemed appropriate by Councils Design Review Panel. An assessment of bulk, massing, scale and the like was previously undertaken in this report under Chapter 4 – Design of Residential Apartment Development.
- vi. The proposal provides an appropriate podium and tower street wall height and built form as envisaged by the approved concept plan for the precinct. The proposed building form is appropriately designed in order to provide human scale to the development and transition to lower density forms to the west and north of the site.
- vii. Due consideration has been given to potential environmental impacts. The proposal does not generate adverse overshadowing on site or neighbouring properties. Conditions have been imposed to minimize the reflectivity of materials and sustainability measures have been considered.
- viii. Sustainability measures have been discussed within Condition 45 – ESD of the concept plan assessment of this report. The proposal is satisfactory with respect of the achievement of the principles of ecologically sustainable development.
- ix. Consideration has been given within the design of the development to pedestrian, bicycle and vehicular access points, circulation requirements and visibility to and from these areas. The proposal is satisfactory in this regard.
- x. The proposal has been conditioned to require public domain improvements along the frontage of the site to Heffron Road. A frontage works application is required post determination. The aforementioned includes the undergrounding of overhead services, installation of lighting, landscaping and footpath works etc. Public domain works are conditioned accordingly to facilitate the improvement of the public domain.

- xi. The proposal provides for an appropriate interface at ground level to Heffron Road and the surrounding public domain.
- xii. Refer to discussion in '*Landscaping - Conditions 39, 40, 43, 44*' of the Concept Plan assessment section of this report.

The provisions of this section are deemed to be satisfied given the aforementioned and it has been demonstrated that design excellence has been achieved. The proposal is satisfactory in this regard.

6.11 – Essential Services

Services are generally available on site to facilitate to the proposed development. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

4.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft environmental planning instruments of direct relevance to the proposal.

4.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application.

Bayside Development Control Plan 2022

The following table outlines the relevant sections of the DCP applicable to the proposal.

Relevant Parts	Compliance with Objectives	Compliance with Standard / Provision
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.6 Social Amenity, Accessibility and Adaptable Design	Yes - see discussion	Yes - see discussion
3.12 Waste Minimisation and Site Facilities	Yes - see discussion	Yes - see discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes - see discussion	Yes - see discussion
3.18 Utilities and Mechanical Plant	Yes - see discussion	Yes - see discussion
PART 6 – NON-RESIDENTIAL DEVELOPMENTS		
6.8 Early Education and Childcare Facilities	Yes - see discussion	Yes - see discussion

The following Sections elaborate on Key matters from the above table.

PART 3 – GENERAL DEVELOPMENT CONTROLS

3.6 – Social Amenity, Accessibility and Adaptable Design

Equitable access is provided to, within and throughout the development including basement car parking levels, ground level and communal open space areas allowing equitable access for

persons with a disability / mobility impairment. Accessible car parking spaces and amenities are also provided within the proposal.

An Accessibility Capability Statement prepared by Design Confidency Pty Ltd dated 01/07/2024 confirms that accessibility requirements, pertaining to external site linkages, building access, common area access, sanitary facilities, parking and the like can be readily achieved.

The proposal is consistent with the requirements and objectives of this part and has been conditioned to ensure the development is capable of compliance with the relevant requirements of the Access to Premises Standards, Building Code of Australia and AS4299 – Adaptable Housing.

3.12 – Waste Minimization and Management

A Waste Minimisation and Management Plan was submitted with the application outlining methods of minimising and managing construction and ongoing waste on site. Separately defined waste storage areas are provided for the residential and child care centre components of the proposed development.

A garbage chute system is incorporated into the building design for the reception of waste material. Waste and Recycling Compartments are located on all residential floors of the building for residents to place their waste (into the chute) and their recyclables (into a 240-litre recycling bin next to the chute).

The proposal includes bin chute waste storage rooms in basement levels and a temporary on site collection area at ground level.

Representatives of the Owners Corporation will be responsible for transferring full and empty waste bins from under the chute and for transporting recycling bins from each level of the building to the waste storage room for servicing. A separate and dedicated waste storage room is provided at ground floor level for the child care facility.

Waste removal for the residential component of the development will be undertaken twice weekly with recycling collected weekly, via a dedicated loading bay for a Heavy Rigid Vehicle on site. Waste and recycling removal for the child care facility is to occur twice weekly. All waste collection is to occur on site within the development.

The size and location of the loading / unloading area is satisfactory. The proposal was reviewed by Councils Waste Officer who raised no objections to the aforementioned. The proposal is satisfactory with respect of the requirements of this part.

3.14 - Noise, Wind, Vibration and Air Quality

The proposal was accompanied by an Acoustic Report, prepared by prepared by Acoustic Logic dated 29/01/2025 for the residential component of the proposal. The report considered the potential impact of external noise intrusion i.e. traffic, mechanical plant and transfer of noise within the development between units.

The report concludes that the requirements of this part and the BCA can be achieved and appropriate residential amenity provided, subject to adherence to the recommendations made within the aforementioned report. Such recommendations include insulation to the walls, glazing and ceiling / roof of the development.

Given the above, the proposal has been conditioned to ensure recommendations of the aforementioned report are implemented on site.

3.18 - Utilities and Mechanical Plant

Appropriate site facilities are provided within the development on site. Plans indicate the provision of a substation integrated into the building form to the southern façade and a fire hydrant booster set into the northern façade of the development. Sewer, water and electricity is available for connection and the proposal has been conditioned accordingly. The proposal is satisfactory in this regard.

PART 6 – NON-RESIDENTIAL DEVELOPMENT

Part 6.8 - Early Education and Childcare Facilities

The following table responds to the objective and controls within this Part of the DCP.

Issue	Control	Compliance/comment
Objective	<i>To facilitate new childcare centres which do not unreasonably impact on the amenity of surrounding residences and provide for a safe environment for children and staff</i>	Complies, subject to recommended conditions. The proposal is acceptable in respect to amenity and provides a safe environment for children and staff. This objective is directly or indirectly considered throughout this report.
SEPP	<i>Assess against relevant SEPP</i>	Complies. Assessment previously undertaken and outlined in this report.
Parking	<i>Meet Controls in Part 3.5 of the DCP</i>	Complies. Assessment previously undertaken and outlined in this report.
Landscaped Area	<i>20% of site landscaped.</i>	Deep soil has been considered previously within this report as part of the overall redevelopment of the entire Lot J. Deep soil provision is satisfactory in this regard. i.e.19.6% site area.
Appropriate Planting	<i>Avoid inappropriate plants listed</i>	Subject to future application with respect of design of outdoor play areas.
Vehicular conflict on site	<i>Separate vehicular and pedestrian movements by fencing etc.</i>	Complies. Separately defined and clearly identified vehicular and pedestrian walkways, car parking areas and access points.
Advertising	<i>The current application does not include any signage. This will be addressed in a subsequent application.</i>	Subject to future application. Nil advertising proposed as part of current application.

4.4 Section 7.11- Development Contributions

The proposed development will increase demand for public amenities given the increase in residential density on site. In accordance with Council's contributions plan, the proposal has been conditioned to require the payment of relevant s7.11 contributions.

4.5 Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024

The Housing and Productivity Contribution was introduced on 1 October 2023. Contributions will go towards the provision of state and regional infrastructure needed to unlock development and support forecast growth, such as roads, parks, hospitals and schools.

The HPC applies to the proposed development given the establishment of new residential dwellings on site. The HPC requires the payment of \$10k per dwelling. Given transition arrangements implemented by the Department, a 25% discount will benefit the developer. The proposal has been conditioned accordingly.

4.6 Section 4.15(1)(a)(iii) – Planning agreements under Section 7.4 of the EP&A Act

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

- i. Dedication of 45 Affordable Housing Units (AHU's), with a total of 100 bedrooms.
- ii. Embellishment and dedication for public use of 14,337sq/m sqm 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 PA but was not realized 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.
- vii. Change in land tenure and further embellishment of open space land.
- viii. Public access easement to be applied over land remaining in private ownership to ensure enduring right of the public to use this area for access, leisure and recreation purposes.

The Planning Agreement was executed on 28 October 2021 and amended in May 2023 and December 2024. Conditions have been imposed to ensure the redevelopment of Lot J occurs in accordance with the requirements of the executed Planning Agreement.

4.7 Section 4.15(1)(a)(iv) - Provisions of Regulations

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

4.8 Section 4.15(1)(b) - Likely Impacts of Development

Traffic / Car Parking

As part of the assessment of previous applications for the precinct, including the original Concept Plan application and subsequent modification to the concept plan which increased residential car parking provision on site, the applicant has previously demonstrated through traffic modelling conducted by ARUP, that traffic modelling is not dependant upon parking provision, that traffic generation rates are overstated and the impact of the development upon the surrounding road network is minimal.

The proposal was subsequently reviewed by TfNSW who raised no objections to the development with respect of traffic generation, access or safety.

The proposal for Lot J was subsequently reviewed by Councils Development Engineers whom raised no concerns with regards to the level of car parking proposed or traffic generation likely to be generated.

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

Roof Plant Equipment

Plant at rooftop level is recessed from the edge of the building insofar as is practical and has been conditioned to be concealed from view by the parapet design. Roof plant is within the maximum height limit for the site and is satisfactory in this regard.

Construction Impacts

Temporary construction-related impacts do affect amenity and this is partially inevitable from demolition, excavation and constructing new works. However, these are not anticipated to unduly affect surrounding businesses or residents, with some localized impacts of relatively likely short duration. These construction-related impacts are able to be addressed by standard conditions of consent, as recommended, to reasonably manage and mitigate impacts, while allowing rational and orderly construction.

4.9 Section 4.15(1)(c) - Suitability of the Site

The proposed development is permissible, satisfies the objectives of the R4 high density residential zone and is consistent with the relevant development standards. The proposal satisfies the objectives and requirements with respect of the relevant planning instruments and there are no other known circumstances or site conditions which would deem the proposal unsuitable for the subject site.

4.10 Section 4.15(1)(d) - Public Submissions

In accordance with Bayside Development Control Plan 2021 the development application was notified to surrounding property owners. Two (2) submissions were received following the public notification of the original scheme. A further one (1) submission was received post the second notification of the revised scheme.

The following matters were raised in submissions received during both notification periods.

Loss of Trees on site / Commend the retention of the mature fig tree (287)

Comment: The proposal has been revised to retain the existing mature fig on site. Remnant trees on site have been supported for removal by Councils Tree Officer. Substantial additional landscaping is proposed on site in order to compensate for the loss of trees, as previously stated in this report.

Overall GFA and number of dwellings increased as result of retention of fig and changes to development / Built form now further exceeds the consented building envelope and additional floor to Building B, that directly interfaces with Bunnerong Road is provided

Comment: The matter of built form design changes has been discussed previously in this report. Design changes as proposed are satisfactory and do not result in adverse amenity impacts.

A non-residential use that better interacts with the public domain and street should be provided

Comment: The proposed child care centre use is permissible and not deemed to be unsuitable for the site.

4.11 Section 4.15(1)(e) - Public Interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As

demonstrated in this assessment of the development application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposed development will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

5. REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in the Table below.

Agency	Concurrence/ Referral Trigger	Comments (Issue, resolution, conditions)	Resolved
Referral / Consultation Agencies			
Sydney Airport Corporation Limited	<i>Bayside LEP 2021</i> • <i>Obstacle Limitation Surface</i>	General Approval for max height of 91AHD across entire precinct. Proposal is below this height.	Yes
TfNSW	<i>SEPP (Transport and Infrastructure) 2021</i> • <i>2.122 - Traffic Generating Development</i> • <i>2.119 – Development with frontage to classified road</i>	Nil objection. Standard conditions imposed.	Yes
Ausgrid	<i>SEPP (Transport and Infrastructure) 2021</i> <i>s2.48 - Determination of development applications - other development</i>	Nil response as at time of finalising this assessment. Standard conditions imposed to ensure liaison with Ausgrid prior to commencement of any works on site.	Yes
Sydney Water	<i>Sydney Water Act 1994</i> <i>S78 - Consent authority to notify Corporation of development and building applications</i>	Nil response as at time of finalising this assessment. Standard conditions imposed to ensure liaison with Sydney Water prior to commencement of any works on site.	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Water NSW	<i>Water Management Act 2000</i> <i>s90(2) water management work approval</i>	Nil objection. Standard conditions imposed.	Yes

5.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined below.

Officer	Comments	Resolved
Environmental Scientist	Nil objection. Standard conditions imposed.	Yes
Development Engineer	Nil objection. Standard conditions imposed.	Yes
Landscape	Nil objection. Standard conditions imposed.	Yes
Waste	Nil objection. Standard conditions imposed.	Yes
7.11 Contributions	Nil objection. Standard conditions imposed.	Yes

6. CONCLUSION

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.
- 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.

7. RECOMMENDATION

- a) 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-2024/169 for BATA 2 - Lot J – Integrated Development – Removal of trees, retention of mature Fig tree to Heffron Road frontage of site, construction of two (2) residential apartment

buildings of 7-8 storeys, including two (2) levels of basement car parking, 92 residential units, communal recreational facilities, childcare centre for 60 children, associated landscaping and roof top plant at 8 Heffron Road Eastgardens by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Landscape Plans