

## COUNCIL ASSESSMENT REPORT

### SYDNEY EASTERN CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSEC-333 – DA-2024/190
<b>PROPOSAL</b>	Integrated Development - Lot D – Excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road
<b>ADDRESS</b>	Lots 14 and 4 in DP 1272432 – 98 and 106 Banks Avenue, Eastgardens
<b>APPLICANT</b>	Karimbla Properties (No. 39) Pty Ltd
<b>OWNER</b>	Karimbla Properties (No. 39) Pty Ltd
<b>DA LODGEMENT DATE</b>	16 August 2024
<b>APPLICATION TYPE</b>	Integrated Development
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1), Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Private infrastructure and community facilities over \$30 million
<b>CIV</b>	\$237,334,229 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Sustainable Buildings) 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• Bayside Local Environmental Plan 2021</li> <li>• Bayside Development Control Plan 2022</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	One (1)
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Architectural Plans – WMK Architecture</li> <li>• Landscape Plan – Site Image</li> <li>• Statement of Environmental Effects – Meriton</li> <li>• Section 4.6 Variation – Meriton</li> </ul>

<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	N/A
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	YES
<b>SCHEDULED MEETING DATE</b>	27 March 2025
<b>PREPARED BY</b>	Andrew Ison, Senior Development Assessment Planner
<b>DATE OF REPORT</b>	13 March 2025

<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> 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
<b>Clause 4.6 Exceptions to development standards</b> 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?	Yes
<b>Special Infrastructure Contributions</b> 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>	N/A
<b>Conditions</b> 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

The development application (DA-2024/190) seeks consent for Integrated Development - Lot D of BATA 2 – Excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road.

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

has been redeveloped in line with the Stage 1 Masterplan approval granted by the Land and Environment Court on 7 August 2015 (BATA 1). The current proposal is located within the Stage 2 concept approval for the northern portion of the BATA site (known as BATA 2), which was approved by the Sydney Eastern City Planning Panel on 26 November 2020 (DA-2019/386). 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.

The BATA 2 Precinct benefits from numerous development approvals, of which the central development incorporating retail and residential uses Lot B has been completed. The residential flat building on Lot E and the medium density developments on Lot G have also been completed. Work is currently occurring on Lots A and H, with the construction of townhouses on Lot H nearing completion.

The subject site incorporates Lot D and Open Space 2 from the approved Concept Plan. It is known as 98 and 106 Banks Avenue, Eastgardens ('the site'). The site comprises two lots with a primary frontage to Banks Avenue to the west, and a dual frontage to Finch Drive to the east. The site occupies an irregular shaped area of 9,288m<sup>2</sup>.

The proposal is inconsistent with the following planning control:

- **Floor Space Ratio:** The proposed development does not comply with the LEP mapped FSR development standard against the subject lots as registered. This is assessed in further detail under the LEP section of the report.

There were concurrence requirements from agencies for the proposal and the application is Integrated Development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Ausgrid pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') and Sydney Airport Corporation pursuant to Section 6.9 of the Bayside LEP 2021 were sent and raised no objections. NSW Police were also consulted with recommended conditions of consent being provided.

The following external referrals were sent as part of the assessment of this application:

1. **Water NSW:** Section 4.47 of the Environmental Planning and Assessment Act 2000 in relation to General Terms of Approval (GTAs) from Water NSW. GTAs have been issued.
2. **Ausgrid:** Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to proposed works in proximity to an electricity transmission or distribution network. They have no objections to the proposed development.
3. **Transport for NSW (TfNSW):** Section 2.122 of the Transport and Infrastructure SEPP with relation to the proposal being a traffic generating development.

The proposal was reviewed by the Council's Design Excellence Panel on 3 October 2024 and deemed to achieve Design Excellence subject to design modifications which were generally incorporated into the development and final submitted amended plans.

The application was placed on public exhibition from 2 September to 2 October 2024, with one submission being received. This submission raised issues relating to impacts on public transport services, traffic generation, wind tunnel effects and loss of sunlight. These issues are considered further in this report.

The application was referred to the Sydney Eastern City Planning Panel for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal was \$237,334,229.

A briefing was held with the Regional Panel on 15 October 2024 where key issues were discussed, including floor space ratio compliance, amendments required to Concept Plan to be determined prior to this application being determined in relation to the basement design, Design Review Panel comments, tree removal and landscaping.

The key issues associated with the proposal included:

- **Tree Retention:** The application originally proposed to remove a cluster of trees in the north-west corner of the site, however, amended plans and an amended Arborists Report were submitted to Council which now retains these trees.
- **Section 4.6 variation for Floor Space Ratio:** The Concept Plan approved a maximum gross floor area based on the total area of the precinct and at a Floor Space Ratio of 2.35:1. However, each of the approved lots have now been subdivided and therefore the proposed gross floor area is significantly higher than the allowable FSR for the subject lots (Lot D and Open Space 2 combined). Therefore the applicant has lodged a Section 4.6 variation.
- **Design Excellence:** The proposed development, on balance, achieving design excellence in accordance with Clause 6.10 of the BLEP 2021, subject to further amendments as detailed throughout this report.
- **Heffron Road:** Further works are required on Heffron Road to satisfy conditions in the approved Concept Plan.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State Environmental Planning Policies, the Bayside LEP and the Bayside DCP, the proposal subject to this development application can be supported.

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, pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, DA-2024/190 is recommended for APPROVAL subject to recommended conditions.

## 1. THE SITE AND LOCALITY

### 1.1 The Site

The subject sites are located at 98 and 106 Banks Avenue, Eastgardens (Lots 14 and 4 in DP 1272432). The proposed development site has a frontage of 89.57 metres to Banks Avenue, a frontage of 98.4 metres to Finch Drive, a depth of 96.89 metres along the northern boundary and 99.455 metres along the southern boundary, with a total area of 9,288m<sup>2</sup>. Lot 14 currently contains a temporary path to provide pedestrian access from Banks Avenue into the BATA 2 precinct, whilst Lot 1 is a cleared site and is being used as a construction storage yard. The site is relatively level with a cross fall of approximately 1 metre from the south-eastern corner to the north-western corner of the site. There are a cluster of trees located along the western boundary.

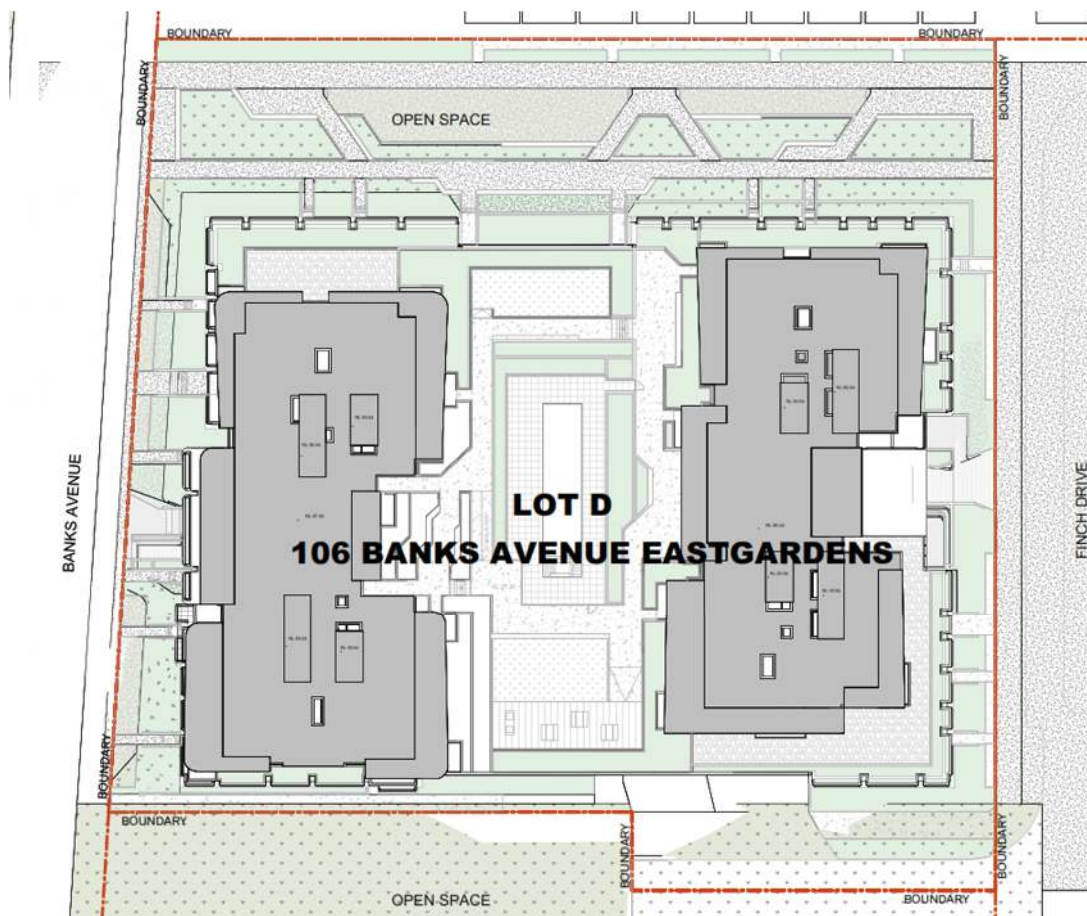


Figure 1: Site plan





Figure 2: Western boundary of the subject site as viewed from Banks Avenue



Figure 3: Northern boundary of the subject site as viewed from Banks Avenue (looking east) with proposed Open Space 2 though site link on the right and a townhouse located within Lot G visible in the left side of this image.



Figure 4: Eastern boundary of the subject site as viewed from Finch Drive. The building located within Lot E is visible in the right side of this image.



Figure 5: Southern boundary of the subject site as viewed from Finch Drive. The building located within Lot A can be seen on the left side of this image.

## 1.2 The Locality

The subject sites (Lot D and Open Space 2) are located within the western stage of a precinct known as the BATA 2 Precinct.

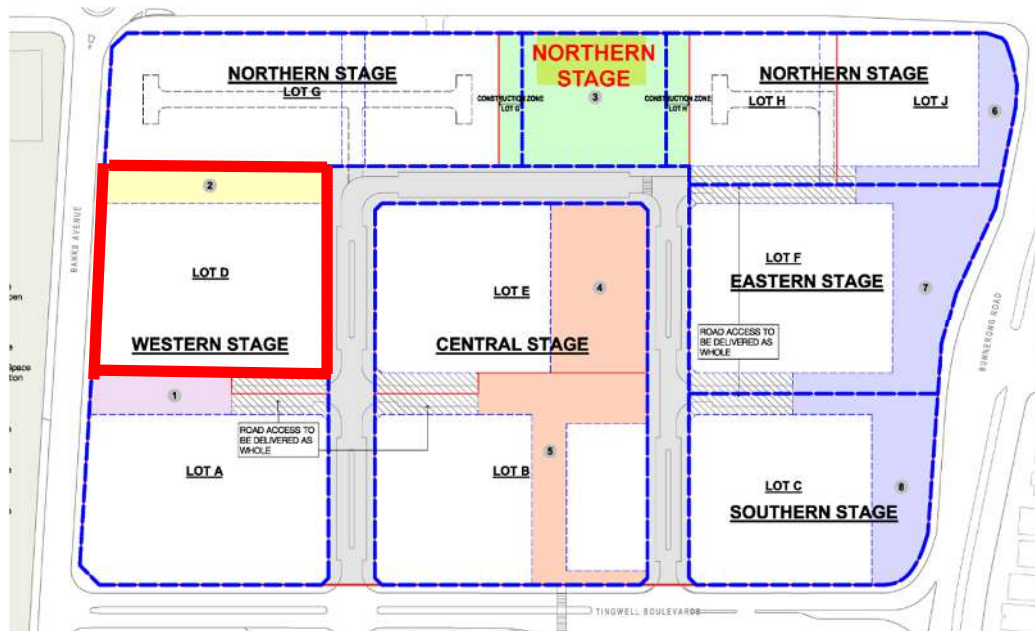


Figure 6: Approved BATA 2 Concept Plan, with Lot D on the eastern edge outlined in red.

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.

The subject sites are located on the eastern side of Banks Avenue, to the south of Heffron Road, the north of Tingwell Boulevard and western side of Finch Drive. The subject sites are surrounded by a number of developments with (in a clockwise direction) a cluster of two storey terraces to the north (in Lot G), a mixed use development to the east (in Lot E), a residential flat building to the south (in Lot A) and Bonnie Doon Golf Course to the west.





Figure 7: Aerial showing subject sites in orange colour (Source: Bayside IntraMaps)

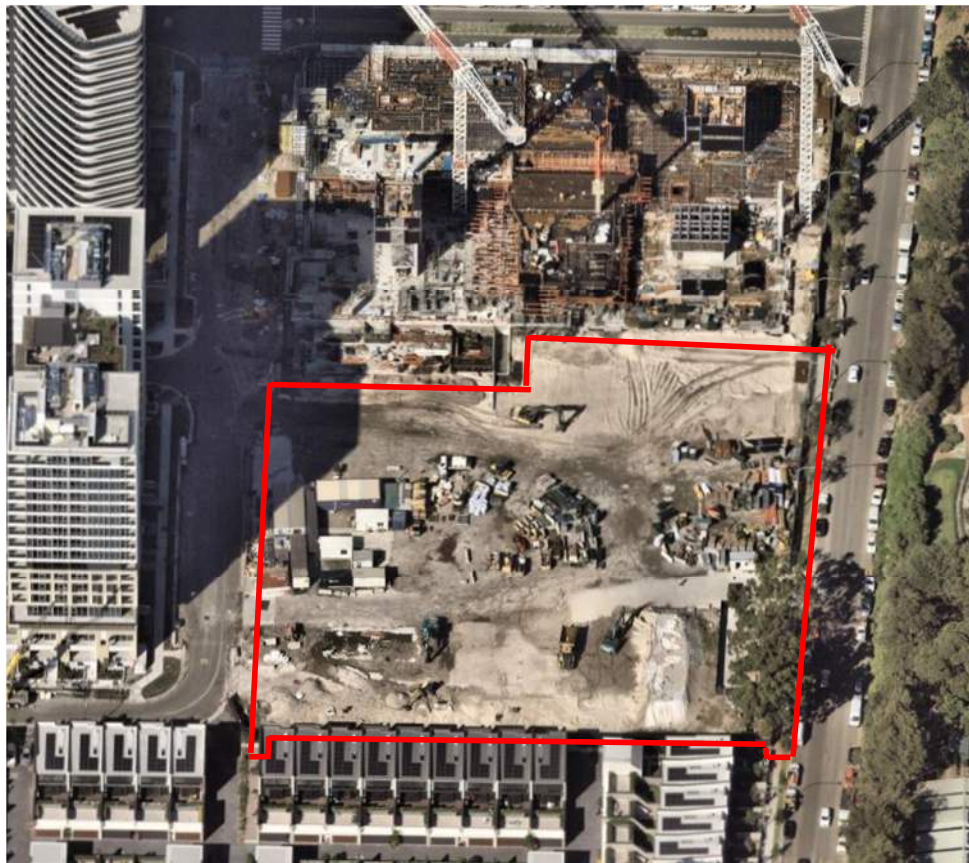


Figure 8: Oblique view of site with Banks Avenue to the right, Lot A to the top (above the subject site) Lot G townhouses to the bottom of the image and Lots E & B to the left, captured 7 April 2024 (Source: NearMaps)

## 2. THE PROPOSAL AND BACKGROUND

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### 2.1 The Proposal

The subject application seeks consent for excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road.



Figure 9: Photo montages of proposal – from Banks Avenue and from Finch Drive (supplied by the applicant)

#### **Demolition**

- Removal of 6 trees

#### **Excavation**

- Excavation for three levels of basement

#### **Construction – Lot D – 2 x 20 storey residential flat buildings**

Construction of two (2) x 20 storey residential flat buildings with basement parking as detailed below:

##### *Basement Level 3*

- Car parking for 176 vehicles
- Parking for 72 bicycles
- Parking for 12 motorcycles



- 2 car wash bays
- Lobby and lift entries for both residential towers
- Services
- Fire stairs
- Storage cages

#### *Basement Level 2*

- Car parking for 174 vehicles
- Parking for 72 bicycles
- Parking for 12 motorcycles
- Lobby and lift entries for both residential towers
- Services
- Fire stairs
- Storage cages

#### *Basement Level 1*

- Car parking for 115 vehicles
- Parking for 60 bicycles
- Parking for 12 motorcycles
- Lobby and lift entries for both residential towers
- Services
- Fire stairs
- Storage cages
- On site detention tank

#### *Ground Floor*

- Car parking for 19 vehicles
- Parking for 60 bicycles
- Lobby entry off Banks Avenue for Tower A
- Lobby entry off Finch Drive for Tower B
- Lifts
- Waste rooms
- Mail rooms
- Substation
- Services
- Embellishment works for Open Space 2 including landscaping and construction of hardstand area to create an east-west pedestrian link
- Half width construction of access road from Finch Drive to vehicular entry on the southern edge
- Tower A – 6 residential units (1 x 1 bedrooms, 4 x 2 bedrooms and 1 x 2+ bedrooms)
- Tower B – 5 residential units (1 x 1+ bedrooms, 2 x 2 bedrooms and 2 x 3 bedrooms)

#### *Level 1*

- Tower A – 9 residential units (2 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 2 x 2 bedrooms, 1 x 2+ bedrooms and 2 x 3 bedrooms)
- Landscaped communal open space between both towers, including a pool, spa, gym, sauna, lawn and decking

#### *Level 2*

- Tower A – 9 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 3*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 4*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 5*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 6*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 7*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 8*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 9*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)



- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 10*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 11*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 12*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 13*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 14*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms, 2 x 3 bedrooms)

#### *Level 15*

- Tower A – 10 residential units (1 x 1+ bedrooms, 4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 3 bedrooms)
- Tower B – 8 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 16*

- Tower A – 9 residential units (4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 4 bedrooms)
- Tower B – 10 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 17*

- Tower A – 9 residential units (4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 4 bedrooms)

- Tower B – 10 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 18*

- Tower A – 9 residential units (4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 4 bedrooms)
- Tower B – 10 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Level 19*

- Tower A – 9 residential units (4 x 2 bedrooms, 3 x 2+ bedrooms and 2 x 4 bedrooms)
- Tower B – 10 residential units (3 x 1+ bedrooms, 3 x 2 bedrooms, 2 x 2+ bedrooms and 2 x 3 bedrooms)

#### *Roof*

- Lift over run
- Photovoltaic panels
- Plant

#### *Landscaping*

- Setback areas at ground level
- Level 1 communal open space area

#### **Open Space 2**

- Embellishment works formalising a through site link from Banks Avenue in the east to Finch Drive in the west, including hardstand areas for pedestrian access and ground floor entry into the proposed development, tree planting, lawn, nature play area and bicycle parking

#### **Road construction**

- Half width road construction off Finch Drive to provide vehicular access to at grade car parking area and basement levels



Figure 10: Northern (Open Space 2) elevation (supplied by the applicant)



Figure 11: Southern (Open Space 1 / private road) elevation (supplied by the applicant)



Figure 12: Tower A eastern elevation (supplied by the applicant)



Figure 13: Tower A western elevation (supplied by the applicant)



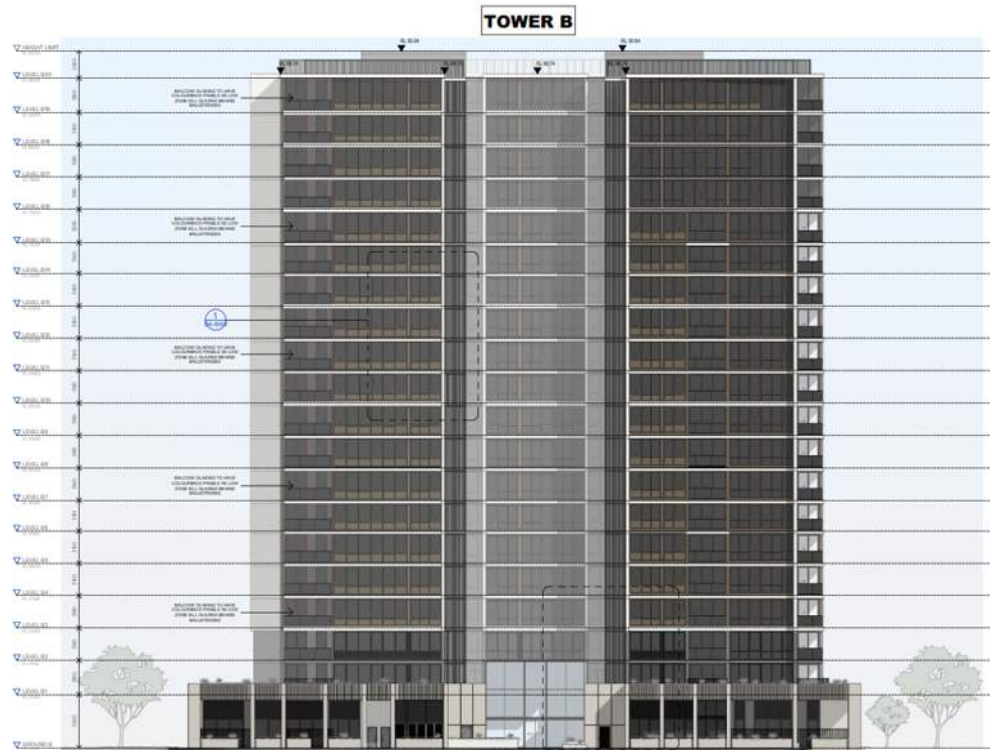


Figure 14: Tower B eastern elevation (supplied by the applicant)



Figure 15: Tower B western elevation (supplied by the applicant)

The table below is a summary of key development data:

Control	Proposal
Site area	9,288m <sup>2</sup>
GFA	38,569.41m <sup>2</sup>
FSR (retail/residential)	2.35:1
Clause 4.6 Requests	Yes
No of apartments	385
Max Height	68.2m
Landscaped area	2,628m <sup>2</sup>
Car Parking spaces	484

## 2.2 Background

The development application was lodged on 16 August 2024. A chronology of the development application since lodgment is outlined below including the Panel's involvement with the application:

Date	Event
16 August 2024	DA lodged
26 August	DA referred to external agencies
26 August	Site inspection
2 September	The start of the notification period with the closing date being 2 October. One submission was received.
3 October	Reported to the Bayside Design Review Panel (DRP), with the recommendation in the minutes that subject to further amendments it would satisfy the design quality principles under Chapter 4 of the Housing SEPP and achieve design excellence in accordance with Section 6.10 of the Bayside LEP.
15 October	Panel briefing, with the following comments provided: <ul style="list-style-type: none"> <li>• Residential and non-residential floor space ratio controls over site and compliance with controls</li> <li>• Amendments to the concept approval will require approval prior to determination of the relevant development application</li> <li>• Design Review Panel comments</li> <li>• Basement design</li> <li>• Tree removal</li> <li>• Landscaping</li> </ul>
17 December	A request for information (RFI) letter was issued to the applicant, requesting additional information on the following: <ul style="list-style-type: none"> <li>• Design Competition Waiver</li> <li>• Design Excellence</li> <li>• Retention of trees</li> <li>• Setbacks</li> <li>• Landscape</li> <li>• Traffic, Parking &amp; Access</li> <li>• Public Domain</li> <li>• Stormwater Management</li> <li>• Floodplain Management</li> <li>• Waste Management</li> </ul>
4 February 2025	RFI response lodged through the Planning Portal

## 2.3 Site History

The BATA 2 Precinct is an expansive property which has been Torrens title subdivided into numerous mega lots and occupies a total area of 89,570m<sup>2</sup>. 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. This application has been modified multiple times as listed below:

- **DA-2019/386/A:** Modification to amend condition 47 regarding car parking rates – Approved on 2 July 2021.
- **DA-2019/386/B:** Modification to amend Condition 16(a) to permit an elliptical built form to be retained for both approved towers on Lot B – Approved on 15 October 2021.
- **MDA-2022/35:** Modification to amend conditions 51 and 52 regarding electric vehicle/bicycle charging – Approved on 22 August 2022.
- **MDA-2022/201:** Modification to delete the requirement for bundled car parking. Approved 16 March 2023.
- **MDA-2022/15:** Modification to DA-2019/386 to amend Condition 23 of Concept Plan Approval to permit basement levels 2 and 3 within lots A & D Open Space Zone 1 – Approved 24 March 2023.
- **MDA-2023/19:** Modification to DA-2021/627 to amend Conditions 19 and 138 relating to car parking allocation to align with the Concept Plan – Approved on 13 April 2023.
- **MDA-2023/15:** Amendments to the milestone for the timing of delivery of public domain improvements within the precinct – Approved 21 September 2023.
- **MDA-2024/189:** Modification to DA-2019/386 to amend condition 23 regarding basement levels between Lot D and Lot G within BATA 2 site – Approved 16 January 2025.
- **MDA-2024/190:** Modification to DA-2019/386 to amend conditions 36(b) and 62 relating to milestone for the issuing of the Occupation Certificate for public domain works – Approved 17 January 2025.

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. Approved by the Land and Environment Court on 15 October 2021.

**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. Approved by the Land and Environment Court on 28 October 2021.

**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. Approved by the Sydney Eastern City Planning Panel on 16 December 2022.

**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. Approved by the Land and Environment Court on 26 April 2022.

**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). Approved by the Sydney Eastern City Planning Panel on 8 February 2024.

**DA-2024/172 – Lot C (2 Tingwell Boulevard)**

Excavation, construction of three connected buildings of between 7 - 12 storeys; Three (3) basement levels accommodating 278 car parking spaces; Residential apartments (214 units) together with communal recreational facilities; and - Retail premises (2 tenancies). - Associated landscaping and servicing infrastructure. Currently under assessment.

**DA-2024/169 – Lot J (8 Heffron Road)**

Construction of two (2) residential apartment buildings of 6-8 storeys, including two (2) levels of basement car parking, 91 residential units, communal recreational facilities, childcare centre for 60 children, associated landscaping, tree removal. Currently under assessment.

**DA-2024/205 – Lot F (16 Studio Drive)**

Removal of trees, excavation, and construction of three (2) connected buildings of 6-13 storeys comprising two (2) levels of basement car parking, 228 residential units, communal recreational facilities, associated landscaping, and construction of a private road. Currently under assessment.



### 3. STATUTORY CONSIDERATIONS

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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*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (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.*

These matters are further considered below.

It is noted that the proposed development is to be assessed against the below:

- Concept Development Applications as Alternative to DCP required by Environmental Planning Instruments (s4.23)
- Integrated Development (s4.46)

#### 3.1 **Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

##### (a) **Environmental Planning and Assessment Act 1979 – Section 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 D forms part of an overall precinct which is subject to the requirements of a Concept Plan (DA-2019/386- as modified) 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 Bayside LEP 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:

### **Condition 1 – Approved Documents**

The proposed development is required to demonstrate consistency with the following approved plans:

- Side Setbacks Plan
- Building Heights
- Road Plan
- Public Domain Plan
- Ground Levels
- Deep Soil Plan
- Building Envelopes Plan
- Black Sections
- Block Elevations

#### **(a) Side Setbacks**

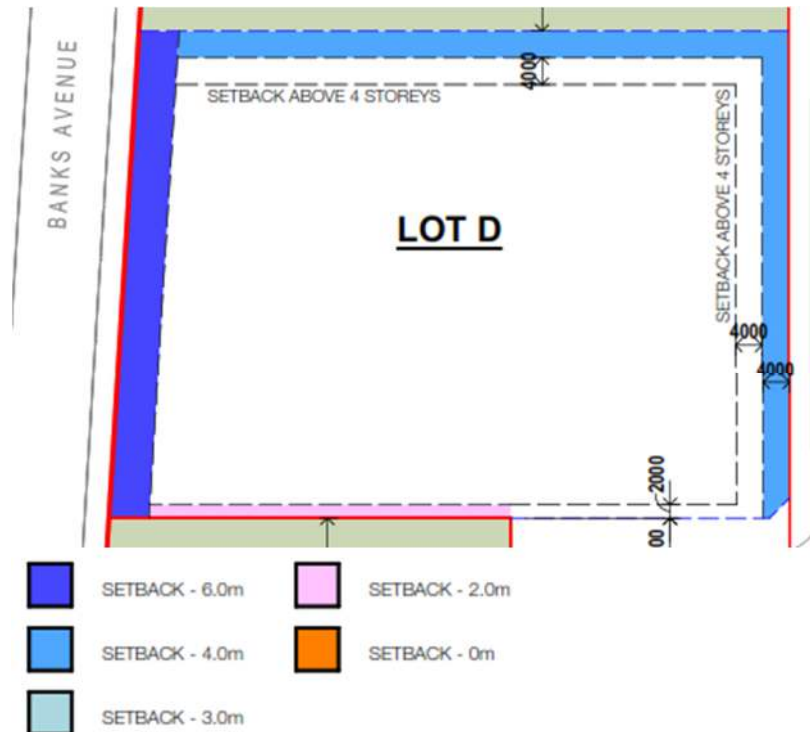


Figure 16: Building setbacks extract for Lot D from approved Concept Plan (DA-2019/386)

The following is proposed:

- West (Banks Avenue): Minimum 6m
- North: Greater than 4m
- East (Finch Drive): Greater than 4m
- South: Greater than 2m

- Above 4 storeys: Within approved envelope on all four sides

Based on the above, the proposed development complies with the approved setbacks

(b) Building Heights

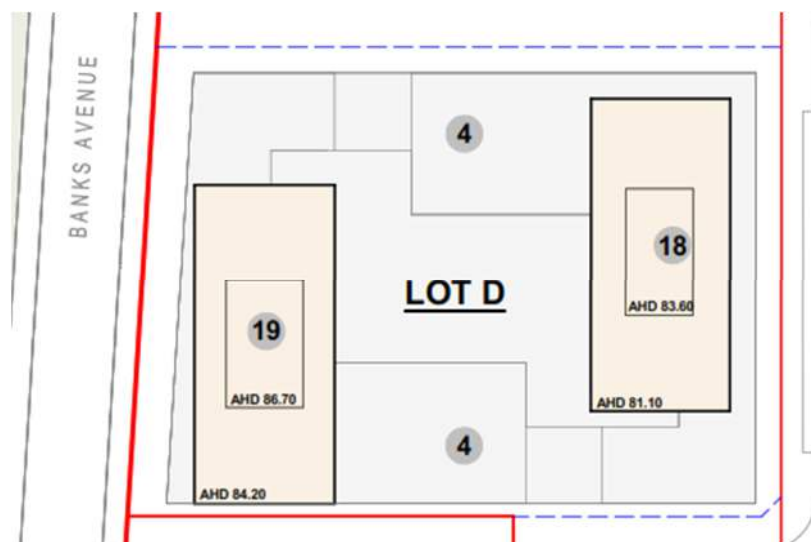


Figure 17: Building Heights extract for Lot D from approved Concept Plan (DA-2019/386)

The following is proposed:

- Building A (left) – 20 storeys, RL 89.74 (increase of 3.04m)
- Building B (right) – 20 storeys, RL 90.84 (increase of 7.24m)

Building A exceeds the maximum permitted by one (1) storey while Building B exceeds the maximum permitted by two (2) storeys.

It is to be noted that this approved plan carries a disclaimer, which states the following:

*The proposed concept building heights and levels are indicative, some variance can occur through detailed design. Roof features and roof plant is typically excluded from nominated levels and must not exceed the LEP maximum for Building Heights.*

*Building outlines are indicative, and final built form will be subject to future Stage 2 development applications, and adherence to ADG guidelines.*

With the above considered, neither of the proposed towers exceeds 91m AHD as per Condition 69 of the Concept Plan (Sydney Airport), and it also does not exceed the Height of Building development standard of 69 metres. Furthermore, as discussed later in this report the proposed development adheres to the ADG (Apartment Design Guide).

Therefore, in this instance the variations the Concept Plan is considered acceptable.

(c) Road Plan

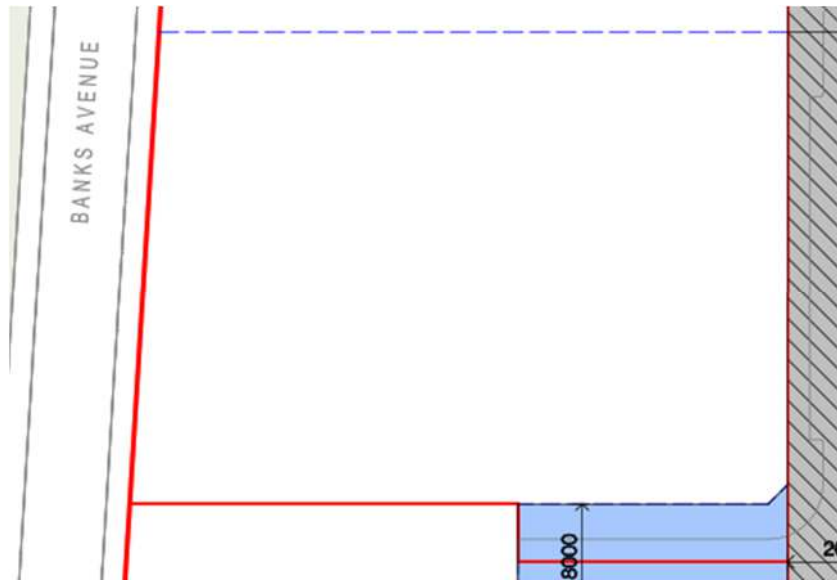


Figure 18: Road plan extract from approved Concept Plan (DA-2019/386)

The proposed road in the south-eastern corner of the subject site (shown in blue in Figure 17 above), to provide vehicular access from Finch Drive is consistent with the above.

(d) Public Domain Plan

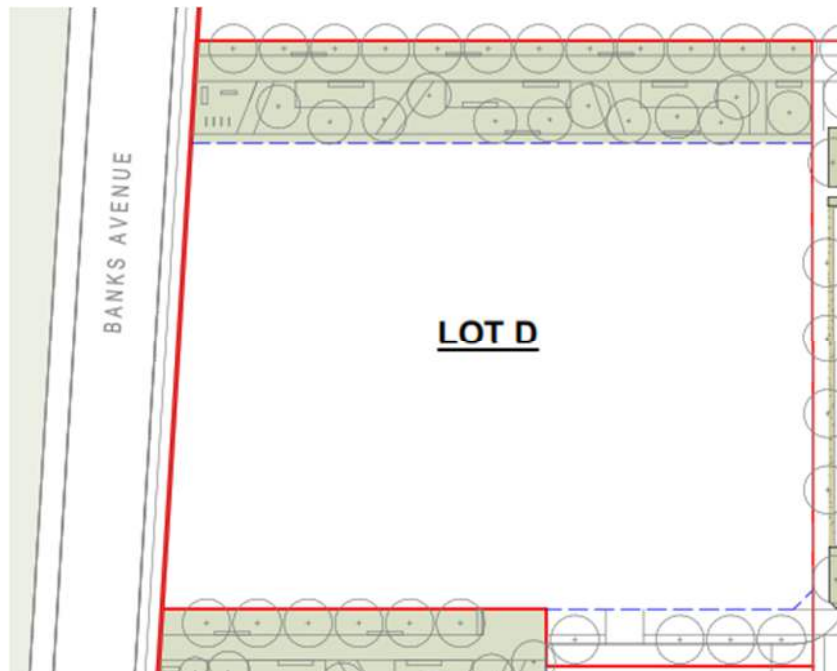


Figure 19: Public domain extract from approved Concept Plan (DA-2019/386)

The proposed public domain area subject to this development, along the northern boundary of the site is consistent with the above.



(e) Ground Levels



Figure 20: Ground levels extract from approved Concept Plan (DA-2019/386)

The following is proposed:

- Building A (left) – 22.2 metres
- Building B (right) – 22.6 metres

Each building as proposed is lesser than the approved Concept Plan (0.9m for Building A and 0.5m for Building B).

It is to be noted that the Concept Plan states an **approximate** ground floor level and is subject to further refinement if deemed necessary.

The finished floor level for the ground floor level for both buildings are consistent with the recommendations made in the Site Flood Assessment, prepared by WMA Water and dated 24 July 2024, in that it meets the requirements with the finished floor level being above the 1% AEP flood level, plus 0.5m freeboard.

Based on the above, these minor changes are considered acceptable.

(f) Deep Soil Zones

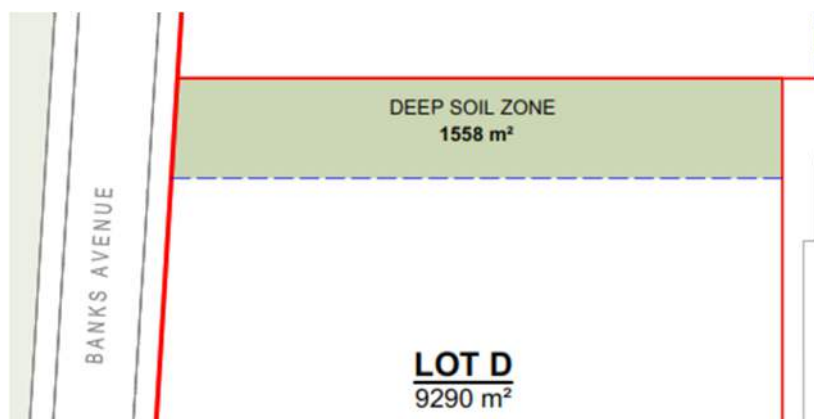


Figure 21: Deep soil extract from approved Concept Plan (DA-2019/386)

The following is proposed for the deep soil zone:

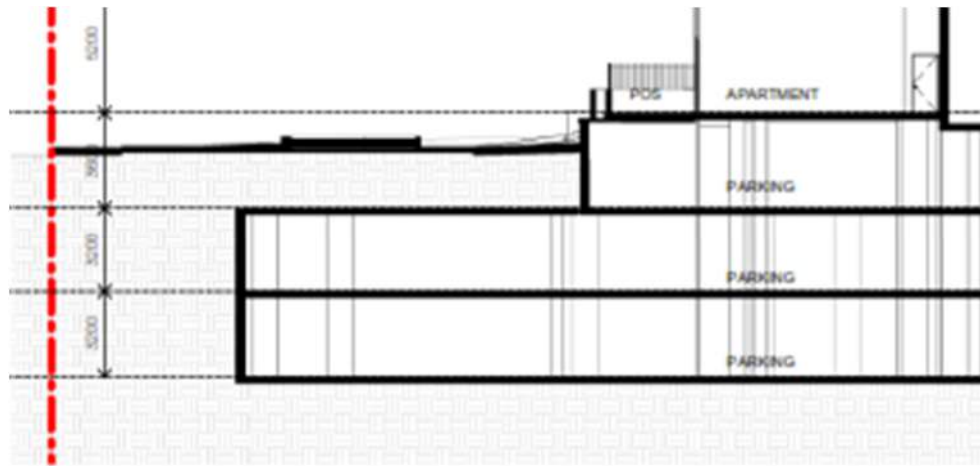


Figure 22: Section of proposed layout of basement Levels 2 and 3 for DA-2024/190, including a 3.6 metre soil depth above Level 2 to the proposed ground level of the open space

The approved Concept Plan was modified under MDA-2024/189 to facilitate the above. It modified Condition 23 to allow basement construction to extend past the northern property boundary of Lot D into the deep soil zone.

This was deemed acceptable as the extension of basements beneath the open space will provide sufficient deep soil while also reducing the need for an additional basement level. This approach will significantly reduce the drawdown of water from the existing water table during construction, leading to notable environmental benefits.

(g) Building Envelopes

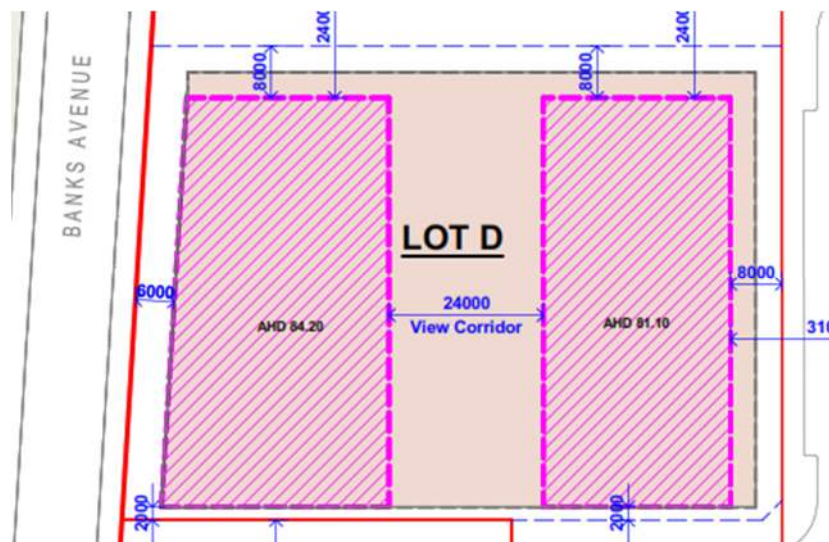


Figure 23: Building envelopes extract from approved Concept Plan (DA-2019/386)

The proposed development is consistent with the approved building envelopes plan with relation to the building setbacks as well as the view corridor between the two towers.

(h) Block Sections

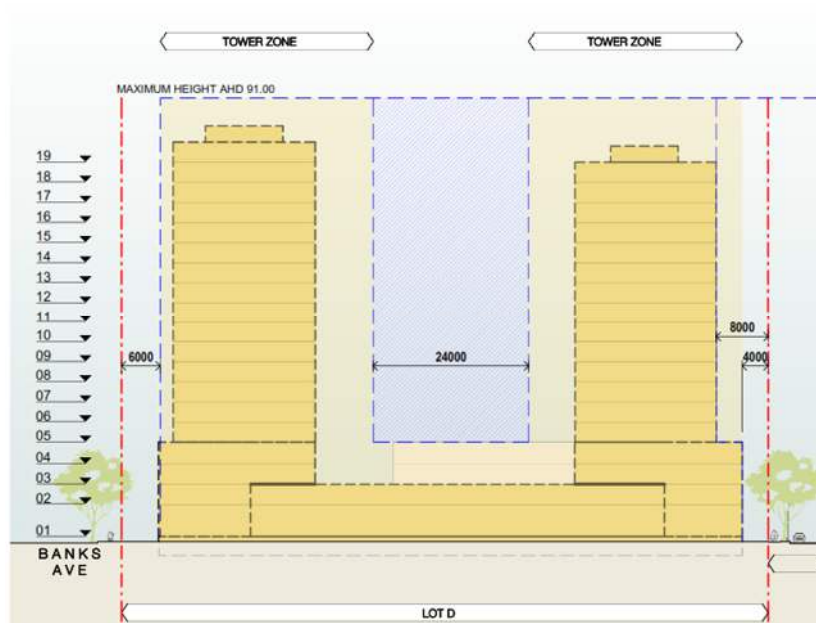


Figure 24: Building sections for Lot D from approved Concept Plan (DA-2019/386)

As discussed earlier in this section of the report, neither of the proposed towers exceeds 91m AHD as per Condition 69 of the Concept Plan (Sydney Airport).

At the podium level, the tower elements start at Level 2, however, the minimum setbacks to the boundary are observed as well as the minimum separation distance of 24 metres between the two towers.

Therefore, in this instance the variations the Concept Plan is considered acceptable.

(i) Block Elevations

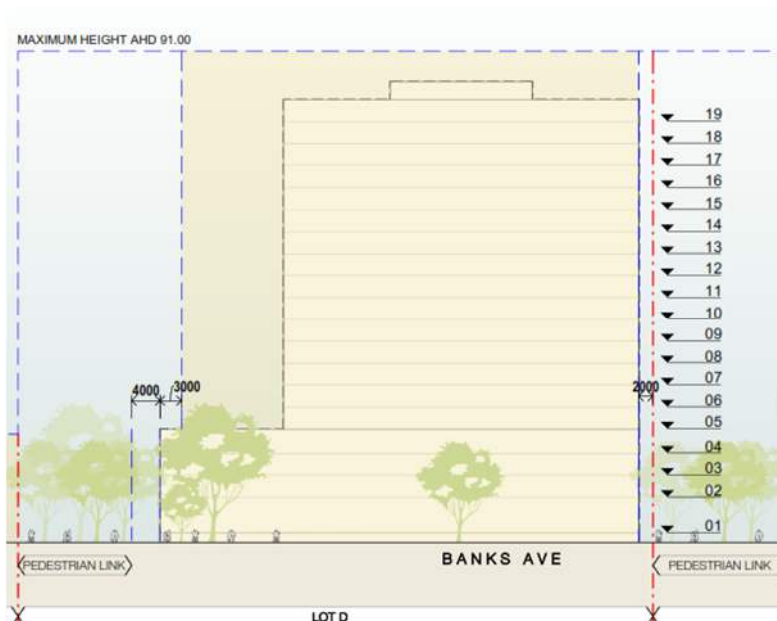


Figure 25: Building elevations extract from approved Concept Plan (DA-2019/386)

As discussed earlier in this section of the report, neither of the proposed towers exceeds 91m AHD as per Condition 69 of the Concept Plan (Sydney Airport).

At the podium level, the tower elements start at Level 2, however, the minimum setbacks to the boundary are observed.

Therefore, in this instance the variations the Concept Plan is considered acceptable.

#### **Condition 9 – Design Excellence**

This condition states that future Development Applications for each development lot and associated public open space area shall be subject to a further design excellence review process. Further to that, it shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation / articulation of buildings and a range of high-quality materials and finishes.

The proposed development was referred to the Design Review Panel on 3 October 2024, concluding that subject to further amendments that it demonstrates design excellence. This will be discussed later in this report under the Bayside LEP section.

#### **Condition 10 – Local Contributions**

This condition states that all future Development Applications will be required to pay contributions equivalent to Section 7.11 Contributions and in accordance with the executed VPA for the site.

This will be discussed later in this report under the Development Contributions section.

#### **Condition 11 – Contamination**

This condition states that all future Development Applications for each lot is required to submit documentation prepared and completed in accordance with the relevant legislation and guidelines.

This will be discussed later in this report under the Resilience and Hazards SEPP section.

#### **Condition 12 – Maximum Gross Floor Area**

This condition states that the maximum gross floor area of the site is to not exceed that as referred to Condition 1, that being 210,520m<sup>2</sup>.

The table below, provided by the applicant states what was approved for each Lot under the Concept Plan and what has been approved or proposed for each Development Application for development of that registered Lot:

<b>Approved Concept DA total area 89,570 sqm</b> <b>Floor Space Ratio for – 2.35:1</b>				
LOT	SITE AREA (subject to future DAs)	Concept DA Indicative GFA Allowance	DAs as lodged / approved GFA	Concept DA FSR
A (approved)	9,203sqm	38,900sqm	38,966 sqm	0.44:1
B (approved)	10,372sqm	38,700sqm	39,085sqm	0.44:1
C	8,529sqm	21,900sqm	21,425sqm	0.23:1
D	9,290sqm	38,500sqm	38,570sqm	0.43:1
E (approved)	9,054sqm	28,600sqm	32,315sqm	0.38:1
F	10,702sqm	24,010sqm	22,500sqm	0.25:1
G (approved)	9,671sqm	6,300sqm	5,635 sqm	0.06:1
H (approved)	4,170sqm (3,778sqm)	2,480sqm	2,246 sqm	0.02:1
J	4,891sqm (5,282sqm)	11,000sqm	9,533sqm	0.10:1
Land dedication	13,688sqm	0	0	
<b>TOTAL</b>	<b>89,570sqm</b>	<b>210,390sqm</b>	<b>210,275 sqm</b>	<b>2.35:1</b>
<b>Potential GFA remaining for future stages</b>			<b>115sqm</b>	

Figure 26: Concept DA Floor Space Ratio calculation, with Lot D highlighted in red

As indicated in the table above, the current total gross floor area based on applications approved and under assessment is 210,275m<sup>2</sup>.

As highlighted in red, the proposed gross floor area for the subject application is 70m<sup>2</sup> above what has been approved. Condition 15 of the Concept Plan states the following:

*Where the maximum gross floor area of a lot is not fully utilised within a development of that lot, this may be transferred to another lot within the site which has not yet been developed, given at all times, the maximum permitted gross floor area for the entire site subject to the Concept Plan approval and development standard for the site is not exceeded.*

The additional gross floor area above what was approved in the Concept Plan for Lot D has been transferred from one of the approved Lots. However, as per the Total in the above table, the current gross floor area is still under the approved 210,520m<sup>2</sup>

Based on the additional gross floor area, it has also adjusted the Concept Plan FSR for Lot D (from 0.42:1 to 0.43:1). Accordingly, the applicant has lodged a Section 4.6 variation, and this will be assessed later in this report under the LEP section.

Therefore, this Condition currently has been satisfied.

### **Condition 13 – Minimum Non-Residential Gross Floor Area**

No non-residential floor space is proposed.

### **Condition 14 – Maximum Residential Gross Floor Area**

This condition states that a maximum 205,520m<sup>2</sup> gross floor area for residential accommodation shall not be exceeded upon the subject site.

The proposed development indicates the provision of 38,570m<sup>2</sup> of residential GFA as part of the redevelopment of Lot D. The table below indicates the approved / proposed residential GFA to date.



DA	Lot	Residential GFA
DA-2020/303	B	35,269m <sup>2</sup> (approved)
DA-2021/1	E	31,660m <sup>2</sup> (approved)
DA-2021/208	G	5,635m <sup>2</sup> (approved)
DA-2021/627	A	38,428m <sup>2</sup> (approved)
DA-2022/268	H	2,390m <sup>2</sup> (approved)
<b>DA-2024/190</b>	<b>D</b>	<b>38,570m<sup>2</sup> (proposed)</b>
DA-2024/205	F	22,500m <sup>2</sup> (proposed)
DA-2024/169	J	9,533m <sup>2</sup> (proposed)
DA-2024/172	C	20,168m <sup>2</sup> (proposed)
<b>Total = 204,153m<sup>2</sup></b>		

As per the Total in the above table, it is under the 205,520m<sup>2</sup> maximum. Therefore, this Condition currently has been satisfied.

#### **Condition 17 – Sample Boards**

This condition states that ‘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.

A condition has been included in the attached draft conditions requiring the submission of physical samples prior to the issue of any construction certificate.

#### **Condition 19 – Ground Level Interface**

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

The proposed development does not incorporate any subterranean spaces and proposes a ground floor RL which is consistent with the recommendations made in the Site Flood Assessment prepared by WMA Water. The proposal incorporates appropriate ramps where required to provide level and direct access and an appropriate interface with the adjoining public domain.

Relevant conditions are proposed requiring that the deep soil setbacks be level with the surrounding public domain and free of retaining walls to minimize restrictions on tree root growth and allow for landscape planting and screen planting commensurate with the scale of the development.

With the above considered, the proposed development provides an appropriate interface with the public domain and finished RL.

#### **Condition 20 – Finished Ground Floor Level**

Refer to the assessment made earlier in this section of the report under Condition 1 approved plans.

### **Condition 21 – Height of Buildings**

This condition states that the proposed development does not exceed the relevant development standard permitted for the site.

This will be discussed later in this report under the Bayside LEP section.

### **Condition 22 – Floor to Floor Heights**

This condition states that future Development Applications shall demonstrate compliance with the minimum floor to floor heights detailed in the relevant Apartment Design Guide.

This will be discussed later in this report under the Housing SEPP section.

### **Condition 23 – Basement Levels**

This condition states the following:

- *Future Development Applications shall ensure parking levels do not exceed 1m above ground level*

The proposed parking levels do not exceed 1m above ground level.

- *Basement levels shall be located below the building footprint and must not encroach into street setback areas*

The proposed basement levels do not encroach into the street setback areas (i.e. Banks Avenue to the west and Finch Drive to the east).

- *Basement Levels 2 and 3 may extend into the open space share zone between Lot D and Lot G. A minimum soil depth shall be provided equivalent to at least one basement level above basement level 2 within that open space area 2.*

The basement design is considered to be consistent with that stated in the third dot point above.

### **Condition 25 – Wind Report**

This condition states that any future Development Application for buildings must include and be designed in accordance with a wind assessment report.

The applicant has lodged a Pedestrian Wind Environment Statement, prepared by Windtech and dated 12 June 2024. This will be discussed in further detail later in this report under the DCP section.

### **Condition 26 – Reflectivity Report**

This condition states that any future Development Application for buildings must include and be designed in accordance with a reflectivity report.

The applicant has lodged a Reflectivity Assessment, prepared by SLR Consulting and dated 28 June 2024. This will be discussed in further detail later in this report under the DCP section.

### **Condition 27 – Emergency Services Access and Egress**

This condition states that any future Development Application for buildings must include and be designed in accordance with an emergency services plan.

The applicant has lodged an Emergency Services Plan, prepared by Genesis Traffic and dated 1 May 2024.

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.

Based on the above, this Condition has been satisfied.

This Emergency Services Plan will be included as part of the Approved Documentation in the attached draft schedule of conditions.

### **Condition 28 – Crime Prevention Through Environmental Design**

This condition states that any future Development Application for buildings shall be accompanied by an assessment against Crime Prevention Through Environmental Design (CPTED) principles.

### **Condition 29 – Public Domain**

This condition states the following:

- *Public domain on site shall be provided in locations generally consistent with those detailed with the approved Public Domain Plan under Condition 1*

Refer to the assessment made earlier in this section of the report under Condition 1 approved plans.

- *Civil works involving the construction of roads, sewer, stormwater, water supply infrastructure and public domain landscaping shall be amended to reflect the approved public domain plans detailed within this development consent*

Relevant conditions have been imposed in the attached Draft Schedule of Conditions relating to the above.

- *The pavement type of the pathways and footpaths within the open space are to be a concrete honed finish*

A condition has been imposed in the attached Draft Schedule of Conditions stating that the paving, including finishes is to be in accordance with the with approved landscape mater plan under DA-2019/386.

### **Condition 31 – Undergrounding of Utilities**

This condition states the following:

- *All existing above ground utilities and services must be relocated and/or provided underground*

Relevant conditions have been imposed in the attached Draft Schedule of Conditions relating to the above.

- *Works must be completed and the electricity authority's approval for the works met to the satisfaction of Bayside Council prior to the issue of the Occupation Certificate*

Relevant conditions have been imposed in the attached Draft Schedule of Conditions relating to the above.

### **Condition 32 – Services**

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

The proposal incorporates substations within the building footprint, yet the hydrant and gas booster for the development is located externally and adjacent to the access driveway along the southern elevation.

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

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

Based on the above, this Condition has been satisfied.

### **Condition 33 – Public Art**

This condition states that future Development Applications shall provide details of the design of public art / wayfinding signage in locations identified within Part 5.4 – Public Art / Wayfinding of Pagewood BATA 2 (North) Landscape Stage 1 Concept Master Plan Report.

This Part does not recommend any “Focal Artwork” or “Interactive Artwork” within either the Lot D or Open Space 2 areas of the BATA 2 precinct, however, it does recommend wayfinding signage as referred to in Condition 34 below:

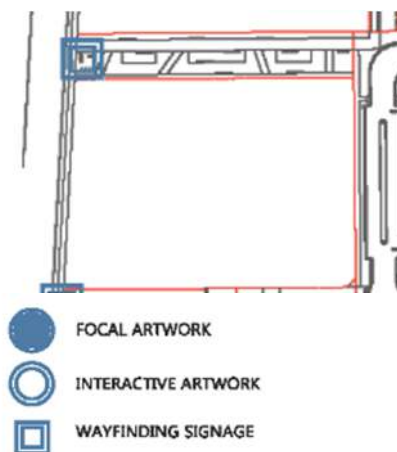


Figure 27: Extract from Part 5.4 of Pagewood BATA 2 (North) Landscape Stage 1 Concept Master Plan Report

### **Condition 34 – Wayfinding Signage Strategy**

This condition states that a wayfinding signage strategy is to be provided as part of each development lot and submitted to Council for approval prior to the occupation of the second building in each lot for the residential flat buildings.

A condition has been imposed in the attached Draft Schedule of Conditions relating to all wayfinding signage to be subject to a separate Development Application.

### **Condition 35 – Public Domain Bicycle Parking**

This condition states that Open Space Lots 1, 2, 5, 6, 7 and 8 that a minimum of 10 publicly accessible bicycle parking spaces is to be provided.

10 bicycle parking spaces are proposed at the eastern end of Open Space 2, adjacent to Fich Drive.

Based on the above, this Condition has been satisfied.

### **Condition 36 – Public Domain Upgrades**

This condition states the following (in part):

- *Design and construction of traffic calming devices to the intersection of Banks Avenue and Tingwell Boulevard prior to the issue of the whole of building Occupation Certificate of the final building in Lot A and Lot D*

This was addressed through conditions for the Lot A consent (DA-2021/627) with relation to the construction of a roundabout at this intersection.

- *Construction of a pedestrian crossing to Heffron Road to the requirements as detailed in conditions of this consent and relevant approvals from Transport for NSW*

Refer to the assessment of Condition 61 of the Concept Plan further below in this section.

### **Condition 37 – Public Domain Landscape Plans**

This condition states that landscape plans shall be in accordance with the Pagewood BATA 2 (North) Landscape Stage 1 Concept Master Plan Report and comprise detailed landscape documentation as part of any future DA. The following is to be submitted for each future Development Application:

- *Further design resolution to integrate landscaping, levels, design of pedestrian walkways and any car parking areas with all spur / dead end roads on site*

The Landscape Plans has provided detail that suitably resolves the integration of landscape, levels, design of pedestrian walkways and any car parking areas with the dead end road in the south eastern corner of Lot D.

- *A detailed Arborist Report*

The applicant has lodged an Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 27 June 2024. This will be discussed in further



detail later in this report under the Biodiversity and Conservation SEPP section.

- *Landscape documentation for each open space, public domain and road reserve area*

The applicant lodged Landscape Plans and has been assessed by our Landscape Architect. This will be discussed in further detail later in this report under the DCP section.

#### **Condition 38 – Public Domain External Frontage Works**

This condition states that the public domain of each external frontage (including Banks Avenue) shall be suitably upgraded with new public domain improvements including new footpath, new curb and gutter and new landscape tree planting to the satisfaction of Bayside Council.

The applicant has provided details relating to a footpath and new tree planting along the Banks Avenue frontage.

This has been reviewed by Council's Landscape Architect and deemed acceptable subject to the imposition of conditions which have been included in the attached draft schedule of conditions. This includes the lodgement of a Landscape Frontage Works Application prior to the issue of a Construction Certificate.

#### **Condition 39 – Public Domain Canopy Cover**

This condition states that a minimum 30% tree canopy cover, of which 50% shall be endemic trees, shall be provided to all public domain landscaped areas within the site.

The Landscape Plans lodged with the application indicates a suitable amount of tree canopy cover, including the retention of the existing trees.

Based on the above, this Condition has been satisfied.

#### **Condition 40 – Landscaping**

This condition states all future Development Applications shall include detailed landscape plans.

The applicant lodged Landscape Plans and has been assessed by our Landscape Architect. This will be discussed in further detail later in this report under the DCP section.

#### **Condition 41 – Tree Removal**

This condition states that any tree removal would be subject to a future application.

The applicant has lodged an Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 27 June 2024. This will be discussed in further detail later in this report under the Biodiversity and Conservation SEPP section.

#### **Condition 42 – Landscape Setbacks / Deep Soil Zones**

This condition states the following:

- *All site setbacks in the approved Site Setbacks Plan shall comprise deep soil zones*

- *Soft landscape treatment is to be maximised within deep soil zones*
- *Setbacks above 2 or 4 storey podiums shall include soft landscape treatments in the form of built in planter boxes to soften building forms*

The Landscape Plans lodged with the application have suitably addressed all of the above.

#### **Condition 43 – Tree Canopy Cover and Species Selection**

This condition states the following:

- *A minimum of 30% tree canopy cover shall be provided to public domain areas*
- *Proposed landscape on site shall include a cohesive mix of Australian endemic, native and low water use plant material*

The Landscape Plans lodged with the application have suitably addressed all of the above.

#### **Condition 44 – Shrubs and Ground Covers**

This condition states that a minimum of 50% of shrubs and groundcovers used in landscaped areas on site shall comprise native vegetation.

The Landscape Plans lodged with the application have suitably addressed this requirement.

#### **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. This is to also include the following:

- Bicycle parking areas for residential and non-residential uses on site
- Extensive planters on interior and exterior to the buildings
- Each development is to designate a podium area for community gardens

The applicant has lodged an ESD Report, prepared by Efficient Living and dated 12 August 2022. The report confirms ESD commitments proposed on site as follows for the development, as per the table below:

<b><i>Initiative</i></b>	<b><i>Commitment</i></b>
<i>Community Vegetable Garden</i>	<i>Garden bed for resident use within podium level community spaces.</i>
<i>Composting facilities</i>	<i>Worm farm available for resident use to be provided within podium level community spaces</i>
<i>Electric Vehicles</i>	<i>100% of all residential parking spaces will be 'EV Ready'. Publicly accessible EV will be fast charging. 5% of all bicycle parking within the mix-use development – excluding bicycle parking within the parkland will have access to electric charging.</i>
<i>Car Share</i>	<i>Car share spaces will be provided at a rate of 1 per 50 dwellings and 1 space per 500sqm non-residential GFA.</i>
<i>Bicycle Facilities</i>	<i>Bicycle racks and end of trip facilities will be provided. 5% of bicycle parking spaces will be have access to electric bike charging.</i>

	<i>Lot C will be provided with increased bicycle parking at a rate of 1 space per 1.5 dwellings.</i>
<i>Open Space</i>	<i>Extensive public open space is included in the masterplan.</i>
<i>Green Roof Tops</i>	<i>Podium roof tops will be planted.</i>
<i>WSUD</i>	<i>Stormwater run-off will be treated with permeable paving, road swales, car park WSUD bays and share-way WSUD bio-retention links.</i>
<i>Fauna and Flora</i>	<i>Appropriate native and low water plant species will be chosen for the planting on site. Refer to the Landscape Report.</i>
<i>30% Tree Canopy Cover</i>	<i>At least 30% of the public domain areas will have large canopy tree cover.</i>
<i>Solar Power</i>	<i>Solar panels will be provided on the roof tops to serve the common area demand.</i>
<i>Rainwater connected to garden</i>	<i>Rainwater tanks will be connected to the irrigation system, toilets and wash down bays on the ground floor and podium levels.</i>
<i>Embedded Energy Network</i>	<i>Origin Energy has been signed up to provide an embedded energy network.</i>
<i>Building Management System</i>	<i>BMS will be included where practical</i>
<i>Real-time Energy Usage App</i>	<i>Will be provided to residents free of charge.</i>
<i>Lifts with regenerative drives</i>	<i>All lifts will have regenerative drives</i>
<i>Low VOC finishes</i>	<i>Paints, carpets and floor finishes will be low VOC.</i>
<i>Utility lot parking bays for 50% of the additional spaces</i>	<i>50% of the additional parking spaces (over and above the approved rate) will be utility lots, able to be purchased with a unit.</i>

Based on the above, this Condition has been satisfied.

This ESD Report will be included as part of the Approved Documentation in the attached draft schedule of conditions.

#### **Condition 46 – Site Specific Sustainable Travel Plan**

This condition states that a Green Travel Plan and Transport Access Guide is to be provided for the entire development.

The applicant has lodged a Green Travel Plan, prepared by Genesis Traffic and dated 23 July 2024.

The Green Travel Plan 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.

Based on the above, this Condition has been satisfied.

This Green Travel Plan will be included as part of the Approved Documentation in the

attached draft schedule of conditions.

#### **Condition 47 – Car Parking**

This condition states that any future development shall provide on-site parking in accordance with the following rates (as relevant):

- *1 bedroom – maximum 1 space per dwelling*
- *2 bedrooms – maximum 1 space per dwelling*
- *3 bedrooms – maximum 2 spaces per dwelling*
- *Residential visitor parking – maximum 1 space per 20 dwellings*

*Parking provision greater than the maximum rate not permitted.*

Based on the above rates, the following is required:

- 1 bedroom (75 units) – 75 parking spaces
- 2 bedrooms (232 units) – 232 parking spaces
- 3 bedrooms (70 units) – 140 parking spaces
- 4 bedrooms (8 units) – 16 parking spaces
- Residential visitor spaces (385 units / 20) – 19 parking spaces

Based on the above, a total of 482 parking spaces is required, and have been provided across the three basements levels as well as at grade on the ground level.

Based on the above, this Condition has been satisfied.

#### **Condition 48 – Loading / Unloading**

This condition states the following:

- *Provision shall be made for adequate loading and unloading facilities for service vehicles, suitably sized and designed for the proposed use in accordance with the DCP*

This will be discussed later in this report under the DCP section

- *All waste collection, furniture removal and deliveries must be undertaken wholly within the building on site and concealed from public view*

All facilities are located within the building footprint.

- *A loading dock management plan will be required for all buildings*

The applicant has lodged a Loading Dock Management Plan, prepared by Genesis Traffic and dated 19 July 2024.

This will be included as part of the Approved Documentation in the attached draft schedule of conditions.

#### **Condition 49 – Car Wash Bays**

This condition requires the provision of 1 car wash space per 200 residential car spaces provided.

Based on 463 residential car parking spaces, a total of 2 will be required, with 2 being provided.

Based on the above, this Condition has been satisfied.

#### **Condition 50 – Car Share**

This condition requires the provision of 1 car share space per 50 dwellings.

Applying this rate, a total of 8 car share spaces is required. These car share spaces will be shared with visitor spaces.

Based on the above, this Condition has been satisfied.

#### **Condition 51 – Electric Vehicle Charging**

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

The Traffic Impact Assessment, prepared by Genesis Traffic and dated 3 July 2024 and submitted with the application has stated that all residential car spaces in the development will be fitted out appropriately to be convertible to an EV-compatible car space.

Based on the above, this Condition has been satisfied.

This Traffic Impact Assessment will be included as part of the Approved Documentation in the attached draft schedule of conditions.

#### **Condition 52 – Bicycle Facilities**

This condition states that all future Development Applications shall adhere to the following minimum bicycle parking provision:

- *A minimum of 1 bicycle space per 1.5 dwellings and 1 space per 5 visitor spaces*

Applying this rate, a total of 261 spaces is required. 276 are proposed.

- *Bicycle parking areas are to be provided with electrical outlets at the rate of 1 power point per 20 bicycle spaces*

Applying this rate, a total of 14 of these spaces is required to be provided with electrical outlets. No details have been provided and therefore will be imposed as a condition in the attached draft schedule

- *10 bicycle spaces within open space area 2*

This has been provided.

- *All bicycle parking facilities shall be located in safe, convenient and well illuminated locations*



This has been provided.

Based on the above, this Condition has been satisfied.

#### **Condition 53 – Motorbike Facilities**

This condition requires the provision of 1 motorcycle space per 15 dwellings.

Applying this rate, a minimum of 32 spaces is required. 35 are proposed.

Based on the above, this Condition has been satisfied.

#### **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.

This will be discussed in further detail under the DCP section of this report.

#### **Condition 55 – Residential Amenity**

This condition states that any future Development Applications shall be consistent with the provisions of Chapter 4 of the Housing SEPP and the Apartment Design Guide.

This will be discussed in further detail under the Housing SEPP section of this report.

#### **Condition 56 – Groundwater Management**

This condition states that any future Development Application shall provide a report prepared by a qualified Geotechnical Engineer that models the consequences of the basement construction of the development will have on groundwater flow, flooding of the locality, building stability including buildings nearby to the development site and groundwater levels.

The applicant has lodged a Report on Geotechnical Investigation, prepared by Douglas Partners and dated 6 June 2024.

Based on the above, this Condition has been satisfied.

#### **Conditions 57 – Flood Planning**

This condition state that any future Development Application shall be designed in accordance with the approved flood study.

This will be discussed in further detail later in this report under the LEP section.

#### **Condition 58 – Flood Risk Management**

This condition states a flood risk management plan must be provided for all future Development Applications.

The applicant has lodged a Site Flood Assessment, prepared by WMA Water and dated 24

July 2024.

This will be discussed in further detail later in this report under the LEP section.

#### **Condition 59 – Stormwater Management**

This condition states any future Development Applications for each stage shall include a stormwater management plan.

This will be discussed in further detail later in this report under the LEP section.

#### **Condition 61 – Pedestrian Crossing for Heffron Road**

This condition states that prior to any Occupation Certificate issued for Lot D, scenarios for the potential creation of a pedestrian crossing upon Heffron Road in the mid block showing whether a crossing can or can not be achieved.

A condition has been imposed in the attached Draft Schedule of Conditions relating to a pedestrian refuge island requiring to be constructed on Heffron Road aligned with Kenny Road and the paved footpath in Open Space 3 (between Lots G and H) prior to the issue of a whole of building Occupation Certificate



Figure 28: Approximate location of refuge island on Heffron Road marked in red

#### **Condition 62 – Staging and Timing of Works / Dedication of Public Open Space**

This condition (in part) states that works related to Open Space 2 are to be completed prior to the issue of the Occupation Certificate of the final building in Lot D.

This is to be imposed as a condition in the attached draft schedule of conditions.

#### **Condition 65 – Addressing**

This condition states that address numbers are to be in accordance with the relevant standards and policies.

This is to be imposed as a condition in the attached draft schedule of conditions.

#### **Condition 66 – Instruments**

This condition relates to easements, right of carriageways, right of footways and leases burdening each of the registered lots. This includes easements to be imposed over Lot D

to provide a public right of footway through the privately owned road access, as well as restrictive covenants and easements.

Where relevant, these are to be imposed as a condition in the attached draft schedule of conditions.

### **Conditions 67 to 71 – External Agencies**

External agencies have imposed a number of requirements, including the following:

- *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate*

This has been imposed as a condition in the attached draft schedule of conditions.

- *The relevant requirements of Telstra and Ausgrid are to be considered in relation to any undergrounding of electricity assets on Banks Avenue*

Relevant conditions have been imposed in the attached draft schedule of conditions.

- *The relevant requirements of SACL and the Civil Aviation Authority shall be considered in the preparation of any future Development Application*

Relevant conditions have been imposed in the attached draft schedule of conditions.

- *Any development on site shall not exceed a maximum height of 91m AHD*

The maximum height of the proposed development is under 91m AHD

- *Water and wastewater servicing in accordance with Sydney Water requirements*

Relevant conditions have been imposed in the attached draft schedule of conditions.

- *The preparation of a groundwater / geotechnical report for Water NSW referrals*

The applicant has lodged a Report on Geotechnical Investigation, prepared by Douglas Partners and dated 6 June 2024.

### **(b) Environmental Planning and Assessment Act 1979 – Section 4.47 Integrated Development**

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application.

#### **Section 91 – Water Management Act 2000**

It is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be a specified controlled activity as excavation works for the basement will intercept groundwater. In this regard, the Development Application was referred to Water NSW.

On 31 January 2025, Water NSW provided General Terms of Approval (GTAs).

(c) **Section 4.15(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 (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- Bayside Local Environmental Plan 2021

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in the table below:

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises general development over \$30 million.	Y
State Environmental Planning Policy (Sustainable Buildings) 2022	<u>Chapter 2 Standards for residential development—BASIX</u> Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction.	Y
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 2: Vegetation in non-rural areas</u> Section 2.6(1) – Clearing of vegetation has been reviewed and considered satisfactory subject to conditions including replacement tree planting.	Y
State Environmental Planning Policy (Resilience & Hazards) 2021	<u>Chapter 4: Remediation of Land</u> Section 4.6 – Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> <li>• Section 2.48(2) (Determination of development applications—other development) – electricity transmission. The proposal is satisfactory subject to conditions.</li> <li>• Section 2.122 – Traffic generating development</li> </ul>	Y
State Environmental Planning Policy (Housing) 2021	<u>Chapter 4 – Design of residential flat buildings</u> Clause 145(2) - Design Quality Principles - The proposal is consistent to the design quality principles and the proposal is generally consistent to the ADG requirements, with the exception of solar access, building separation and deep soil.	Y
Bayside LEP 2021	<ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 4.3 – Height of buildings</li> <li>• Clause 4.4 – Floor space ratio</li> </ul>	Y

	<ul style="list-style-type: none"> <li>• Clause 4.6 – Exceptions to development standards</li> <li>• Clause 6.1 – Acid Sulfate Soil</li> <li>• Clause 6.2 – Earthworks</li> <li>• Clause 6.3 – Stormwater and sensitive water urban design</li> <li>• Clause 6.7 – Airspace operations</li> <li>• Clause 6.8 – Development in areas subject to aircraft noise</li> <li>• Clause 6.10 – Design Excellence</li> <li>• Clause 6.11 – Essential services</li> </ul>	
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Consideration of the relevant SEPPs is outlined below:

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

This SEPP applies to the proposal as it is a modification application of an approved development that is identified as regionally significant development. In this case, pursuant to 3.10 of this SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 6 as the modified proposal is general development with a capital investment value (CIV) over \$30 million. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 1753677M\_04.

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.

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

#### **Chapter 2 – Vegetation in non-rural areas**

This SEPP applies to the proposal. The applicant originally proposed to remove twelve (12) trees in accordance with the Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 27 June 2024, submitted with this DA.



Figure 29: Extract from Arboricultural Impact Assessment Report

Council was not supportive of the removal of the above six (6) trees (see **Figure 29**) as it was inconsistent with the Concept Plan, which in part requires the retention of the existing established trees around the perimeter of the site.

Based on the above, the applicant lodged amended plans which have retained all of these trees. This has also resulted in an amended layout of the Open Space 2 area, which includes a narrowed western entry from Banks Avenue (approximately 3.5 metres) to accommodate trees 95 and 96:

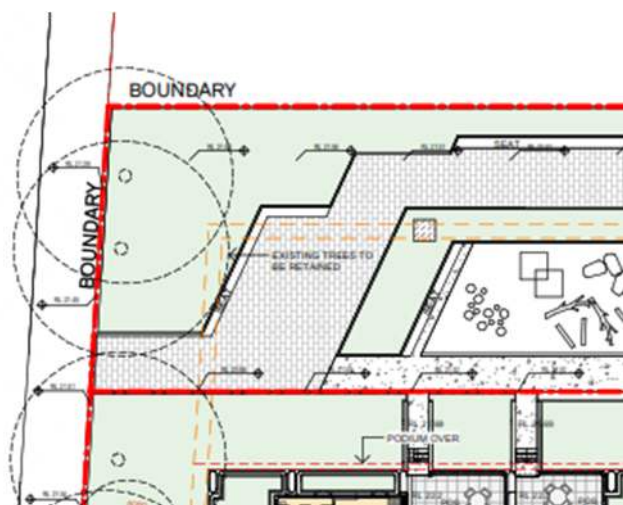


Figure 30: Revised western entry into Open Space 2 area (noting that a condition is imposed to retain the existing path adjacent to Lot G boundary that will provide a second entry / exit point to Banks Ave)

Further to the above, the applicant lodged an amended Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 5 February 2025. It recommended that these six trees are to be retained

This application was referred to Council's Tree Management Office and is supported subject to conditions.

It is considered that it complies with the SEPP.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

#### **Chapter 4 – Remediation of Land**

The applicant has provided the following documentation as part of the application:

- Report on Detailed Site Investigation, prepared by Douglas Partners, dated 11 September 2020
- Report on Detailed Site Investigation – 106 Banks Avenue, dated 13 November 2024
- Remediation Action Plans (Lot 4 and 14), prepared by Douglas Partners, dated 28 January 2025

These were referred to Council's Environmental Scientist for assessment. It was agreed that the site can be made suitable subject to the implementation of the Remediation Action Plans, subject to the imposition of conditions in the attached draft schedule.



Based on the above, it is considered that it complies with the SEPP.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

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

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with this Section the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Ausgrid for comment. No objections were raised to the proposed development, subject to conditions.

The proposal satisfies Section 2.48 of the SEPP.

#### **Section 2.122 – Traffic generating development**

The proposed development is considered to be a traffic generating development as per Schedule 3 of the Transport and Infrastructure SEPP as it is a residential development with more than 300 dwellings with access to any road.

The application was referred to Transport for NSW (TfNSW) and provided comments on 9 September 2024 advising that the proposed development is not expected to have a significant impact on the classified road network.

The proposal satisfies Section 2.122 of the SEPP.

### **State Environmental Planning Policy (Housing) 2021**

#### **Chapter 4 – Design of residential flat buildings**

In accordance with Section 145(2) of this SEPP, the consent authority must take into consideration the following:

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

This DA was reported to the DRP on 3 October 2024.

The DRP was satisfied that the proposed development satisfies the design quality principles as contained in this SEPP, subject to further amendments as listed below:

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

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

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

The subject site is located within the BATA 2 precinct area and is zoned R4 High Density

Residential as prescribed under the Bayside LEP 2021. The existing streetscape is characterised by an area gradually undergoing transition from a former manufacturing facility into a master planned residential development, with a completed medium density development to the north (Lot G), completed residential flat building to the east (Lot E), a residential flat building to the south under construction (Lot A) and Bonnie Doon Golf Club to the west.

The zone objectives for the R4 High Density Residential zone is to provide for the housing needs of the community within a high density residential environment. The proposed development is generally consistent with the approved Concept Plan, with respect to generally meeting the relevant development standards in the Bayside LEP 2021 and all of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Bayside DCP 2021.

The DRP was satisfied that it complied with this Principle, by way of the following:

- the repetitive expression of the single storey podium reflects adjacent terraced houses
- the staggered towers form a relaxed rapport and optimize solar access
- the simplified, refined expression reflects the client's preferred materiality and/
- entries are generous and easily identified along both north south streets.

### ***Principle 2: Built Form and Scale***

The built form of the proposed development will actively contribute towards the evolving nature of the streetscape and character for the BATA 2 Precinct, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the communal open space on the roof top.

The DRP requested some further amendments to satisfy this principle, which are discussed further below:

- *The centrally located swimming pool is overly dominant and results in the entire communal courtyard into a dull pathway around it; it would be better to move the pool south and perhaps off centre to the west*

The applicant has not relocated the pool, however they have made some changes to circulation around the pool to partially address the concerns identified by the Panel. The applicant argues that the pools location was strategically selected to be centrally positioned, ensuring a good separation from the private open spaces of the podium level units while minimising noise transfer through the building. Improved landscaping and pathways have been incorporated in the plans.

Council is supportive of the above.

- *The minimization of "dead edges" especially to the south, where an excessive expanse of servicing and waste facilities robs the southern shareway of apartment activation and passive surveillance*

The applicant has advised that the proposed location of services along the southern boundary are in an optimal location as it provides limited solar access and daylight, particularly in mid-winter. It is argued that it is not a dead zone as it includes the open space corridor, apartments, landscaping and child-care centre within the ground floor

of neighbouring Lot A. In addition to this, the service areas will have adjoining landscaping where possible as access is required to maintain the relevant service facilities.

Council is supportive of the above.

- *The replacement of pebble surfaced roofs with well-considered landscapes*

The pebbled surface has been removed.

Council is supportive these changes.

### ***Principle 3: Density***

The density is considered acceptable with respect to the bulk and scale of the development and will be assessed in greater detail in the LEP section of this report. Furthermore, there is sufficient communal open space as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is in within the BATA 2 Precinct, which is in close proximity to bus stops on Bunnerong Road and is within walking distance of a number of public parks and reserves, as well as schools.

The DRP was satisfied that it complied with this Principle.

### ***Principle 4: Sustainability***

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. It also complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in midwinter.

The DRP was satisfied that it complied with this Principle, by way of the following:

- high ADG solar compliance
- high ADG cross ventilation compliance
- solar panels at roof level (to be quantified)
- deep soil compliance

### ***Principle 5: Landscape***

Landscape details have been provided, with respect to the public domain at ground level, the communal open space areas as well as the private courtyard areas. This has been reviewed by our Landscape Architect, and is deemed acceptable, subject to the of conditions.

- The DRP requested some further amendments to satisfy this principle, which are discussed further below:

*The setting back of fencing to landscaped spaces within garden beds*

The fencing has been moved behind the landscape setback.

Council is supportive these changes.

- *The replanning of the of the 1-bedroom apartments to ensure they have formal entries*

The 1-bedroom apartments have been replanned where possible.

Council is supportive these changes.

- *Living rooms to larger units at upper levels are adequately sized for larger family groups*

Living room sizes are compliant with the Apartment Design Guide

- *While the northern extension of the lower basement levels under the setback upper basement challenges the definition of deep soil, it would appear that the intended by the DCP's and ADG's deep soil requirements is possible*

The Concept Plan was approved under MDA-2024/189 to extend the basement levels 2 and 3 under Open Space 2. The extension of the basements beneath the open space will provide sufficient deep soil while also reducing the need for an additional basement level. This approach will significantly reduce the drawdown of water from the existing water table during construction, leading to notable environmental benefits.

- *The landscape plans provided for Lot D includes the removal of large-scale canopy trees along Banks Avenue. Trees within this location are within the Concept Master Plan Tree Retention Strategy zone. Any proposed design within Lot D and the site through link are to preserve these trees.*

The large canopy trees along the Banks Avenue frontage will be retained.

- *A considered response to Designing with Country has been requested by the Panel for all sites within the precinct. The lack of consideration and provision of this information in forming a design response is resulting in a generic and repeated landscape palette, character and form. The design response should be consistent with adjacent public open spaces, the existing retained landscape and the future desired character that are informed by a Designing with Country process.*

The proposed landscaping is consistent with the approved landscape plan for the Concept DA. There are no planning controls relating to Designing with Country. Nevertheless, the species of trees, shrubs and grass are 85% native to Australia that is consistent with the environmental design response in the Designing with Country.

Refer to the Concept Plan section earlier in this report with relation to landscaping.

It is agreed that there are no planning controls that compel Council to legally consider the Design with Country process, and it is also agreed that the provision of native planting throughout the subject sites is considered to be a suitable response in lieu of a response to Design with Country.

- *Setbacks in the built form between levels 2 – 4 are to include and maximise landscape planters for a green architectural response. Level 1 has extensive areas that could be a combination of POS and planters to create a green edge.*

Green edges have been created on Level 1. The development does not have a podium above level 2.

Council is supportive these changes for Level 1.

- *The Panel does not support the encroachment of stairs, ramps, POS terraces and unnecessary pathways and infrastructure into the deep soil setback areas around the building. The proposed design has extensive incursions.*

The encroachment of stairs, retaining walls within the setbacks have been minimised and the private open space within the setbacks have been removed.

Council is supportive these changes.

- *Lawn areas to the ground floor should be deleted and instead planted*

Lawn areas on ground floor have been deleted and replaced with plants.

Council is supportive these changes.

### ***Principle 6: Amenity***

The proposed design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, natural ventilation through each floor, appropriately sized courtyards and balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

The DRP requested some further amendments to satisfy this principle, which were discussed further below:

- *The courtyard is not supported in its current form; more attention should be given to the creation of a variety of diverse spaces and provision of large trees*

The communal open space has been redesigned.

Council is supportive these changes.

- *A better correspondence between lobbies and their relationship with level one is encouraged*

The Level 1 Communal Open Space provides a network of paths that link the open spaces, the building entries and private access points of the two residential towers.

Council is supportive these changes.

- *Formal entries should be provided to all apartments*

Where possible formal entry to the apartments have been provided.

Council is supportive these changes.

- *The northern share way should be redesigned to provide a variety of landscaped spaces; at present it appears to be a modified road space*

A variety of landscape spaces have been added like playground, seating nodes and open lawns.

Council is supportive these changes.

***Principle 7: Safety***

It provides for an easily identifiable, prominent and generous residential lobby entries for both towers and ground floor residential units comprising individual distinguishable pedestrian entries. Residential apartments and car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways.

The applicant prepared and lodged a CPTED report which was discussed earlier in this report under the Concept Plan section.

The DRP was satisfied that it complied with this Principle.

***Principle 8: Housing Diversity and Social Interaction***

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aide in addressing housing affordability.

The DRP was satisfied that it complied with this Principle.

***Principle 9: Aesthetics***

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include off-form concrete, frameless glass and aluminium louvres. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

The DRP requested some further amendments to satisfy this principle, which were discussed further below:

- *It is not clear if the sloping of top bays is a positive strategy – it is the exposed silhouette of a highly prominent building after all*

The amended plans have indicated that the tops have been made flat.

Council is supportive these changes.

- *Vertical blade podium expression should continue across service areas on northern and southern elevations*

The amended plans have shown that the northern and southern elevations have had the vertical blade expression further extended across the service areas.

Council is supportive of these changes.

***(c) the Apartment Design Guide***

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:

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The communal open spaces located on Level 1 has a total area of 2,392.5m <sup>2</sup> , which is equal to 25.75% of the site.	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (midwinter).	A detailed plan has been provided in the architectural plans that demonstrates at least 1,550.05m <sup>2</sup> (64%) of the communal open space can receive at least 2 hours sunlight in mid-winter	Yes
Part 3E: Deep Soil Zones	For sites greater than 1,500m <sup>2</sup> , a deep soil area equal to 7% of the site and with a minimum dimension of 6m	Deep soil area is located within all setbacks and within Open Space 2 area and exceeds the percentage and dimension requirements	See Note 1
Part 3F: Visual Privacy	For developments up to 4 storeys: <ul style="list-style-type: none"> <li>6m between habitable/balconies and non-habitable</li> <li>3m between non-habitable rooms</li> </ul>	The separation distances exceed the minimum requirements	Yes
	For developments up to 8 storeys: <ul style="list-style-type: none"> <li>9m between habitable/balconies and non-habitable</li> <li>4.5m between non-habitable rooms</li> </ul>	The separation distances exceed the minimum requirements	Yes
	For developments over 9 storeys: <ul style="list-style-type: none"> <li>12m between habitable/balconies and non-habitable</li> <li>6m between non-habitable rooms</li> </ul>	The separation distances exceed the minimum requirements	Yes
Part 3J: Car Parking	On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is	Refer to Master Plan Condition 47 for approved car parking rates	N/A

Section	Design Criteria	Proposed	Complies
	set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less		
<b>Part 4 Designing the Building</b>			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.	The living rooms and private open space areas for 273 out of the 385 units (71%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	20 out of the 385 units (20%) receive no direct sunlight between 9am and 3pm on 21 June.	Yes
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	112 out of the 169 units to Level 9 (66%) will be naturally cross ventilated.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> <li>• 3.3m for ground floor to promote future flexibility of use</li> <li>• 2.7m for habitable rooms</li> <li>• 2.4m for non-habitable rooms</li> </ul>	The floor to ceiling height at ground level is 5.2 metres, and 3.15 metres floor to ceiling height for the other levels	Yes
Part 4D: Apartment Size and Layout	Apartment are required to have the following minimum internal areas: <ul style="list-style-type: none"> <li>• 1 bedroom: 50m<sup>2</sup></li> <li>• 2 bedrooms: 70m<sup>2</sup></li> <li>• 3 bedrooms: 90m<sup>2</sup></li> </ul> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.	The minimum area for the 1-bedroom units are 56m <sup>2</sup> . The minimum area for the 2-bedroom units are 77m <sup>2</sup> . The minimum area for the 3-bedroom and 4-bedroom units are 94m <sup>2</sup> .	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes

Section	Design Criteria	Proposed	Complies
	and air may not be borrowed from other rooms.		
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths comply.	Yes
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	The size of all bedrooms comply.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>3.6m for studio and 1-bedroom apartments</li> <li>4m for 2- and 3-bedroom apartments</li> </ul>	The width of the studio and 1-bedroom units is at or greater than 3.6m, and the width of the 2-bedroom units is at or greater than 4m.	Yes
	The width of crossover Or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes
	The width of crossover or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes
Part 4E: Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> <li>Minimum area of 8m<sup>2</sup> and minimum depth of 2m for 1-bedroom units</li> <li>Minimum area of 10m<sup>2</sup> and minimum depth of 2m for 2-bedroom units</li> <li>Minimum area of 12m<sup>2</sup> and minimum depth of 2m for 3-bedroom units</li> </ul> The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for of the balconies for the 1-bedroom units are 15m <sup>2</sup> . The minimum area for the 2-bedroom units are 14m <sup>2</sup> . The minimum area of the balconies for the 3-bedroom and 4-bedroom units are 15m <sup>2</sup> . All balconies have minimum depth of 2m.	Yes
Part 4F: Common Circulation and Spaces	Maximum number of apartments off a circulation core on a single level is eight	The maximum number of apartments off a core is 5.	Yes
	Daylight and natural	Lobbies are naturally lit	Yes

Section	Design Criteria	Proposed	Complies
	ventilation should be provided to all common circulation spaces that are above ground	and there is opportunity for natural ventilation.	
Part 4G: Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> <li>• 6m<sup>3</sup> for 1-bedroom units</li> <li>• 8m<sup>3</sup> for 2-bedroom units</li> <li>• 10m<sup>3</sup> for 3-bedroom units</li> </ul> <p>At least 50% of the required storage is to be located within the apartment.</p>	There is a mixture of storage located within the units as well as within the basement areas.	Yes

### **Bayside Local Environmental Plan 2021**

The relevant local environmental plan applying to the site is the *Bayside Local Environmental Plan 2021* ('the LEP').

The site is located within the MU1 Mixed Use Zone pursuant to Clause 2.2 of the LEP.

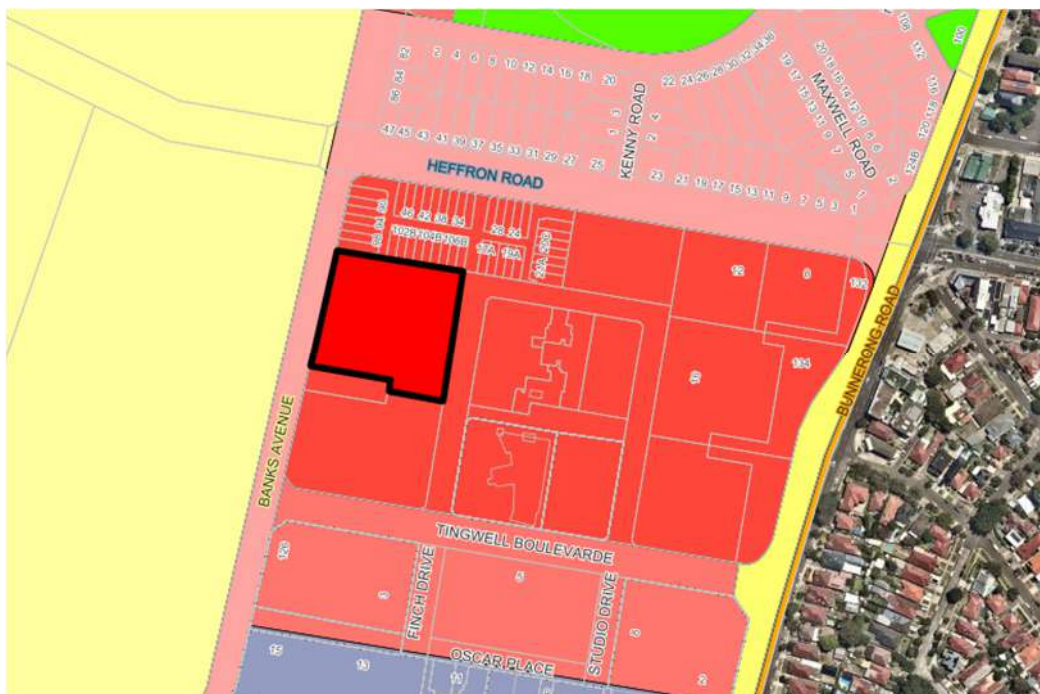


Figure 31: Zoning map (Source: Bayside IntraMaps)

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a residential flat building which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- 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 proposal is considered to be consistent with these zone objectives for the following reasons:

- It will provide housing and a variety of housing types in a high density environment
- It will be in proximity to facilities and services that will meet the day to day needs of residents
- It will provide a design that will minimize the character and local amenity of the area
- It will be in an accessible location to maximise public transport patronage and encourage walking and cycling.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in the table below.

<b>Relevant Clauses</b>	<b>Compliance with Objectives</b>	<b>Compliance with Standard / Provision</b>
Section 4.3 – Height of buildings	Yes – see discussion	Yes – see discussion
Section 4.4 – Floor space ratio	Yes – see discussion	No – see discussion
Section 4.6 – Exceptions to Development Standards	Yes – see discussion	Yes – see discussion
Section 5.21 – Flood Planning	Yes – see discussion	Yes – see discussion
Section 6.2 – Earthworks	Yes – see discussion	Yes – see discussion
Section 6.3 – Stormwater and water sensitive urban design	Yes - see discussion	Yes - see discussion
Section 6.7 – Airspace operations	Yes – see discussion	Yes – see discussion
Section 6.10 – Design Excellence	Yes – see discussion	Yes – see discussion
Section 6.11 – Essential services	Yes – see discussion	Yes – see discussion

#### **Section 4.3 – Height of Buildings**

A maximum height standard of 69 metres applies to the subject site.

The proposal has a maximum height of 68.34 metres (RL 90.34 AHD) for Tower A, and a maximum height of 68.54 metres (90.94 AHD) for Tower B, both of which complies with the provisions and objectives of this Clause.

#### **Section 4.4 – Floor Space Ratio**

A maximum FSR standard of 2.35:1 (Gross Floor Area (GFA) of 205,520m<sup>2</sup>) applies to the entire BATA 2 precinct, as per the Concept Plan approval.

It also allocated a GFA allowance to each of these lots. With Lot D, a total GFA of 38,500m<sup>2</sup> was approved, to an equivalent of 0.42:1 for the entire site

Condition 15 of the Concept Plan states the following:

*Where the maximum gross floor area of a lot is not fully utilised within a development of that lot, this may be transferred to another lot within the site which has not yet been developed, given at all times, the maximum permitted gross floor area for the entire site subject to the Concept Plan approval and development standard for the site is not exceeded.*

Lot D proposes an additional 70m<sup>2</sup> of gross floor area above what was approved in the Concept Plan (38,570m<sup>2</sup>), which has been transferred from other approved Lots. This has also slightly increased the allocated FSR for this Lot to 0.43:1.

Further to the above, the 2.35:1 FSR development standard has been applied to the now registered lots subject to this application – based on a total land area of 9,290m<sup>2</sup>, the total allowable GFA for the land subject to this application is 21,831m<sup>2</sup>. A total of 38,570m<sup>2</sup> is proposed, which results in a total FSR of 4.15: 1. For this reason alone, the applicant has prepared and lodged a Section 4.6 variation, which will be discussed in further detail later in this section.

#### **Section 4.6 – Exceptions to Development Standards**

Section 4.6 of the LEP allows a contravention to a development standard subject to a written request by the applicant justifying the contravention by demonstrating:

*Section (3)(a)- compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*

*Section (3)(b)- there are sufficient environmental planning grounds to justify the contravention.*

Section 4.6(3) requires the consent authority to be satisfied the applicant has demonstrated the above.

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.



The applicant is seeking to contravene the Floor Space Ratio development standard by way of the following:

- 70m<sup>2</sup> additional square metres above the indicative GFA allowance for Lot D under the Concept Plan approval.
- 16,739m<sup>2</sup> additional square metres based on the registered subdivision incorporating the subject lots against the 2.35:1 FSR development standard

The applicant's Section 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case there and are sufficient environmental planning grounds to support the non-compliant Floor Space Ratio. These components are summarised below, with the assessing officer's response provided:

***Section 4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,***

Applicant Comments/Arguments (summarised):

Compliance with the FSR standard is unnecessary in this instance because the proposed development aligns with the approved Concept DA (DA-2019/386). The development meets the objectives of the FSR standard and the zoning requirements under the LEP. Therefore, the intent of the FSR standard is achieved, despite the non-compliance.

The Concept DA approved a maximum total GFA of 210,390m<sup>2</sup>, including a minimum of 5,000m<sup>2</sup> of nonresidential GFA, resulting in an overall FSR of 2.35:1 for the entire Pagewood Green site. The site, previously under single ownership and used for industrial purposes, is now being transformed into a residential hub featuring supermarkets, specialty stores, restaurants, cafes, childcare centres, public roads and public open spaces.

The Concept Plan allocated 38,500m<sup>2</sup> of GFA to Lot D, equating to an FSR of 0.429:1 across the entire Pagewood Green site, as required by the Concept Plan DA approval. In accordance with Condition 15 of the Concept DA approval, the GFA of a lot can be transferred elsewhere within the Pagewood Green precinct. As such, 70m<sup>2</sup> of underutilised floor space from other parts of the precinct has been added to Lot D, increasing its total allocated GFA from 38,500m<sup>2</sup> to 38,570m<sup>2</sup>.

This additional floor space remains consistent with the Concept Plan's allocation requirements. The FSR for Lot D has increased slightly from 4.14:1 to 4.15:1, while the FSR for the broader Pagewood Green site has changed marginally from 0.429:1 to 0.430:1 – both of which comply with the approved Concept DA.

Officer Comment:

The objectives of the relevant Floor Space Ratio development standard are as follows:

- to establish standards for the maximum development density and intensity of land use,
- to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

- to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,
- to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.

The proposal is considered consistent with the objectives of the development standard because:

- A maximum density and intensity have been established under the Concept Plan approval
- The proposed development is generally consistent with the approved bulk and scale as approved by the Concept Plan
- The proposed development has been designed to minimize adverse environmental impacts on adjoining properties and the public domain
- The proposed development has been designed to maintain appropriate visual relationships between new development and the existing character of the locality
- The proposed development will not adversely affect the streetscape, skyline and streetscape when viewed from adjoining roads and public places

***Section 4.6(3)(b) – there are sufficient environmental planning grounds to justify contravening the development standard***

Applicant Comments/Arguments (summarised):

The proposal will deliver a residential development which will be consistent with the desired future character of the Pagewood Green Site. The proposed development will deliver a built form and character in accordance with the Concept DA.

In addition, the proposed development will not be out of context with the built form anticipated by the approved Concept Plan DA for the site. In this regard, the proposed development will:

- Deliver an FSR which complies with the maximum permitted by the LEP and Concept Plan DA approval for the overall Pagewood Green Site;
- Provide generous landscaping throughout the site;
- Deliver a building envelope which is compliant with that approved under the Concept DA; and
- Maximises compliance with ADG criteria

The proposed development will not result in any excessive undue environmental impacts upon the adjoining properties and the public domain.

Officer Comment:

It is agreed that there are sufficient environmental planning grounds to justify the contravention of the development standard as:

- The Concept Plan has placed a cap on the maximum gross floor area for the entire precinct, which as demonstrated earlier in this report is on track to be complied with
- The proposed development is consistent with the approved envelope controls under the Concept Plan with relation to building setbacks, building separation and building height
- The proposed development provides landscaping which is consistent with the

- approved Concept Plan
- The approved development demonstrates compliance with the Apartment Design Guide.

### **Section 5.21 – Flood Planning**

Council records indicate that the lot is subject to flooding in a 1% AEP event.

The applicant has lodged a Site Flood Assessment, prepared by WMA Water and dated 24 July 2024. It recommended that the finished floor level be raised to 22.2m for Tower A and 22.6m AHD for Tower B.

The report and proposal were reviewed by Council's Development Engineer. Subject to conditions in the attached Draft Schedule of Conditions, the proposal has been designed to adhere to the relevant minimum flood levels and is satisfactory with respect of the provisions of this LEP Clause.

### **Section 6.2 – Earthworks**

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

### **Section 6.3 – Stormwater and WSUD**

The proposal involves the construction of an on-site detention system to manage stormwater. The proposed stormwater system has been reviewed by Council's Development Engineer and conditions of consent are recommended, to require the submission of revised stormwater plans prior to the issue of the Construction Certificate, in order to ensure that the requirements and objectives of this clause are satisfied. As conditioned the proposal satisfies the requirements of this clause and is satisfactory in this regard.

### **Section 6.7 – Airspace Operations**

Refer to the Concept Plan section earlier in this report in relation to the maximum allowable height of buildings.

### **Section 6.10 – Design Excellence**

The proposed development is subject to the requirements of this clause. In accordance with the requirements of Section 6.10(4), the application was reviewed by the Design Review Panel (DRP) on 3 October 2024.

As per sub-clause 5, any proposed development higher than 40 metres or 12 storeys (or both) are required to undergo a competitive design process in relation to the proposed development.

Council's Director of City Planning provided a written waiver to the applicant on 18 February 2025 advising that a design competition was not required as a design competition is unlikely to result in a better outcome, given the success of the DRP process for the development so far.

In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

*(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

DRP comments

Achieved.

Council assessment

Agreed.

*(b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

DRP comments

Achieved.

Council assessment

Agreed.

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

DRP comments

It does not impact on view corridors.

Council assessment

Agreed

*(d) the requirements of any development control plan made by the Council and as in force at the commencement of this clause,*

DRP comments

While the northern extension of the lower basement levels under the setback upper basement challenges the definition of deep soil, it would appear that the intended by the DCP's and ADG's deep soil requirements is possible.

Council assessment

This has been suitably resolved. Refer to deep soil discussion under the Concept Plan section earlier in this report.

*(e) how the development addresses the following matters:*

*(i) the suitability of the land for development, existing and proposed uses and use mix,*

DRP comments

Suitable

Council assessment

Agreed

(ii) *existing and proposed uses and use mix*

DRP comments

Suitable

Council assessment

Agreed.

(iii) *heritage issues and streetscape constraints,*

DRP comments

Refer to comments relating to northern share way and south facing built form interface

Council assessment

As discussed earlier in this report, the deep soil matter relating to the northern share way (i.e. Open Space 2) as well as the interface along the southern elevation at ground level has been suitably resolved.

(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,*

DRP comments

Acceptable

Council assessment

Agreed.

(v) *bulk, massing and modulation of buildings,*

DRP comments

Acceptable

Council assessment

Agreed.

(vi) *street frontage heights,*

DRP comments

Acceptable

Council assessment

Agreed.

*(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*

DRP comments

Acceptable

Council assessment

Agreed

*(viii) the achievement of the principles of ecologically sustainable development,*

DRP comments

To be demonstrated.

Council assessment

Satisfied, refer to the sustainability comments under the Concept Plan section earlier in this report.

*(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*

DRP comments

Acceptable

Council assessment

Agreed

*(x) the impact on, and any proposed improvements to, the public domain,*

DRP comments

Acceptable

Council assessment

Agreed

*(xi) achieving appropriate interfaces at ground level between the building and the public domain,*

DRP comments

Acceptable



Council assessment

Agreed

(xii) *excellence and integration of landscape design.*

DRP comments

Deep soil matter within open space area to be suitably resolved.

Council assessment

Suitably resolved as discussed earlier in this report.

Based on the above assessment, the proposed development in its current form does achieve design excellence.

**Section 6.11 – Essential Services**

Services are generally available on site. Additional conditions have been incorporated in the attached draft schedule of conditions requiring consultation with relevant utility providers with regard to any specific requirements for the provision of services on site.

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

There are no draft Environmental Planning Instruments that apply to this proposal.

**(e) 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 Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
<b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>		
Part 3.1.1 – Site Analysis and Locality	Yes – see discussion	Yes – see discussion
Part 3.1.2 – Interface with Public Domain	Yes – see discussion	Yes – see discussion
Part 3.1.3 – Crime Prevention Through Environmental Design	Yes – see discussion	Yes – see discussion
Part 3.2 – Design Excellence	Yes – see discussion	Yes – see discussion
Part 3.3 – Energy and Environmental Sustainability	Yes – see discussion	Yes – see discussion
Part 3.5 - Transport, Parking and Access	Yes – see discussion	Yes – see discussion
Part 3.6 – Social Amenity,	Yes – see discussion	Yes – see discussion

Accessibility and Adaptable Design		
Part 3.7 – Landscaping, Private Open Space and Biodiversity	Yes – see discussion	Yes – see discussion
Part 3.8 – Tree Preservation and Vegetation Management	Yes – see discussion	Yes – see discussion
Part 3.9 – Stormwater Management and WSUD	Yes – see discussion	Yes – see discussion
Part 3.11 – Flood Prone Land	Yes – see discussion	Yes – see discussion
Part 3.11 – Contamination	Yes – see discussion	Yes – see discussion
Part 3.12 – Waste Minimisation and Site Facilities	Yes – see discussion	Yes – see discussion
Part 3.13 – Areas subject to Aircraft Noise and Airport airspace	Yes – see discussion	Yes – see discussion
Part 3.14 – Noise, Wind, Vibration and Air Quality	Yes – see discussion	Yes – see discussion
Part 3.18 – Utilities and Mechanical Plant	Yes – see discussion	Yes – see discussion
<b>PART 4 – SUBDIVISION, CONSOLIDATION AND BOUNDARY ADJUSTMENTS</b>		
Part 4.1 – General	Yes – see discussion	Yes – see discussion
<b>PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS</b>		
Part 5.1.4 – Quality of Design, Choice and Diversity	Yes – see discussion	Yes – see discussion
Part 5.2.4.1 – Streetscape, Local Character and Quality of Design	Yes – see discussion	Yes – see discussion
Part 5.2.4.2 – Built Form Controls	Yes – see discussion	Yes – see discussion
Part 5.2.4.3 – Setbacks	Yes – see discussion	Yes – see discussion
Part 5.2.4.4 – Landscaping and Private Open Space	Yes – see discussion	Yes – see discussion
Part 5.2.4.5 – Solar Access and Overshadowing	Yes – see discussion	Yes – see discussion
Part 5.2.4.6 – Parking and Access	Yes – see discussion	Yes – see discussion
Part 5.2.4.7 – Visual and Acoustic Privacy	Yes – see discussion	Yes – see discussion
Part 5.2.4.8 – Materials and Finishes	Yes – see discussion	Yes – see discussion
Part 5.2.4.9 – Entries	Yes – see discussion	Yes – see discussion

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

### **Part 3.1.1 – Site Analysis and Locality**

The proposed development has provided a detailed and comprehensive site analysis.

### **Part 3.1.2 – Interface with Public Domain**

The proposed development has been designed to have clearly defined entry points, address the street and promote a high level of pedestrian amenity and equitable access.

### **Part 3.1.3 – Crime Prevention Through Environmental Design (CPTED)**

The applicant has lodged a CPTED Assessment, prepared by Meriton and dated 29 July 2024. It has made an assessment against the CPTED Principles, those being:

- Territorial reinforcement
- Surveillance
- Access control
- Space / activity arrangement

It has made a series of recommendations based on landscaping design, lighting, fencing, building design and site management. It concluded that the development is a carefully designed development, configured to suit the needs to future residents and visitors. There is a clear delineation between public and private spaces through the implementation of building design and landscaping, and opportunities for crime are minimised.

Based on the above, this Condition has been satisfied.

### **Part 3.2 – Design Excellence**

Refer to the LEP section earlier in this report.

### **Part 3.3 – Energy and Environmental Sustainability**

The proposed development provides appropriate sun protection during summer for glazed areas facing north, west and east, whilst allowing for penetration of winter sunlight

The location of windows, doors and internal layout of the building promotes air movement for cooling.

The applicant has lodged a Reflectivity Assessment, prepared by SLR Consulting and dated 28 June 2024. Based on a detailed, multi-staged analysis, the recommendations from this analysis have been implemented with the latest façade design and therefore it will cause neither motorist disability glare nor pedestrian discomfort.

This Reflectivity Assessment will be included as part of the Approved Documentation in the attached draft schedule of conditions.

As mentioned earlier in this report, an ESD report has been lodged by the applicant and considered acceptable.

### **Part 3.5 – Transport, Parking and Access**

Refer to the Concept Plan section of this report relating to car parking rates.

The design and location of the parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site and the proposal.

A loading dock area is provided in the at-grade car park to accommodate both small rigid and medium rigid vehicles.

Proposed waste collection arrangements meet Council's specifications and requirements.

The proposal satisfies the transport and access requirements of the DCP.

### **Part 3.6 – Social Amenity, Accessibility and Adaptable Design**

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides ramped access from the footpath to the lift core and also to communal open space on Level 1.

The proposal provides 77 adaptable units (20%) within the development. Adaptable units are provided throughout the development, with suitable access to communal areas of the development and with units shown in separate plans. A mix of adaptable unit types have been provided including both two (2) and three (3) bedroom units, as detailed in the submitted Adaptable Housing Assessment Report prepared by Design Confidence and dated 3 July 2024. Relevant conditions are proposed to ensure adaptable units comply with relevant Australian Standards.

The development provides 40 accessible car spaces and these spaces are located in close proximity to the lifts. This meets the DCP requirements of providing at least half of the adaptable dwellings being required to have allocated accessible resident car parking.

The applicant has provided an access report prepared by Design Confidence and dated 3 July 2024.

It concluded that compliance can be achieved either by meeting the deemed-to-satisfy requirements of the BCA, as are principally contained within Part D4 Access for People with a Disability, Parts E3D7 and E3D8 Passenger Lifts, Parts F4D5, F4D6, F4D7 Accessible Sanitary Facilities, or via a performance-based approach.

A Social Impact Assessment was not required for this proposal.

The proposal is satisfactory and complies with the objectives of this Part of the DCP.

### **Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management**

Refer to the Housing SEPP section earlier in this report for deep soil landscaping requirements.

Multiple canopy trees are provided in the site.

Council's Tree Management Officer has recommended conditions be imposed, which have been included if the recommendation was for approval.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP, subject to recommended conditions.

### **Part 3.9 – Stormwater Management and WSUD**

Refer to the LEP section earlier in this report.

### **Part 3.10 – Flood Prone Land**

Refer to the LEP section earlier in this report.

### **Part 3.11 – Contamination**

Refer to the SEPP section earlier in this report.

### **Part 3.12 – Waste Minimisation and Management**

Construction and Operational Waste Management Plans were submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

Waste rooms and facilities are located at grade and can be accessed by a Medium Rigid Vehicle (MRV) which includes Council's standard waste collection vehicle.

The proposed waste arrangements and report was reviewed by Councils' Waste Officer who had no objections to the proposal.

Appropriate conditions have been included in the attached draft schedule of conditions.

### **Part 3.13 – Development in areas subject to Aircraft Noise and Sydney Airport Operations**

Refer to the LEP assessment earlier in this report.

### **Part 3.14 – Noise, Wind, Vibration and Air Quality**

The applicant has lodged a Noise Impact Assessment, prepared by Acoustic Logic and dated 25 June 2024.

It has made an assessment of façade requirement to achieve required indoor noise levels, with relation to glazed facades, external walls, external roof and ceiling insulation, and ventilation and air conditioning.

It has also included an assessment of Unit G02 which is adjoins the waste collection room. It has recommended the following additional treatments and management controls:

- Utilise signage to ensure noise levels are kept to a minimum
- Waste room use and collections to occur between 7am - 10pm where possible.
- Discontinuous stud wall construction for the adjoining wall on the apartment side to minimise impact noise transfer from bins impacting the wall.

It concluded that provided these measures are incorporated that the internal noise impacts will comply with the acoustic requirements as specified under the DCP, Transport and Infrastructure SEPP, Development Near Rail Corridors and Busy Road (Interim Guideline) and Australia Standard AS21078:2016 "Recommended Design Sound Levels and Reverberation Times for Building Interiors".

This Noise Impact Assessment will be included as part of the Approved Documentation in

the attached draft schedule of conditions. An additional condition is proposed requiring that the area of the garbage room that abuts Unit G02 be provided with wheel stops to prevent bins from hitting the wall of the unit to ensure impacts to this residential unit are adequately minimised.

The applicant has lodged a Pedestrian Wind Environment Statement, prepared by Windtech and dated 12 June 2024.

It included a series of recommendations relating to the design of ground level areas, podium Level 1 and private balconies to be included in the final design. It is expected that wind conditions for the various trafficable outdoor areas within and around the development will be suitable for their intended uses, and that the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety.

Wind tunnel testing is recommended to be undertaken at a more detailed design to quantitatively assess the wind conditions and to optimise the size and extent of the treatments required.

This Pedestrian Wind Environment Statement will be included as part of the Approved Documentation in the attached draft schedule of conditions.

### **Part 3.18 - Utilities and Mechanical Plant**

Appropriate site facilities are provided. Utilities are located in an appropriate location.

### **Part 4 – Subdivision, Consolidation and Boundary Adjustments**

The proposed redevelopment does not result in the isolation of adjoining properties, that could not otherwise be redeveloped to their full potential.

### **Part 5.1.4 – Quality of Design and Housing Choice and Diversity**

Design Excellence considerations have been addressed previously in response to the LEP provisions.

An adequate site analysis plan was provided with the DA.

As the proposal contains more than 20 units, the DCP contains provisions related to unit mix, as below:

- *Studio: 5 - 10%*
- *1 bedroom: 10 – 30%*
- *2 bedrooms: 40 – 75%; and*
- *3+ bedrooms: 10 - 100%*

The following mix is proposed:

- 1 bedroom – 18.6%
- 2 bedrooms – 60.9%
- 3 and 4 bedrooms – 20.5%

It demonstrates compliance with the prescribed percentages and therefore is considered acceptable.

Matters relating to design and materials, internal design and balcony design have been addressed earlier in this report.

#### **Part 5.2.4.1 – Streetscape, Local Character, and Quality of Design**

The provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide have been addressed previously.

The proposed substation along the southern elevation frontage is considered to be in a suitable location.

The proposal is considered consistent with the objectives and controls relating to building design, materials and finishes.

#### **Part 5.2.4.2 – Built Form Controls**

Some of the provisions of this Part of the DCP are similar to Chapter 4 of the Housing SEPP and the associated Apartment Design Guide, which have been addressed previously.

The roof form, pitch, materials, and colours are deemed to be compatible with those prevailing in the surrounding area.

#### **Part 5.2.4.3 – Setbacks**

Refer to the approved Concept Plan and Housing SEPP assessment earlier in this report.

#### **Part 5.2.4.4 – Landscaping and Private Open Space**

The provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide have been addressed previously.

The landscaping controls in Part 3.7 of the DCP have been addressed previously.

#### **Part 5.2.4.5 – Solar Access and Overshadowing**

Chapter 4 of the Housing SEPP and the associated Apartment Design Guide override this section of the DCP, and these have been addressed previously.

The building has been designed to appropriately respond to the site orientation and constraints in receiving reasonable solar access throughout the development, including having regard to the controls and guidelines in this Part of the DCP.

In terms of overshadowing to adjoining properties, the applicant has provided existing and proposed aerial shadow diagrams at hourly intervals between 9am to 3pm for mid-winter (June 21).

As demonstrated within the shadow diagrams, at mid-winter, the proposal will achieve the required 3 hours solar access between 9am and 3pm in midwinter to adjoining open space and habitable rooms.

#### **Part 5.2.4.6 – Parking and Access**

This has been addressed previously in accordance with Part 3.5 of the DCP and in response to relevant provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide.



#### **Part 5.2.4.7 – Visual and Acoustic Privacy**

An assessment of potential privacy impacts upon neighbours has been undertaken under the Housing SEPP section of this report (building separation).

#### **Part 5.2.4.8 – Materials and Finishes**

These aspects have been considered in relation to *Chapter 4 of the Housing SEPP* and the associated *Apartment Design Guide* addressed previously.

#### **Part 5.2.4.9 – Entries**

Building entries are easily identifiable, accessible, and positively contribute to the streetscape. The proposal meets the objective of this Part of the DCP and is acceptable when considered against the applicable controls and provisions.

Details regarding street numbering and letterboxes are addressed by way of conditions in the attached draft schedule of conditions.

#### **Developer Contributions**

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A total of **\$7,700,000** has been calculated. This payment will be imposed as a condition in the attached schedule.

NOTE: The Housing and Productivity (HPC) contribution also applies to this proposal and has been included as a condition of consent.

#### **(f) Section 4.15(1)(a)(iia) – 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) an executed Planning Agreement (PA) applied to the subject site. The Planning Agreement was executed on 28 October 2021 and provides the following community benefits.

- (i) Dedication of 45 Affordable Housing Units (AHU's), with a total of 100 bedrooms.
- (ii) Embellishment and dedication for public use of over 16,995m<sup>2</sup> 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 realised due to the development payment trigger being deferred to the BATA II development which consists of \$2,478,000 indexed in accordance with CPI from 2 March 2018.
- (vi) Payment of local Infrastructure contributions.

The Planning Agreement was executed on 28 October 2021 and amended on 14 June 2023. Conditions imposed upon the original Concept Plan Consent are included to ensure that future approvals for the precinct operate in conjunction with the executed Planning Agreement.

A second amendment to this Planning Agreement was amended on 13 December 2024, with relation to sections of open space areas being combined with adjoining lots. This includes the amendment to Open Space 02 so that it will no longer be dedicated to Council

but will be associated with Lot D. This change permits the basement to be constructed below this lot.

**(g) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Sections 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Section 92 requires the consent authority to consider the provisions of AS 2601:1991 *Demolition of Structures* when demolition of a building is involved. In this regard a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

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

**3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Construction

There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

Accordingly, it is considered that the proposal will/will not result in any significant adverse impacts in the locality as outlined above. Social Impacts

The social impacts of the proposal are on balance expected to be positive, with a development of high-quality design and amenity to meet the needs of future residents, within a form compatible with the approved concept plans scale and character of the area and with impacts which are not significantly adverse, and commensurate with impacts to be expected from development of the site, given the planning controls and the approved concept plan.

Economic Impacts

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from the materials and labour needed for construction of the proposal.

**Section 4.15(1)(c) - Suitability of the site**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

**3.3 Section 4.15(1)(d) - Public Submissions**

In accordance with Part 2 of the Bayside DCP, the DA was advertised for 30 days from 2 September to 2 October 2024. A total of 1 submission was received, with the primary issues

raised discussed further below:

### ***Strains on public transport***

Comment: Public transport in the area is the responsibility of the state government and also the local traffic committee. The site has been re-zoned and a Concept Plan approved to permit residential density of this intensity and scale. Council through the traffic committee can make representations to the state government to increase the supply of public buses to the Pagewood Green site. In addition to this, the developer is required to replace the existing bus stop on Bunnerong Road to improve the capacity of the people waiting to catch the bus.

### ***Increased traffic and safety concerns***

Comment: A Traffic and Parking Impact Assessment Report was approved with the Concept Plan and provided an assessment of the traffic, access and parking implications of the Pagewood Green site.

The proposed development yield falls within the limits approved under the Concept Plan. Therefore, the projected outcome of the proposed development will align with the underpinning traffic assessment.

The applicant has agreed to construct a pedestrian island in Heffron Road to improve pedestrian and traffic safety in the locality as discussed previously in the report.

On that basis, the assessment deems the development traffic of this proposed development is acceptable and will be within the approved planning parameters.

### ***Wind tunnel effects***

Comment: As discussed earlier in this report, the Wind Report concluded that the wind conditions for the various trafficable outdoor areas within and around the development will be suitable for their intended uses, and the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety, in accordance with its recommendations and findings.

### ***Loss of sunlight***

Comment: An overshadowing analysis was undertaken for the Concept Plan, which resulted in the height, bulk and scale of future applications within the Pagewood Green site. The subject development is consistent with the Concept Plan and the associated shadows.

## **3.4 Section 4.15(1)(e) - Public interest**

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is one that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

#### 4. REFERRALS AND SUBMISSIONS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Comments
<b>External Referrals</b>	
Water NSW	General Terms of Approval
Transport for NSW	Supported
NSW Police	No referral comments received
Ausgrid	Conditions
Sydney Airport	Conditions
Sydney Water	Conditions
<b>Internal Referrals</b>	
Design Review Panel	Supported subject to amendments
Development Engineer	Conditions
Environmental Scientist	Conditions
Section 7.11 Contributions	Conditions
Waste	Conditions
Trees Officer	Conditions
Landscaping	Conditions

#### 5. CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed development is permissible in the R4 High Density Residential Zone, is generally consistent with the approved Concept Plan consent for the BATA 2 site and achieves 'design excellence' pursuant to section 6.10 of the BLEP 2021.

The applicant has submitted a Clause 4.6 Exception to the maximum Floor Space Ratio of 2.35:1 which is found to be acceptable.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

On balance, the proposed development in its current form is appropriate for the site and it is recommended that the Panel approve DA-2024/190 for the reasons outlined in this report.

The reasons for this recommendation are:

- The proposal is generally consistent with the Concept Plan approved under DA-2019/386 (as amended)
- The proposal retains significant trees located along the Banks Avenue frontage which retains habitat and results in high amenity for the public domain and future occupants of the development.

- The development, subject to conditions, is consistent with the objectives of the R4 High Density zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development achieves design excellence pursuant to section 6.10 of the Bayside LEP 2021
- The proposal is an appropriate response to the streetscape and site context by way of architectural design and will not result in any significant impact on the environment or the amenity of nearby residents.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions of consent.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

## **6. RECOMMENDATION**

- (a) That the Sydney Eastern City Planning Panel is satisfied that the applicant's written request to contravene Clause 4.4 of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan.
- (b) That the Development Application DA-2024/190 for Integrated Development - Lot D – Excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road at 98 and 106 Banks Avenue, Eastgardens be APPROVED pursuant to Section 4.16(1)(a) or (b) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent / reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent/reasons for refusal
- Attachment B: Architectural Plans
- Attachment C: Statement of Environmental Effects
- Attachment D: Clause 4.6 Request for Floor Space Ratio