

COUNCIL SUPPLEMENTARY ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-337 – DA-2024/205
PROPOSAL	BATA 2 - Lot F – Removal of trees, excavation, and construction of three (3) connected buildings of 6-13 storeys comprising two (2) levels of basement car parking, 224 residential units, communal recreational facilities, associated landscaping, and construction of a private road.
ADDRESS	16 Studio Drive Eastgardens (Lot 34 DP 1312041)
APPLICANT	Karimbla Properties (no.39) Pty Ltd
OWNER	Karimbla Properties (no.39) Pty Ltd
DA LODGEMENT DATE	28/08/2024
APPLICATION TYPE	General Development
REGIONALLY SIGNIFICANT CRITERIA	CIV >\$30 million
CIV	\$132,785,999
CLAUSE 4.6 REQUESTS	FSR – 2.97:1
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Resilience & Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Bayside LEP 2021</i> • <i>Bayside DCP 2022</i>
TOTAL & UNIQUE SUBMISSIONS	31 submissions, 12 unique submissions
DOCUMENTS SUBMITTED FOR CONSIDERATION	Plans: <ul style="list-style-type: none"> • Lot J & Lot H Shadow Analysis to Lot F • Lot F Solar Access Diagram • Lot F Solar Analysis

	<ul style="list-style-type: none"> • Lot F Solar Written Response • Lot C Solar Access Diagram • Lot F Shadow Analysis to Lot C <p>Excell Documents:</p> <ul style="list-style-type: none"> • Impact of Lot J and H onto Lot F Unit Table Solar Study 15 Minutes 16 Studio Drive, EASTGARDENS NSW 2036 • Impact of Lot F onto Lot C Unit Table Solar Study 15 Minutes 2 Tingwell Boulevard, EASTGARDENS 2036
HOUSING PRODUCTIVITY CONTRIBUTION (\$7.24)	Applicable – Conditioned
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
PLAN VERSION	Various
SCHEDULED MEETING DATE	29 May 2025
PREPARED BY	Felicity Eberhart – Senior Assessment Planner
DATE OF REPORT	20 May 2025

EXECUTIVE SUMMARY

Council received Development Application No. DA-2024/205 on 28 August 2024 for the proposed redevelopment of Lot F within the BATA 2 Precinct for *“Removal of trees, excavation, and construction of three (3) connected buildings of 6-13 storeys comprising two (2) levels of basement car parking, 224 residential units, communal recreational facilities, associated landscaping, and construction of a private road”*.

On 4 May 2025, the Sydney Eastern City Planning Panel (SECPP) (the Regional Panel) deferred the determination of the application subject to the following:

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

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

Following a comprehensive assessment of the submitted information, the Assessing Officer is of the view that the proposal complies with the requirements of the ADG and the application

is subsequently referred to the SECPP for final determination, with a recommendation for Approval as per the conditions of consent originally recommended.

ADDITIONAL INFORMATION

The following additional information was submitted by the applicant between the 9 and 19 May 2025.

Lot J and H shadows onto Lot F

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

Lot F Shadows onto Lot C

- *Shadow diagrams showing the extent of Lot F shadows and identifying the affected units within Lot C.*
- *An assessment of each affected unit within Lot C, including a quantification of solar access received in midwinter.*
- *Solar access tally at 15-minute intervals.*

ASSESSMENT

Shadow Impact - Lot J and H onto Lot F

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

CLAUSE	DESIGN GUIDANCE	COMMENTS	COMPLIES
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (157 of 232) of apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	75.9% (170 of 224)	Yes
	Max 15% (31 of 224) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	8.9% (20 of 224)	Yes

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

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

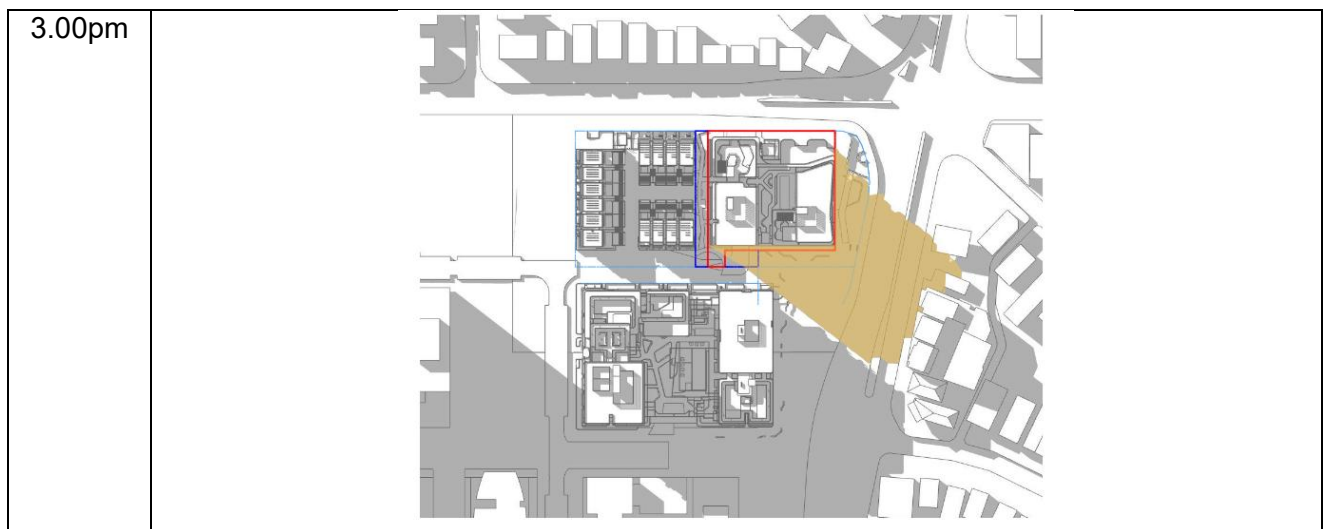
“To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes”



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

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

MIDWINTER SHADOW IMPACT - LOT J and H (Town Houses) ONTO LOT F	
9.00am	
12.00pm	



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

Level	Total Units	Total Units Impacted by LOT J and H	Units Impacted by LOT J and H that receive 2hrs sun	TEST <i>1m² above 1m for 15min</i>	Compliance <i>2Hrs Sun</i>
Ground	17	5	4	Y	11
Level 1	22	5	5	Y	14
Level 2	26	6	5	Y	17
Level 3	26	4	4	Y	18
Level 4	26	3	3	Y	20
Level 5	26				21
Level 6	22				18
Level 7	15				11
Level 8	11				9
Level 9	11				9
Level 10	6				6
Level 11	6				6
Level 12	6				6
Level 13	4				4
Total	224	23	21	21/21	170
				100%	75.9%

Further analysis reveals:

- A total of 23 of 244 units (9.4%) within Lot F from ground level to level 4, are impacted by overshadowing from the proposed redevelopment of Lot J and H to some extent.
- Of the 23 affected units, analysis concluded that 21 of the 23 retain 2 hours solar access in midwinter with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.

- Overall, 170 of 224 (75%) units in Lot F retain 2 hours solar with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.
- Overall, 20 of 224 (8.9%) receive nil solar access, 15% (33.6) are permitted to receive nil solar access as per ADG.
- Overall, 35 of 224 (15.6%) receive less than 2 hours of solar access in midwinter.

Based on the above, the proposed redevelopment of Lot J and H is not expected to diminish solar access to proposed units within the Lot F building, below the minimum requirements of the Apartment Design Guide.

The proposal complies with Part 4A – Solar and Daylight Access of the Apartment Design Guide.

Shadow Impact – Lot F onto Lot C

An assessment has been undertaken to quantify solar access for the future units at 16 Tingwell Boulevard (Lot C) to ascertain how many retain a minimum of two hours of sunlight in midwinter given the potential shadow impacts of the redevelopment of Lot F.

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

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



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

Submitted diagrams and floor plan analysis confirm that with the construction of the proposed development (Lot F), a total of 162 of the 232 units at 16 Tingwell Boulevard (Lot C) still retain a minimum of 2 hours solar access in midwinter, being 70% of dwellings within this development.

It is noted that proposed dwellings at 16 Tingwell Boulevard (Lot C) should benefit from easterly or westerly orientation and thus compliance with the solar access requirements of the Apartment Design Guide remains achievable despite the proposed development directly north.

Further analysis reveals:

- A total of 43 of 232 units (18.5%) within Lot C from ground level to Level 9, are impacted by overshadowing from the proposed redevelopment of Lot F to some extent. The remaining 189 units in the development are not impacted by Lot F.

- Of the 43 units, a total of 4 failed to receive a minimum of 2 hours of solar access in midwinter prior to its approval. As such, these units are excluded from this assessment, as they were non-compliant from the outset.
- Of the 39 affected units, the analysis concluded all these units still retained 2 hours solar access in midwinter with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day.
- Overall, 162 of the 232 units (70%) in Lot C retain 2 hours solar with 1sq/m of direct sunlight, measured 1 metre above floor level, for 15 minutes into the living room and private open space in midwinter at varying times of the day. The remaining 70 units (30%) are unable to receive the minimum requirement, though not caused by this development proposal (i.e self-inflicted or due to orientation).

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

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

RECCOMENDATION

- A. That the Sydney Eastern City Regional Planning Panel, exercising the functions of Council as the consent authority pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979 agrees with the applicant's written request justifying the contravention to clause 4.4 - Floor space ratio development standard of the Bayside Local Environmental Plan 2021. The Panel is satisfied that the applicant's written request has addressed the matters required to be demonstrated by clause 4.6 of the Bayside Local Environmental Plan 2021 and has established that compliance with the development standard would be unreasonable or unnecessary in the circumstances and that sufficient environmental planning grounds have been provided to justify the contravention of the development standard.
- B. That the Sydney Eastern City Regional Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2024/169 for BATA 2 Lot F – Integrated Development – Removal of trees, excavation, and construction of three (3) 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 at 16 Studio Drive Eastgardens by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

REASONS

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

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

The proposal is supported for the following main reasons:

- The proposed development generally complies with the relevant environmental planning instruments and Concept Plan requirements which apply to the site.
- The proposal is permissible within the zone with development consent and satisfies the zone objectives.
- The proposal achieves and demonstrates design excellence as required by requirements of Clause 6.10 of the BLEP 2021 and was supported by the Design Excellence Panel.
- Notwithstanding the technical FSR non compliance as discussed in original report, the proposal is of appropriate height, bulk, scale and form for the site and is consistent with the emerging desired future character of the area as envisaged by the concept plan approval.
- The proposed development is a suitable use for the subject site and its approval is in the public interest.