

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Application Number:	DA-2019/387
Date of Receipt:	25/10/2019
Property:	128 Bunnerong Road & 120 Banks Avenue, Eastgardens
Owner:	Karimbla
Applicant:	Mr Walter Gordon
Applicant Address:	Level 11, 528 Kent Street, Sydney
Proposal:	BATA 2 - Civil Works involving the construction of roads, sewer, stormwater, water supply infrastructure and public domain landscaping in preparation for the future mixed use concept development application.
Recommendation:	Approval
Value:	\$2,964,700.00
No. of submissions:	Two (2)
Author:	Fiona Prodromou - Senior Assessment Planner
Date of Report:	August 2020

### Key Issues

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Whilst the proposal is not specifically referenced in schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, nor does it meet the capital investment value (CIV) threshold, works proposed are simultaneously sought within a Stage 1 Concept DA for the site, currently under assessment with Council.

In accordance with Clause 21 – Concept Development Applications of State Environmental Planning Policy (State and Regional Development) 2011, as the proposal is tied to and the subject of a concept development application, it is referred to the Regional Planning Panel for determination.

The subject site forms part of a larger property known as the BATA (British American Tobacco Australia) site, which was previously utilised for industrial purposes.

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

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

- Rezone the site from IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential;
- Amend Floor Space Ratio controls to 2.35:1;
- Amend Height of Building controls to 16.6m, 37m and 69m; and

- Include a Clause requiring the preparation of a Development Control Plan for the site.

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

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

- DA-2019/386 - Integrated Development and Staged Concept Development - land subdivision; building envelopes / height / setbacks for 13 buildings of between 2 and 20 storeys to accommodate a variety of residential dwellings and a minimum of 5,000m<sup>2</sup> of non-residential land uses including child care centres, serviced apartments, supermarket and other commercial uses; landscaping and public domain works; proposed road layout; basement and podium level car parking; and car parking rates; resulting in a total floor space ratio of 2.35:1
- DA-2019/426 - Torrens title land subdivision into seventeen (17) lots comprising nine (9) development lots, five (5) public open space lots and three (3) public roads

The above DA's remain under assessment and will be determined in due course.

The subject site is contaminated and will require remediation to ensure the site is suitable for the proposed development, as required by SEPP 55 – Remediation of Land. The proposal has been conditioned appropriately.

Two (2) submissions from the same objector were received in relation to the proposed development, issues raised are discussed within this report.

Following further detailed assessment of the Concept Plan development application currently with Council by the assessing officer, Councils engineers & independent urban designer in conjunction with the design excellence panel, it can be confidently stated that the road network as proposed by this application is appropriately designed and located within the site.

The road network will facilitate the servicing of future lots and development within BATA 2. The U shape road network connects to Tingwell Boulevard and subsequently Banks Avenue and Bunnerong Road, providing an appropriate vehicular connection to existing roadways within BATA 1 and the surrounding road network.

Roadway extensions within the site, to prospective basement levels and proposed lots, are subject to future development applications.

Whilst the concept plan DA remains under assessment, the proposal for the road network and associated civil works is unlikely to derogate from the concept plan application and is therefore recommended for Approval.

## **Recommendation**

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1. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/387 for civil works involving the construction of roads, sewer, stormwater, water supply infrastructure and public domain landscaping in preparation for the future mixed use concept development application at 128 Bunnerong Road & 120 Banks Avenue, Eastgardens; pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

2. That the submitter be notified of the Regional Planning Panel's decision.

## Background

DA	Description	Date	Decision
14/96	Redevelopment of site for staged mixed use development involving subdivision and concept approval for the location of public road network, private access ways through site, OSD, WDUD, building envelopes and heights, facilitating approximately 2733 dwellings on site, parking spaces in above ground and basement facilities and 8000sq/m of public open space.	7 August 2015	Approved by L&E Court.
15/104	Subdivision of the site into urban blocks and the construction of the road network (excluding the approved east/west boulevard & private access ways) and associated civil works.	8 January 2016	Approved Council
15/104/02	Modification to conditions 6 & 7	9 February 2016	Approved Council
15/104/03	Modification to add construction of private roads / access ways.	29 September 2016	Approved Council
15/104/04	Modification of condition 10 & 58	10 September 2018	Approved Council
15/104/05	Modification to realign the approved lot boundaries of the subdivision	4 December 2017	Approved Council
14/96/03	Modification to Masterplan subdivision plan demonstrating boundary realignment and stratum subdivision of the basement between lots 3 & 4	23 November 2017	Approved Council
CDC 1423.92-01-2018	Demolition of industrial buildings	23 July 2018	PCA AED Group
DA-2019/386	Integrated Development and Staged Concept Development - land subdivision; building envelopes / height / setbacks for 13 buildings of between 2 and 20 storeys to accommodate a variety of residential dwellings and a minimum of 5,000m <sup>2</sup> of non-residential land uses including child care centres, serviced apartments, supermarket and other commercial uses; landscaping and public domain works; proposed road layout; basement and podium level car parking; and car parking rates; resulting in a total floor space ratio of 2.35:1	Submitted to Council 25 October 2019  Under Assessment	
DA-2019/387	Civil Works involving the construction of roads, sewer, stormwater, water supply infrastructure and public domain landscaping in preparation for the future mixed use concept development application	Submitted to Council 25 October 2019  Subject DA	
DA-2019/426	Torrens title land subdivision into seventeen (17) lots comprising nine (9) development lots, five (5) public open space lots and three (3) public roads	Submitted to Council 25 November 2019  Under Assessment	

## Proposal

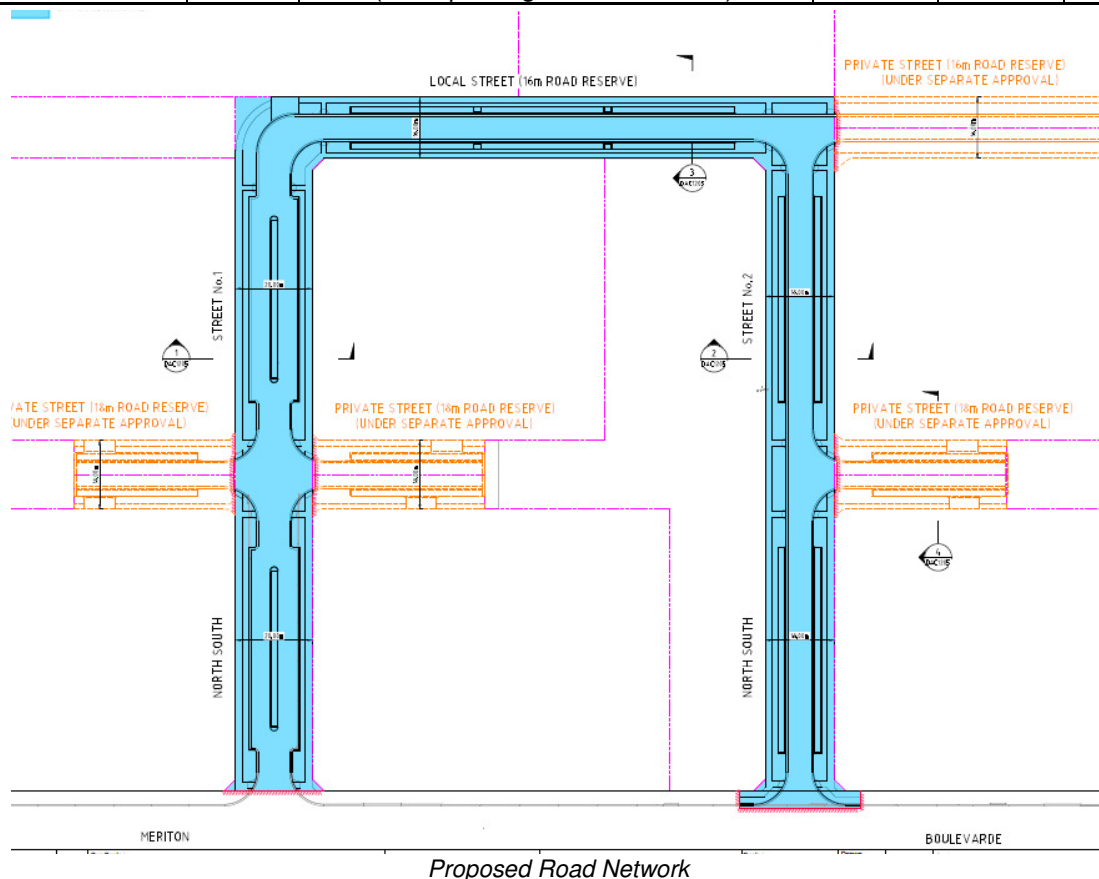
Civil Works involving the construction of roads, sewer, stormwater, water supply infrastructure, essential services and public domain landscaping in preparation for the future mixed use concept development application are proposed.

The proposal involves the construction of all roads within the site, kerb-to-kerb, medians, surfacing, associated signage and line marking is also proposed.

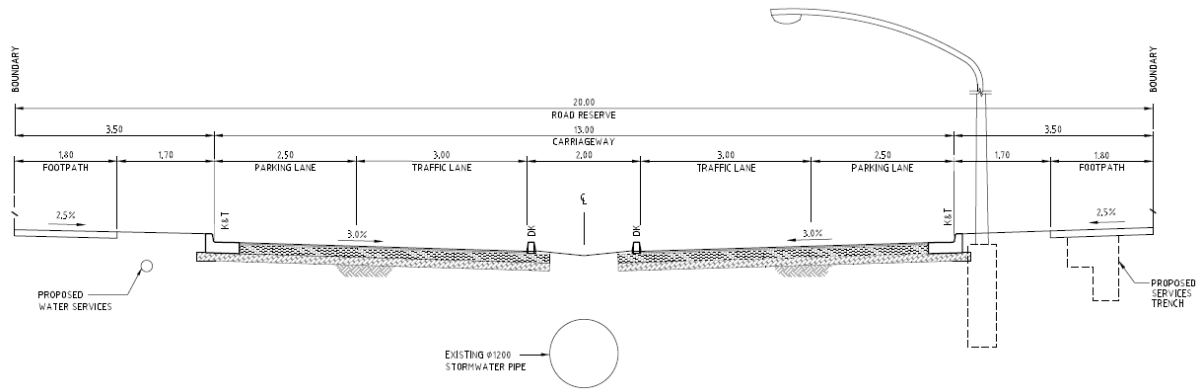
Internal roads are designed generally in accordance with Councils DCP, AS2890.1, AS1428.1 and NSW Fire Brigades Policy and are further designed to accommodate an 8.8m garbage truck, 12.5m bus and fire truck aerial appliance access.

Road, verge and footpath widths are proposed as follows;

Proposed Road	Road Width	Carriageway	Swale Median	Verge	Footpath
North South Street 1	20m	13m (2.5m parking / 3m traffic lane)	2m	1.7m	1.8m
North South Street 2	18m	13m (2.5m parking / 3m traffic lane)	-	1.7m	1.8m
Local Street	16m	11m (2.5m parking / 3m traffic lane)	-	1m	1.5m

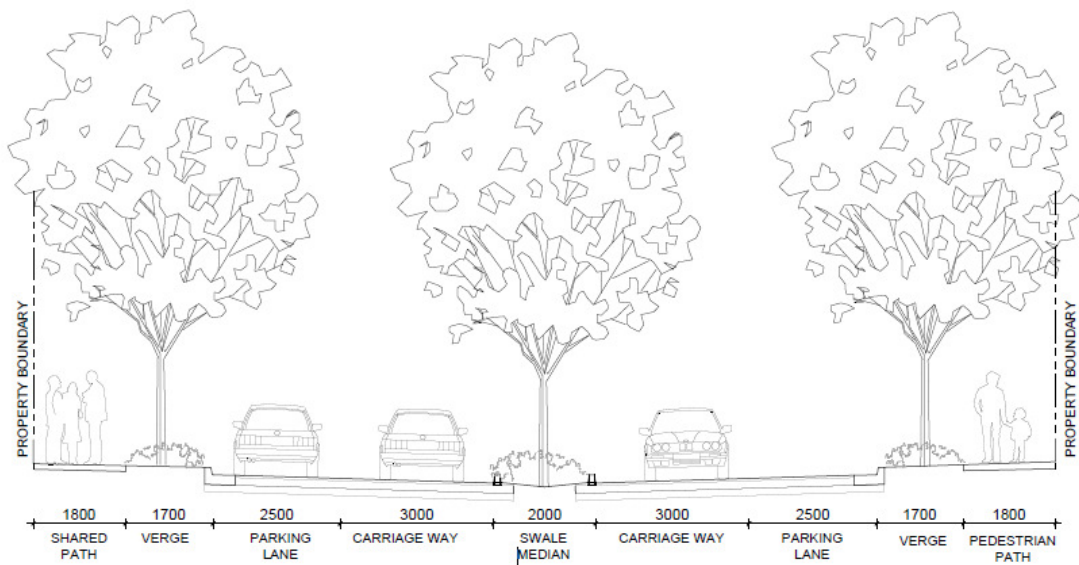


Footpaths (1.5m – 1.8m wide), verges and kerb details as proposed are also identified in the plan below.

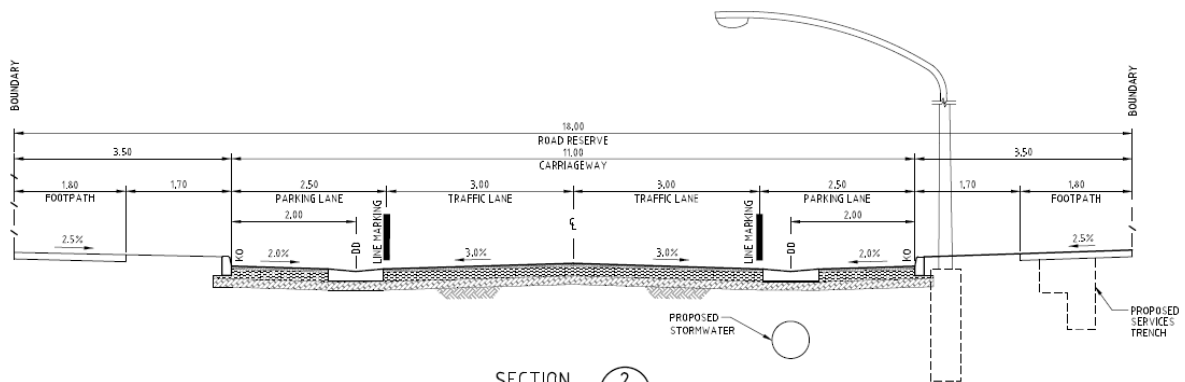


SECTION 1  
1:50 DAC1203 DAC210

NORTH-SOUTH STREET No.1 - 20m ROAD RESERVE

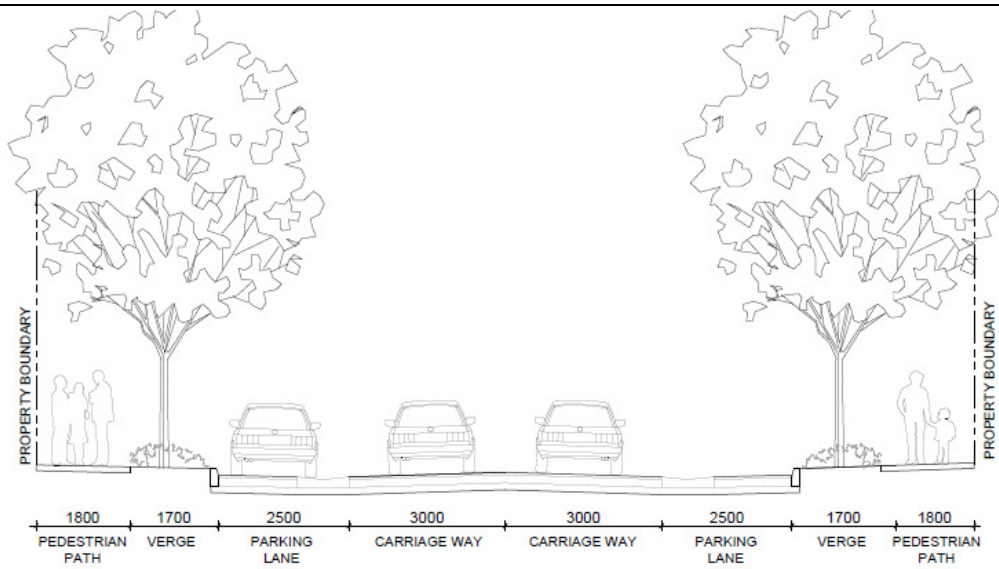


01 NORTH SOUTH STREET 1 - 20m ROAD RESERVE  
SCALE 1:50 @ A1; 1:100 @ A3

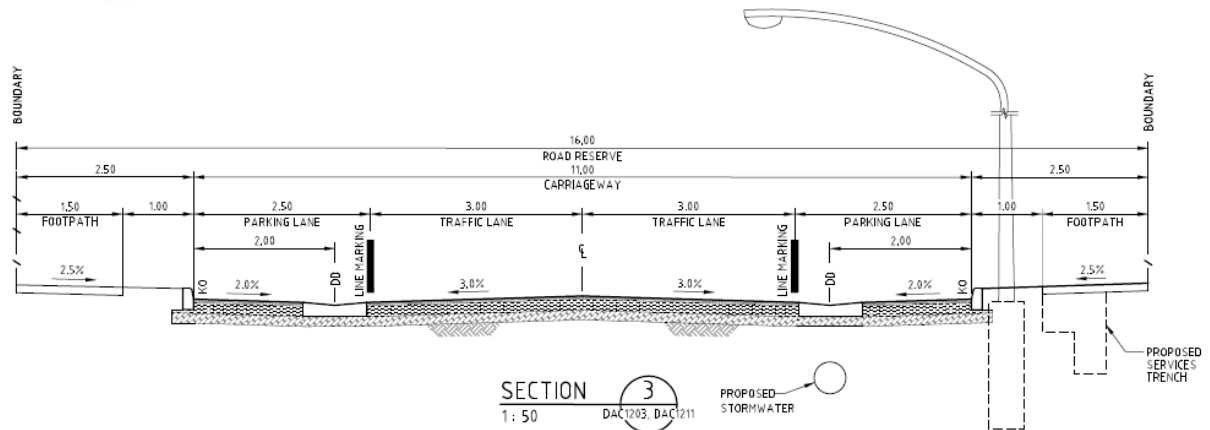


SECTION 2  
1:50 DAC1203 DAC211

NORTH-SOUTH STREET No.2 - 18m ROAD RESERVE



02 NORTH SOUTH STREET 2 - 18m ROAD RESERVE  
SCALE 1:50 @ A1; 1:100 @ A3



LOCAL STREET - 16m ROAD RESERVE



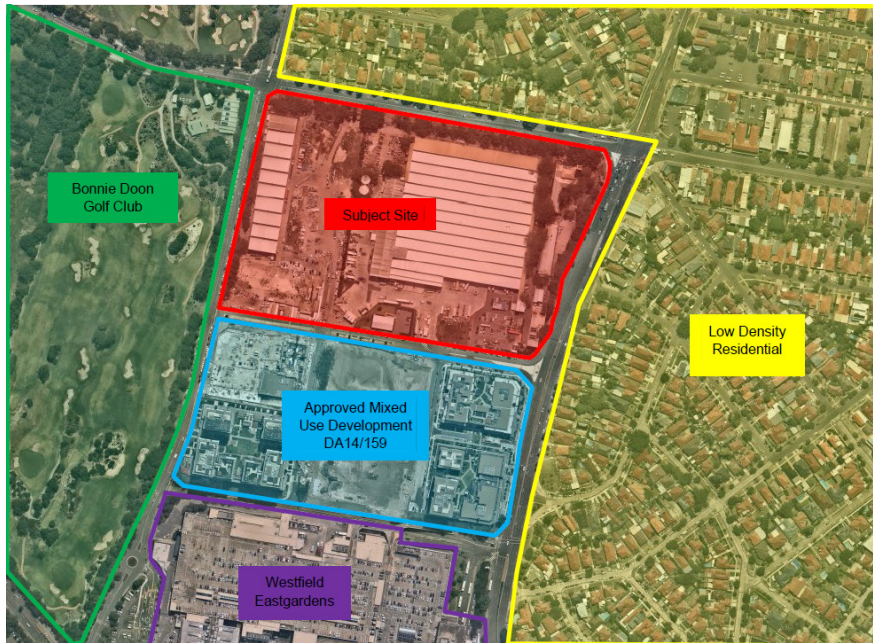
01 LOCAL STREET - 16m ROAD RESERVE  
SCALE 1:50 @ A1; 1:100 @ A3



The architectural floor plan illustrates the layout of the first floor, featuring four primary rooms: LPD-101, LPD-102, LPD-103, and LPD-104. Each room is meticulously detailed with dimensions, room layouts, and annotations. The plan includes various areas such as corridors, restrooms, and service areas, all labeled with specific measurements and room numbers. The layout is symmetrical, with rooms LPD-101 and LPD-102 on the left, and LPD-103 and LPD-104 on the right. The plan also shows the location of various rooms, including restrooms, service areas, and corridors, all labeled with specific measurements and room numbers. The layout is symmetrical, with rooms LPD-101 and LPD-102 on the left, and LPD-103 and LPD-104 on the right. The plan also shows the location of various rooms, including restrooms, service areas, and corridors, all labeled with specific measurements and room numbers.

The subject site comprises a total site area of 89,500sq/m, being 61,390sq/m (128 Bunnerong Road) and 28,110sq/m (120 Banks Avenue). The site is generally rectangular in shape, with an irregular eastern boundary along Bunnerong Road.

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



The subject site has a cross fall, with the south eastern corner of the site being up to 3m lower than the footpath at the junction of Bunnerong Road and Tingwell Avenue. The north western portion of the site is raised up to 1.5m above the existing public footpath along Banks Avenue.



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



*Looking south from junction of Bunnerong & Heffron Roads*

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





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

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

Directly south of the site are a number of multi storey residential / mixed use buildings and a public open space area. This area was developed by the applicant as part of the Stage 1 Master Plan for the BATA site and is characterised by a mix of land uses and building forms of varying heights from 6-21 storeys. This redevelopment is nearing completion.

Directly to the north, opposite Heffron Road are a row of single and two storey detached dwelling houses, numbered 1 to 47. These properties are zoned R2 – Low Density Residential, comprise vehicular access via Heffron Road and street trees, power poles and street lights exist within the nature strip in front of these properties.



*Properties along northern side of Heffron Road*

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



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

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

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

Council records identify that the subject site is affected by;

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

## **Statutory Considerations**

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

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

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

In accordance with the provisions of Section 7.4 of the EPA Act 1979 (as amended), the developer is proposing the execution of a Voluntary Planning Agreement (VPA) with Council, for the subject site. At the time of finalising the assessment of this application the VPA was in draft form and had not been executed.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

In accordance with Clause 21 – Concept Development Applications of the SEPP, as the proposal is the subject of a concept development application, the proposal is referred to the Regional Planning Panel for determination.

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

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

taken into consideration.

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

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

Correspondence submitted by the applicant titled '*Summary of Previous Investigations*' dated 15 October 2019 concludes that the site can be made suitable for the proposed civil works contingent to the following additional investigations and documents being prepared and provided to Council and the Site Auditor:

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

This correspondence further notes that the preferred remediation strategy is to comprise the retention and management of contaminated soils on site, either through relocation to less sensitive areas and/or physical encapsulation or capping, therefore reducing the need to remove large volumes of soil to landfill.

The aforementioned strategy as proposed by the applicant is in conflict with recent correspondence dated 7 April 2020.

Council will not accept a long term environmental management plan (LTEMP) on any land (whether roadways or parks) to be dedicated to Council in order to manage the risk from any residual contamination. Any land should be remediated and/or validated to remove the requirement for a LTEMP.

Appropriate conditions of consent have been imposed to ensure compliance with the requirements of the SEPP.

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

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

The proposed development is located on land with a frontage to a classified road i.e. Bunnerong Road. In this regard, clause 101 of the SEPP must be considered before consent can be granted.

The proposed development does not propose direct vehicular access to or from the site from either classified road, rather access is sought via Tingwell Boulevard, as established within BATA 1.

Notwithstanding the above, the proposal was referred to Transport for NSW (TfNSW). The authority responded on 22 January 2020, granting approval for the development subject to conditions of consent, which have been imposed on the draft Notice of Determination.

The application is consistent with the provisions of the SEPP and is acceptable in this regard.

Clause 104 - Traffic Generating Development

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

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

The proposal is classified as '*traffic generating development*' under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, as access to the site is via a road that is within 90m of a classified road.

In accordance with clause 104(3) of the SEPP, TfNSW is required to be notified of the proposed development and any submissions provided by TfNSW are to be considered. In this regard, the proposed development was referred to RMS who did not raise any objections to the development within 21 days after the notice was given, in accordance with clause 104(3) of the SEPP.

Councils Development Engineer revised submitted documentation in relation to the proposal and did not consider that the proposal would result in a detrimental impact upon the existing operation of the surrounding road network and was therefore consistent with the provisions of the SEPP.

Clause 45 - Works within the Vicinity of Electricity Infrastructure

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

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

Accordingly, the proposal has been sent to Ausgrid whom did not object to the proposal. The application is consistent with the provisions of the SEPP, has been conditioned appropriately and is acceptable in this regard.

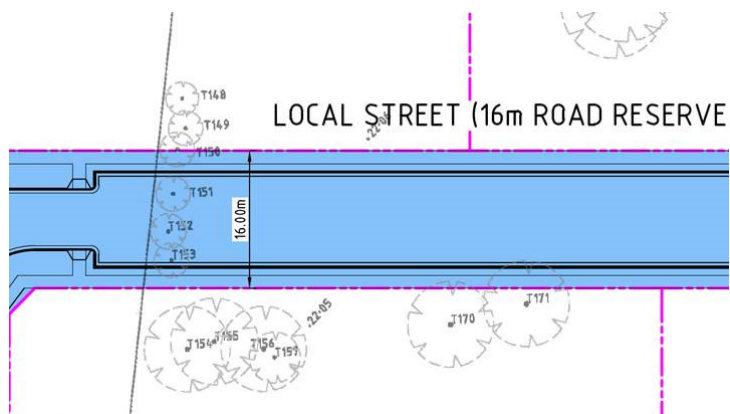
**State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017**

SEPP (Vegetation in Non Rural Areas) 2017 (Vegetation SEPP) applies to the proposal, given the mature trees that exist upon the subject site and those that adjoin the property within the public domain.

An Arborist Report prepared by Jacksons Nature Works and dated 15/08/2019 was submitted to Council. The report notes the removal of the following eight (8) trees on site, which are all noted as being in '*good vitality*' in order to accommodate for the proposed civil works.



- a) 148 – Eucalyptus microcorys
- b) 149 – Corymbia citriodora
- c) 150 – Eucalyptus microcorys
- d) 151 – Corymbia citriodora
- e) 152 – Eucalyptus microcorys
- f) 153 – Corymbia citriodora
- g) 170 - Eucalyptus microcorys
- h) 171 - Eucalyptus microcorys.



The above trees are not exempt from requiring approval to be removed as they are not of a species listed within BBDCP2013 nor are they listed as exempt within SEPP – Exempt and Complying. As such, consent is required for their removal.

Councils Tree Officer reviewed the submitted documents and does not raise any objections to the removal of the trees referred to above, given the substantial landscaping to be provided as part of the proposed development and future landscaping to be incorporated on site. The proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

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

Clause	Requirement	Proposal	Complies
2.3 – Zone	R4 – High Density Residential	Earthworks Road	Yes
4.3 – Height of Buildings	<b>O</b> = 16.6m <b>V1</b> = 37m <b>AA</b> = 69m	N/A	Yes
4.4 – FSR	<b>T1</b> = 2.35:1	N/A	Yes
5.10 – Heritage Conservation	To conserve environmental heritage	In excess of 200m from Jellicoe Park	Yes
6.2 – Earthworks	<ul style="list-style-type: none"> <li>a) likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</li> <li>b) the effect of the development on the likely future use or redevelopment of the land,</li> <li>c) the quality of the fill or the soil to be excavated, or both,</li> <li>d) the effect of the development on the existing and likely amenity of adjoining properties,</li> <li>e) the source of any fill material and the destination of any excavated material,</li> <li>f) the likelihood of disturbing relics,</li> <li>g) the proximity to, and potential for adverse impacts on, any waterway, drinking water</li> </ul>	<p>Civil Works Report prepared by AT&amp;L dated August 2019 appropriately addresses the management of potential soil / water impacts.</p> <p>Works proposed will facilitate the future redevelopment of the site.</p> <p>Existing soil on site is sought to be retained on the property rather than removed as per Geotechnical Investigations.</p> <p>Site is not a heritage item not within proximity to local watercourse.</p>	Yes

Clause	Requirement	Proposal	Complies
	catchment or environmentally sensitive area, h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		
6.3 - Stormwater Management	a) designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates	Civil Works Report prepared by AT&L dated August 2019 addresses the management of potential stormwater impacts.	Yes
6.16 - Design Excellence	Development consent must not be granted to development involving the construction of a new building or to external alterations to an existing building on land to which this clause applies unless the consent authority considers that the development exhibits design excellence.	N/A	N/A
6.18 – Development requiring preparation of DCP  (LEP Amendment 8 notified 22 November 2019)	(1) The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan.	Concept plan proposed as per DA-2019/386.  This DA remains under assessment.	
	(2) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288		
	(3) Development consent must not be granted for development on land to which this clause applies unless;		
	(a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, or	Concept plan has been prepared and is currently with Council for assessment.	Yes
	(b) guidelines and controls similar to those mentioned in subclause (4) already apply to the land, or (c) the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated. (4)	The development is deemed to be of a minor nature given the scale, intensity and nature of the proposed works and is satisfactory with respect	Yes

Clause	Requirement	Proposal	Complies
		of the objectives of the zone.	
	The development control plan must provide for all of the following;	N/A	N/A
	(a) design principles drawn from an analysis of the site and its context,	N/A	N/A
	(b) the compatibility of the proposed development with the desired future character of the area,	N/A	N/A
	(c) the phasing of development and how it will provide for the social and recreational needs of a new community,	N/A	N/A
	(d) distribution of land uses, including open space (its function and landscaping) and environment protection areas,	N/A	N/A
	(e) the existing and proposed mix of land uses,	N/A	N/A
	(f) subdivision pattern and provision of services,	N/A	N/A
	(g) building envelopes and built form controls, including bulk, massing and modulation of buildings,	N/A	N/A
	(h) housing mixes and tenure choices, including affordable and adaptable housing,	N/A	N/A
	(i) heritage conservation, including both Aboriginal and European heritage,	N/A	N/A
	(j) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and appropriate car parking provision, including integrated options to reduce car use,	N/A	N/A
	(k) the overall transport hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, with particular regard to public transport, pedestrians and cyclists,	N/A	N/A
	(l) improvements to the public domain,	N/A	N/A
	(m) minimising adverse impacts on adjoining buildings or the public domain,	N/A	N/A

Clause	Requirement	Proposal	Complies
	(n) achieving appropriate interface at ground level between buildings and the public domain,	N/A	N/A
	(o) impacts on view corridors,	N/A	N/A
	(p) the application of the principles of ecologically sustainable development,	N/A	N/A
	(q) environmental impacts, such as overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	N/A	N/A
	(r) environmental constraints, including acid sulfate soils, flooding, groundwater, stormwater, aircraft movement and noise, contamination and remediation,	N/A	N/A
	(s) opportunities to apply integrated water sensitive urban design,	N/A	N/A
	(t) no additional overshadowing to the residential buildings in Zone R2 on the eastern side of Bunnerong Road between 9 am and 3 pm on 21 June in each year	N/A	N/A
6.19 - 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens – General  <i>(LEP Amendment 8 notified 22 November 2019)</i>	(1) This clause applies to land at 128 Bunnerong Road, Pagewood and 120 Banks Avenue, Eastgardens, being Lot 1, DP 1187426 and Lot 24, DP 1242288	Subject site	Yes
	(2) The consent authority must not grant consent to development unless it is satisfied the development will provide for a minimum of 5,000 square metres of gross floor area on the land for non-residential purposes, not including any of the following;  (a) residential accommodation, (b) a car park, (c) a telecommunications facility.	N/A	N/A
Schedule 1 – Additional Permitted Uses	Development for the following purposes is permitted with development consent; <ul style="list-style-type: none"> <li>o serviced apartments,</li> <li>o commercial premises,</li> <li>o recreation facilities (indoor).</li> </ul>	N/A	N/A

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

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

The Bayside draft LEP 2020 is on public exhibition from 8 April to 11 May 2020 and applies to the subject site. The draft LEP consolidates Council's planning controls by amalgamating three previous LEPs that Council inherited in the 2016 amalgamation.



The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area. The proposal is generally consistent with the objectives and requirements of the draft LEP.

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

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

The proposal is generally consistent with the relevant requirements of BBDCP 2013 with respect of landscaping, stormwater, contamination and waste minimisation. The proposal is satisfactory in this regard.

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

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

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

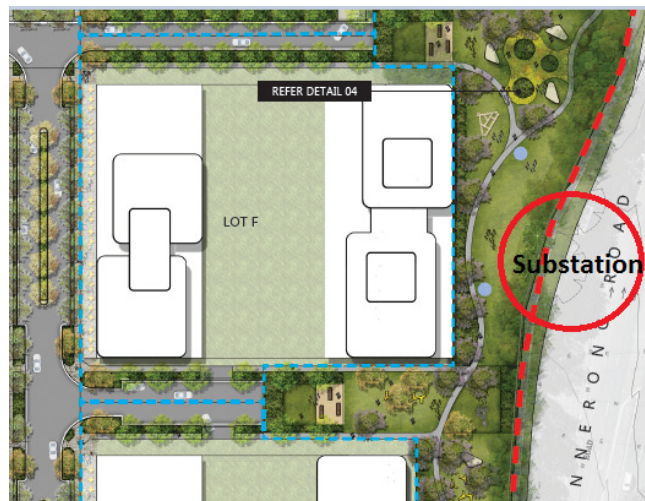
##### **Telstra**

Telstra pits are located along the frontages of the site. Consideration has been given to the location of this infrastructure in relation to proposed future vehicular access.

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

##### **Ausgrid**

A substation exists within the public domain, along the Bunnerong Road frontage of the site, in proximity to the intersection of Heffron and Bunnerong Roads.



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

Further to the above, a number of power poles and associated power lines are positioned within the public domain, along the periphery of the site to Bunnerong and Heffron Roads. Powerlines along the frontage of the site to Banks Avenue have recently been undergrounded.

DA-2019/386, being that for the concept plan DA will be conditioned to require the undergrounding of powerlines along Bunnerong and Heffron Roads, this is consistent to Councils approach for the redevelopment of BATA 1.

The proposal was referred to Ausgrid whom did not object to the proposal and provided conditions. The proposal has been conditioned appropriately to ensure future liaison between the applicant and relevant authority with respect of electrical services.

#### Construction Traffic Management

The subject site comprises a direct frontage to Bunnerong Road which is a classified road. Access to the site for construction vehicles is via Tingwell Boulevard. TfNSW have not objected to the proposed development as stated earlier in this report.

Councils Engineers confirm that the surrounding road network is capable of accommodating the necessary construction traffic required in order to facilitate the development.

A Construction Traffic Management Plan prepared by SBMG dated 16 October 2019. The CTMP details site access, parking for site workers, road occupancy, construction traffic routes, site induction, management of pedestrians, cyclists, local traffic, emergency services and strategies to minimise disruption etc.

Standard of consent have been imposed to ensure the construction traffic management plan is implemented during works in order to minimise impact on the local road network and surrounding community.

#### Sydney Water

The proposal was referred to Sydney Water who did not raise objections to the proposed development. Appropriate conditions of consent have been imposed.

#### Future Public Domain within the Site

Council's public domain team, including relevant engineers and landscape architects liaised with the applicants consultants during the assessment of this application.

Improvements were made to the overall stormwater and landscape design in order to ensure consistency with completed materials and finishes utilised within BATA 1 and further provide a well resolved, aesthetically appealing and functional outcome on site.

Conditions of consent have been imposed to ensure appropriate resolution of the future public domain within the site.

#### Conflicting Consent - BATA 1

Council raises concern with any potential approval of the subject application, including DA-2019/386 (Proposed Concept Plan) and DA-2019/426 (Proposed Subdivision) for BATA 2, given BATA 1 is an activate masterplan consent (DA-14/96) which directly affects the entirety of 120 Banks Avenue (Lot 24 DP 1242288) which forms a substantial portion of the BATA 2 site and is circled in red below.



Council is of the view that the BATA 1 Masterplan consent DA-14/96 is required to be amended to remove reference to 120 Banks Avenue (Lot 24 DP 1242288) which includes Urban Blocks 1 and 2 and other related VPA matters/road dedication regarding those development stages prior to the approval of this and the aforementioned applications for BATA 2.

This should occur to revise the BATA 1 consent and relevant VPA to reflect the new BATA 1 boundaries and ensure any new consents issued for BATA 2 do not overlap and result in inconsistencies with the BATA 1 consents.

Should multiple and differing development consents be approved on the same allotment of land, complexities will arise in relation to conflicting masterplan approvals.

The applicant has submitted a s4.55 modification (DA-2014/10096/J) which seeks to resolve the above matter. This application remains under assessment.

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

The proposal satisfies the objectives and requirements with respect of the relevant planning instruments and there are no other known circumstances or site conditions which would deem the proposal unsuitable for the subject site.

#### **S.4.15(1)(d) - Public Submissions**

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners from 27 November to 19 December 2019. Two (2) submissions were received, issues raised are as follows;

##### *Traffic increase as a result of redevelopment /Use of Heffron Road*

The matter of traffic impact with respect of civil works proposed has been considered previously within this report. The increase in traffic relating to the future redevelopment of the site will be considered as part of DA-2019/386.

##### *Pedestrian / Safety Impacts to Users of Golf Club*

As previously stated within the report, a Construction Traffic Management Plan prepared by SBMG dated 16 October 2019 was submitted, which details the following strategies in order to maximise safety for pedestrians/cyclists in and around the site.

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

*be unaffected and maintained during the project. A traffic controller will increase safety for pathway users by managing the movement of vehicles in and out of the site.*

The above strategies are deemed satisfactory in order to ensure the safety of pedestrians and cyclists in and around the site.

*Developer should pay for cost of tunnel to link golf club sites / BDGC submits that Bayside Council make it a condition of the development to include the construction of an underpass or, that the proponent meet the full cost of the construction of the underpass.*

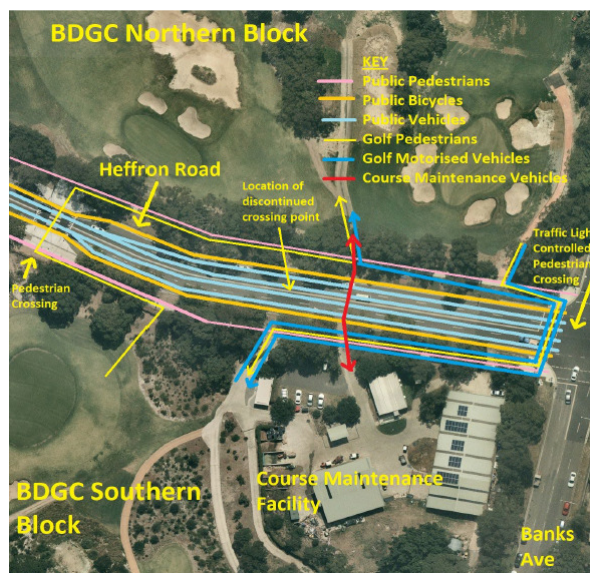
This matter is beyond the scope of this application and falls beyond the boundaries of the subject site.

*Conflict, risk and safety issues between public users of Heffron Road and Golf Course staff using heavy machinery to cross Heffron Road via an uncontrolled crossing will be exacerbated by development*

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

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

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





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

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

**S7.12**

S7.12 contributions do not apply to the proposal given the nature of the works sought on site.

**Conclusion**

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Development Application No. DA-2019/387 has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

For the reasons previously outlined within this report, the proposal is satisfactory with respect of the relevant legislative requirements.

The proposal will generate employment, accelerate the redevelopment of the subject site and is deemed to be within the public interest, thus is recommended for Approval subject to the conditions attached.