

JOINT REGIONAL PLANNING PANEL

*

To the Ordinary Meeting of JRPP

1 13-21 John Street, LIDCOMBE

DA-119/2012 GF:TT:EG

SUMMARY

Applicant	Sydney Constructions & Developments Pty Ltd and Mr S Mehajer
Owner	Auburn City Council
Application No.	DA-119/2012
Description of Land	Lot 1 DP 233926, Lot 3 DP 608751, Lot 2 DP 608751, Lot 1 DP 608751, 13-21 John Street, LIDCOMBE
Proposed Development	Demolition of existing structures and construction of mixed use development comprising ground level retail space including supermarket, 24 x 3 bed units, 64 x 2 bed units and 8 x 1 bed units over 3 basement parking levels with associated landscape and drainage works
Site Area	931.40m ²
Zoning	Zone B4 - Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Issues	Floor Space Ratio Bulk and Scale Communal Open Space Carparking and Access Stormwater Independent Town Planning Assessment – Council owned land

Recommendation

That Development Application No. DA-119/2012 for demolition of existing structures and construction of mixed use development comprising ground level retail space including supermarket, 24 x 3 bed units, 64 x 2 bed units and 8 x 1 bed units over 3 basement parking levels with associated landscape and drainage works on land at 13-21 John Street, Lidcombe be recommended to the JRPP for refusal for the following reasons:

- 1. The proposal does not comply with Clause 4.4 the provisions of Auburn Local Environmental Plan in that the Floor Space Ratio of the building located at the front of the site has a FSR of 5.29:1 which exceeds the required FSR of 3.6:1. The information provided in accordance with the provisions of Clause 4.6 of the LEP does not justify why compliance with the development standard in Clause 4.4 of the LEP is unreasonable and unnecessary in the circumstances of the case and there are no sufficient environmental planning grounds to justify contravening the development standard.***
- 2. The bulk and scale and massing of the development at the front of the site is not consistent with the existing and future development in this section of John Street.***

- 3. The location of the units at 1st floor level adjacent to the proposed communal open space area will result in an unacceptable impact on the amenity of the of the occupants of these units in relation to privacy and outlook.***
- 4. The access to the proposed car park for the residential accommodation is not considered acceptable as separate access should be provided to the commercial and residual car parking areas to reduce the potential conflict that will exist between vehicles utilising the commercial and residential car parking areas.***
- 5. The location of the onsite detention tank does not comply with council's requirements in that it is located directly under residential accommodation.***
- 6. The proposed development is not in the public interest as it does not comply with the provisions of ALEP 2010.***

Consultations

The subject application was lodged with Council on 20 April 2012. As the development site includes land owned by Council and is the subject of a potential land sale the development application assessment has been undertaken by an independent town planner.

Following a detailed assessment of the proposal a number of issues were identified regarding compliance with State Environmental Planning Policy No 65 an associated Residential Flat Design Code, Auburn Local Environmental Plan 2010, Auburn Centres DCP and Auburn Development Control Plan.

Amended plans and covering letter dated 31 July 2012 were submitted to Council by the applicant to address the issues raised.

The information submitted only addressed a number of issues outlined in Council's letter dated 18 June 2012. The additional information submitted relating to the FSR within each of the two FSR Zones relating to the site identified a major departure from the floor space ratio requirements of Auburn LEP 2010 at the front of the site within the area identified as W1 on the FSR Map. The part of the building located in this area having a floor space ratio of 5.29:1 which is well in excess of the maximum floor space permitted in this zone of 3.6:1.

A letter was sent to the applicant on 20 August 2012 requiring the building to be redesigned to comply with the requirements of the LEP in relation to the floor space ratio.

A briefing session was held between Council staff and the members of the Joint Regional Planning Panel – Sydney West on the 23 August 2012.

The issues raised related to the following matters:

- location, design and setback of the one (1) bedroom units located on the southern side of the building,
- the wall treatment to the northern external wall of the building containing glass bricks which cannot be relied upon for a source of natural light due to its location on the boundary,
- the level of the podium at first floor level in relation to the level of the residential units and amenity within these units that results from the units and podium being on the same level,
- access to the building by the proposed fire isolated stairs, the location, width and depth of the pathway providing access to the residential units at ground level,
- compliance with the requirements of the Residential Flat Design code,
- Compliance with the provisions of ALEP 2012 in relation to the floor space ratio within the two (2) floor space ratios zones on the site,
- the size and volume of the proposed goods lift,
- the design of the loading dock in the basement,
- the basement carpark layout in particular, the need to provide direct access from the entry to the building to the residential parking spaces without having to travel through the commercial carpark,
- the provision of a passing bay within the access ramp at the rear of the building,
- the design of the front elevation of the building to John Street,
- the lack of appropriate clothes drying facilities within the building,
- the manoeuvring of a heavy rigid vehicle within the basement loading dock area,
- the lack of detail of the public domain treatment in John Street and
- the submission of an Arborist Report in relation to the likely impact of the development on the existing Eucalypt tree located near the boundary on the adjoining site.

A meeting was held with the applicant on 12 September 2012 to discuss the issues raised in the correspondence dated 18 June 2012 and 20 August 2012. Additional information was submitted to Council on 27 September 2012 which included a Clause 4.6 planning response to address the departure from the zoning/floor space ratio requirements of the LEP, an architectural urban context plan, an A4 alternate built form block model sketch and a SEPP65 Residential Flat Design Code Compliance Schedule.

A further letter was sent to the applicant on the 30 October 2012 advising that the application is being recommended for refusal and advising of the JRPP process.

The information provided has not addressed all of the issues raised in the previous correspondence and the justification provided to support the variation to the development standard relating to FSR in accordance with Clause 4.6 of Auburn Local Environmental Plan 2010 has not effectively demonstrated that compliance with development standard is unreasonable or unnecessary in the circumstances of the case and there is insufficient environmental planning grounds to justify contravening the development standard.

History

Prior to lodgement of the subject development application, a pre lodgement meeting was held with the applicant on 19 August 2011. The major issues raised at this pre lodgement meeting are listed below.

- Any development application shall include a breakdown of floor space ratio for each of the two zones within the development site.
- Building separation between the subject site and the adjoining proposed building at 11 John Street shall be compliant with SEPP 65 requirements.
- Proposed boundary wall on the southern elevation is not supported. In light of the development proposed at 11 John Street and treatment of the associated heritage item, this boundary wall shall be reconsidered.
- Concern is raised with the location of the padmount substation on John Street elevation. Where alternate location is not possible, the padmount substation should be setback from the front boundary and some landscaping introduced around its' perimeter.
- Concern is raised that no soft landscaped area is provided within the development site.
- Minimum 4 loading bays are required for the development. Where less than 4 loading bays are proposed, appropriate justifications shall be provided with any development application. In this regards, note that at least 1 loading bay for Heavy Rigid Vehicle shall be provided for the development.
- Separation of commercial and residential car parking spaces shall be implemented for the development.
- The location of the mail boxes shall be reconsidered.
- Bicycle storage spaces for commercial and residential use shall be provided within the development.
- Consideration shall be given to providing an escalator from the commercial floor to the commercial car parking space on the basement level.
- Waste collection rooms for each use shall be shown to house sufficient commercial and residential containers to accommodate the quantity of waste and recyclable materials generated in accordance with clause D10 of Council's Waste DCP.

- It would seem there is an existing access from the car park to the rear 'garage' of the building at 23 John Street. This shall be investigated and resolved prior to lodging any development application. This matter shall be addressed in the Statement of Environmental Effects.

On the 21 November 2012 Council resolved to confirm the recommendation of an information report recommending refusal for the same reasons as this report. A separate letter was sent to the JRPP detailing this resolution.

Site and Locality Description

The subject site identified as Lot 1 DP 233926, Lot 3 DP 608751, Lot 2 DP 608751, Lot 1 DP 608751, 13-21 John Street, Lidcombe. The site is located on the eastern side of John Street between intersections with Mary Street to the south and Doodson Ave to the north. The site is a rectangular shape with an access handle from Mary Street. The site has an area of approximately 3188.77m², a street frontage of approximately 30m to John Street and a depth of approximately 90m. The site has a fall from the rear to the front boundary.

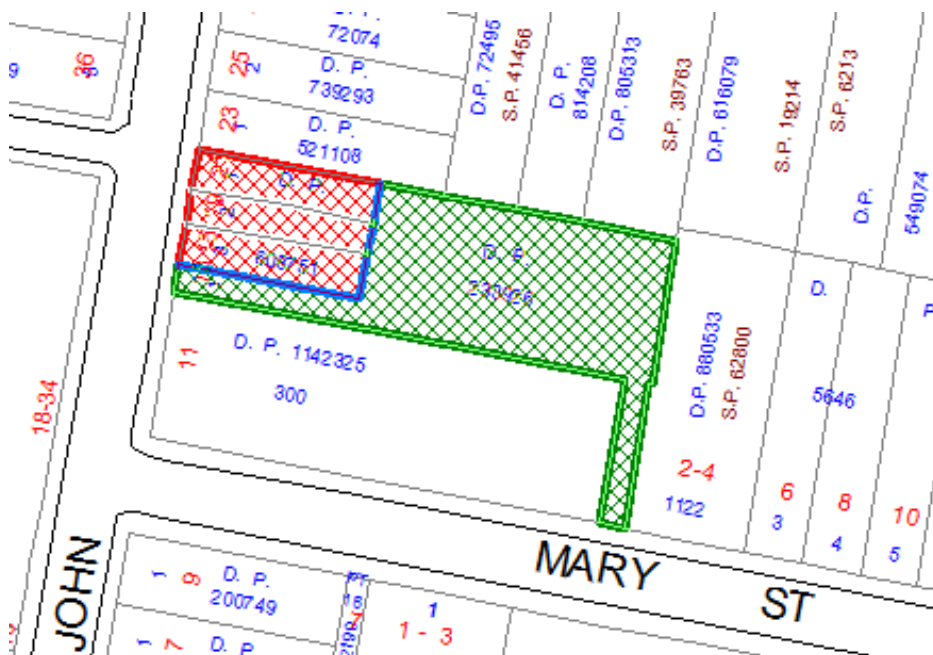
The site is located on the eastern boundary of Lidcombe Town Centre and existing on site is two single storey brick commercial buildings and one two storey brick building with commercial area at ground floor level and residence above. An existing council owned carpark located behind the buildings with access provided to the carpark from both John Street and Mary Street.

To the immediate north of the site are a number of single and two storey brick commercial buildings.

To the immediate south the former Lidcombe Police Station being a heritage item listed as item no. 133 under Schedule 5 of Auburn Local Environmental Plan 2010. The building is single storey.

To the west of the site across John Street are a number of single storey and two storey commercial buildings and a registered Club.

The site is identified on the maps below.





Description of Proposed Development

Council has received a development application for demolition of existing structures and construction of mixed use development comprising ground level retail space including supermarket, 24 x 3 bed units, 64 x 2 bed units and 8 x 1 bed units over 3 basement parking levels with associated landscape and drainage works.

Access to the loading dock will be via the existing access to the street from Mary Street and access to the parking levels will be from John Street. There is no separate parking areas provide for the commercial and residential section of the building. Access to the residential units will be via an access way leading to the building entry on the southern side of the building.

The loading dock is located at the rear of the building at basement level will contain a loading dock, two garbage storage areas (one for the commercial component and one for the residential component of the building) four (4) parking spaces for service vehicles a goods lift and temporary holding area. Communal open spaces is provided on the podium level on the northern side of the building at 1st floor level.

Referrals

Internal Referrals

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised the following:

John Street DA:

The submitted information dated 26 Sep 2012, does not reflect the Council requirements with respect to park and Loading:

Commercial and Residential Parking:

Council has requested to redesign the parking aisle to separate the commercial and residential parking without going through the commercial parking area. In this matter Council did not raise any objection to use the common ramp to reach the first level of basement. Council has not received any amended plan to reflect the above.

It shall be noted Council discussed the various design options with the applicant/architect at the meeting to achieve the above..

Loading Bay:

As per Council parking and loading DCP, minimum of Six (6) loading bays are to be provided. Submitted plan shows 4 loading bays consists of one (1) MRV, two (2) SRV and two (2) Courier vans. The indicated position of the loading bay of MRV (shown on the plan) is not practical due to the distance to the goods lift and waste bin storage.

The practical location of the loading of MRV will prevent the operation of the other loading bays.

Stormwater management:

The submitted plan requires amendments to comply with Council requirements including the OSD tank location.

Building Surveyor

The development application was referred to Council's Building Surveyor for comment who has raised no objections to the proposed development subject to conditions of consent.

Landscape Architect

The development application was referred to Council's Landscape Architect for comment who has raised no objections to the proposed development subject to conditions of consent.

The provisions of any Environmental Planning Instruments (EP& A Act s79C(1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by State Environmental Planning Policy No. 65 Design Quality for Residential Flat Development. Clause 30 (2) of the SEPP requires the following:

(2) In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained in accordance with subclause (1), and*
- (b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
- (c) the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

The applicant has addressed the design quality principles and has provided a compliance table addressing the Residential Flat Design Code.

Requirement	Yes	No	N/A	Comment
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Requirement	Yes	No	N/A	Comment
Building Depth	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The building has a depth of 87.6m which is considered to be excessive in the context and well in excess of the suggested maximum of 18m. The design of the building could be improved by providing two separate towers which would reduce the impact on the adjoining building to the south.
Building separation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The separation between the subject building and the southern side boundary towards the front of the site is 3m which is less than the 9m required. Whilst this part of the building adjoins the existing single storey heritage item the setback is not sufficient in due to its location in relation to the heritage item and the bulk and scale of this part of the building.
Floor space ratio	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposal doesn't comply with the FSR controls in ALEP
Deep soil zones	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No deep soil landscaping is provided on the site. As the site is located within the commercial centre no deep soil landscaping is required
Storage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Detail of storage area for each unit has not been provided with the development application.

Regional Environmental Plans

The proposed development is not specifically affected by any relevant Regional Environmental Plans.

Local Environmental Plans

Auburn Local Environmental Plan 2010

The relevant sections of ALEP relating to the proposed development are set out in the compliance table below.

Requirement	Yes	No	N/A	Comment
Clause 4.4 Floor Space Ratio The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The floor space ratio map indicates that the subject site contains two separate Floor space Ratios 3.4:1 at the front of the site and 3.6:1 at the rear of the site. The proposed development has a FSR of 5.29 at the front of the site which is well in excess of the FSR permitted

Requirement	Yes	No	N/A	Comment
Clause 4.6 Exemptions to development standards	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The information provided does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The subject site is zoned Zone B4 - Mixed Use under the provisions of Auburn Local Environmental Plan 2010 (ALEP 2010), where the proposed development, defined as a Residential Flat Building and Commercial Premises is permissible with Council consent. It is considered that the proposed development satisfies the relevant objectives of the LEP and the relevant objectives of the Zone B4 - Mixed Use zone.

Clause 4.4 of Auburn LEP 2010 requires that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown on the land on the floor space ratio map. The rear part of the site is identified as V2 on the Floor Space Ratio Map which specifies a floor space ratio of 3.4:1. The part of the site that has frontage to John Street (except the access handle to the rear carpark) is identified on the Floor Space Ratio Map as W1 which has a floor space ratio of 3.6:1. Whilst the site is to be consolidated, the proposed development has been designed with excessive massing of the building at the front of the site which has resulted in a floor space ratio of 5.29:1 within the area identified as W1 on the floor space ratio map. The applicant has indicated that the floor space ratio of the proposed building averaged over both lots is 3.4:1 which is consistent with the floor space ratio required. However, the provisions of the LEP do not permit for the averaging of the floor space ratio, therefore the floor space ratio is well in excess of the requirements of the LEP.

Under the provisions of Clause 4.6 Exemptions to the Development Standards, development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or other environmental planning instrument. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - b That there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- a *The consent authority is satisfied that:*
 - i *The applicants written request has adequately addressed the matters required to be demonstrated by sub clause (3) and,*
 - ii *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which development is proposed to be carried out.*
 - b *The concurrence of the Director General has been obtained.*

The objectives of Clause 4.4 are as follows

- a) *to establish a maximum floor space ratio to enable appropriate development density to be achieved, and*

b) to ensure that development intensity reflects its locality.

The information provided by the applicant to address the requirements of Clause 4.6 relating to the departure of the proposal from the floor space ratio requirements of the LEP has not effectively demonstrated that compliance with development standard is unreasonable or unnecessary in the circumstances of the case and there is insufficient environmental planning grounds to justify contravening the development standard.

The provisions of any Draft Environmental Planning Instruments (EP& A Act s79C(1)(a)(ii))

The proposed development is not affected by any relevant Draft Environmental Planning Instruments.

The provisions of any Development Control Plans (EP& A Act s79C(1)(a)(iii))

Auburn DCP is applicable to the proposed development in particular the parts relating to Residential Flat Development and Centres. The following compliance table addressed the relevant sections of the DCP.

Requirement	Yes	No	N/A	Comment
Front Setback	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Zero setback is considered satisfactory due to the location of the building in the B4 zone
Rear setbacks shall be a minimum of 10m.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The setback to the rear boundary is 9m which is considered acceptable in the context
Side setback is required to be 3m from the northern side boundary and 6m from the southern side boundary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The building has a zero setback to part of the northern side boundary. This is considered satisfactory given the location of the building in the B4 zone and the rear part of the building is setback 9m to balconies. The southern side of the building is setback from 3m to 9m from the side boundary. The setback of the front part of the building (11m including balcony) is considered satisfactory given the location of the building in the 4B Zone and the location of the heritage item on the adjoining site. The setback of the one bedroom units 3m from the southern side boundary is not satisfactory due to the additional impact on the adjoining heritage item the bulk and scale of the development and orientation of the units. Given that the front part of the building where these units are located is well in excess of the FSR permitted on this part of the site the variation to the setback should not be supported.
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Requirement	Yes	No	N/A	Comment
The number of storeys is achievable within the maximum building height in Auburn LEP 2010.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The height of the building complies with the applicable heights on the Height of Buildings Map
Development does not adversely affect the heritage significance of heritage items and heritage groups and archaeological sites as well as their settings, distinctive streetscape, landscape and architectural styles.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A heritage impact statement has been prepared by Edwards Planning in relation to the likely impact of the development on the local heritage items known as St Joachim's Catholic Church Parish Hall and School John Street and Mary Street and Former Lidcombe Police Station 11 John Street. The report concludes that the proposed development does not impose any unreasonable or unacceptable impacts on the elements or structure embodied in the heritage significance of the adjoining former Lidcombe Police Station. It should be noted that the submissions submitted have raised concern in relation to the likely impact of the development in relation to former Lidcombe Police Station.
Dwelling size	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The size of the units generally complies with the requirements of the DCP however details of the storage area for each dwelling has not been provided.
Dwelling mix	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposal comprises a mix of 1, 2 and 3 bedroom units however no dual master bedroom units are provided.
A minimum of 30% of the site area shall be a deep soil zone.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No deep soil landscaping is provided on the site. This is considered satisfactory given the location of the site within the 4B Zone and the extent of and location of the commercial floor space at ground floor level and car parking at basement level.
Private Open Space Dwellings located above ground level shall be provided with a balcony or roof terrace that has a minimum area of 8m ² and a minimum dimension of 2m.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Each unit has a balcony with the minimum of 8m ² with a minimum dimension of 2m with access from a living area.
Communal Open Space Communal open space shall be useable, have a northern aspect and contain a reasonable proportion of unbuilt upon (landscaped) area and paved recreation area. The communal open space area shall have minimum dimensions of 10m.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The communal open space has a minimum dimension of 9m. The variation this minimum of 10m required is satisfactory given that the podium is north facing.
Storage space of 8m ³ per dwelling shall be provided. This space may form part of a garage or be a lockable unit at the side of the garage.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Storage space is provided within the building for each unit. However details of the size of each storage area have not been provided.
Local Centres DCP				

Requirement	Yes	No	N/A	Comment
Buildings shall incorporate a clearly defined base, middle and top.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposal has been designed utilising different materials and colours to achieve articulation to identify horizontal divisions of base middle and top. Additional stepping of the building in the form of additional setback from the John Street alignment at the upper floor levels should be utilised to achieve a clearer distinction between the base middle and top of the building.
the proposal will not reduce sunlight to less than 3 hours between 9.00 am and 3.00 pm on 21 June for: <ul style="list-style-type: none"> public places or open space; 50% of private open space areas; 40% of school playground areas; or windows of adjoining residences. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed development will significantly overshadow the approved building on the adjoining site to the south due to the location and height of the proposed development which is not consistent with the requirements of the DCP. However the proposed building complies with the maximum height controls in ALEP 2010 and is consistent with the height of the approved building on the adjoining site. The extent of overshadowing could be reduced by increasing the setback from the boundary or redesigning the building so that it contains two separate towers.

As indicated in the compliance table above, the proposed development departs from the requirements of the DCP in relation of Auburn DCP. The comments provided in the compliance table indicate that most of the departures from the requirements of the DCP are not significant and can be supported. However the proposed development will have a significant overshadowing impact on the approved development on the adjoining site to the south. As the proposal generally complies with the height and setback requirements (with the exception of part of the building containing the 1 bedroom units) there are limited options to reduce the overshadowing impacts. However the reduction of the floor space ratio at the front of the site in order to comply with the requirements of the LEP may reduce the overshadowing impacts.

Section 94 Contributions Plan

The development would require the payment of contributions in accordance with Council Section 94 Contributions Plans. However as the application has been recommended for refusal the contributions have not been determined.

Disclosure of Political Donations and Gifts

The NSW Government introduced The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW). This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans.

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

The provisions of the Regulations (EP& A Act s79C(1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the EP& A Regulations 2000.

The Likely Environmental, Social or Economic Impacts (EP& A Act s79C(1)(b))

The proposed development will impact on the streetscape as the massing of the building towards the front of the site fronting John Street causes the development to have excessive bulk and scale which will not be consistent with the likely future development to the north of the site in this section of John Street. The proposed development will have a significant impact on the amenity of the approved development on the adjoining site to the south due to overshadowing

The suitability of the site for the development (EP&A Act s79C(1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, the site can be said to be suitable to accommodate the proposal. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is not suitable in the context of the site and surrounding locality as the floor space ratio at the front of the site is excessive.

Submissions made in accordance with the Act or Regulation (EP&A Act s79C(1)(d))

Advertised (newspaper) ☒

Mail ☒

Sign ☒

In accordance with Council's Notification of Development Proposals Development Control Plan, the proposal was publicly exhibited for a period of 14 days between 8 May and 22 May 2012. The notification generated 7 submissions in respect of the proposal with none disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

All of the submissions raised issues of overshadowing, bulk and scale and separation between the proposed development and the recently approved development on the adjoining property to the south with one (1) submission dealing with the likely impact on the heritage significance of the police station on the adjoining site to the south.

The issues raised in the public submissions are summarised and commented on as follows:-

- The length and height of the building generates a shadow through the day in winter which denies the majority of the apartments within the approved building on the adjoining site to the south with the minimum solar access required by the Residential Flat Design Code and State Environmental Planning Policy No 65.

Comment

The proposed development has a significant overshadowing impact on the proposed building on the adjoining site to the south. Minor improvement to the overshadowing impacts could be achieved by increasing the setback from the southern side boundary, particularly in the areas where the setbacks do not comply with the required setback in the Residential Flat Design Code or by redesigning the building so that there are two (2) separate towers. It is not reasonable to require the lowering of the building as it complies with the height requirements of the LEP and is a similar height of the proposed building on the adjoining site, however, as discussed previously, the floor space ratio at the front of the site is well in excess of the floor space ratio permitted under the Auburn Local Environmental Plan (ALEP). A reduction in the floor space ratio to comply with these requirements may result in less overshadowing of the adjoining property.

- **Bulk and scale of the development**

The length of the building (approximately 90m) exceeds the general design guidelines of the Residential Flat Design Code by exceeding the prescribed building platform lengths of between 45 and 50m. The excessive length of the building prevents any relief in the elevations and generates a large building when viewed from the south. If the building mass was separated into two (2) smaller segments, an appropriate separation within the development would improve the solar access to the south and the presentation of the development along the side elevation.

Comment

The bulk and scale of the development is excessive which results from the massing of the building at the front of the site causing the floor space ratio to be well in excess of the floor space ratio required under ALEP. Compliance with the requirements of the LEP in relation to floor space ratio will reduce the bulk and scale of the development. the length of the building is considered excessive as it will be much longer than the approved building to the south of the site and due to the lot layout and location of existing residential development the proposal will be much longer than any development that will occur in John Street to the north of the proposed development.

- **Southern Side Setbacks**

The setback of the building from the southern side boundary is generally between 3 and 5m which generates a building separation of 12-14m between the proposed building and the approved development to the south. The minimum separation distance required by the RFDC is 18m for buildings less than 25m in height and 24m for buildings exceeding 25m in height. The proposed separation distance for the development exceeds 25m in height and is therefore well below the recommended distances.

Comment

The RFDC allows for reduced setbacks between buildings with a distance of 13m between habitable rooms/balconies and non-habitable rooms and 9m between non-habitable rooms for up to eight (8) storeys and 18m between habitable rooms/balconies and non-habitable rooms and 12m between non-habitable rooms for nine (9) storeys and above/over 25m. The proposed development generally complies with these requirements, however, a small part of the building exceeds 25m and for this area the proposal does not strictly comply with the controls in the RFDC. Further the proposed one bedroom units on the southern side of the building do not comply with the minimum setback. This section of the building adjoins the existing single storey heritage building on the adjoining site to the south.

- **Heritage Assessment**

The proposed development will have severe impacts on the heritage values of the historic police station on the adjoining site to the south. The proposed development will be a large and bulky building set close to the boundaries with the podium extending to the street alignment. As the building is to the north of the police station, there would be direct overshadowing of the item. The lack of any setbacks to John Street would curtail streetscape views of the police station from the northern approaches. The single storey domestic scale of the police station would be completely overwhelmed by the proposed development. The inappropriate scale of this development, the lack of any mitigating setbacks from the street and any landscaping treatment to soften the affect of the proposed building mass and the absence of any attempt to reduce the scale of the proposed building where it is seen in close proximity to the police station would be detrimental to the aesthetic and historic values of the police station.

Comment

The proposed building has a similar height to the approved building on the adjoining site to the south which contains the heritage item. Whilst the proposed development will overshadow the heritage item, the height of the proposed development is consistent with the height requirements of ALEP. The setback of the proposed building from the southern side boundary, at the street alignment, is similar to the setback of the existing building on the site, therefore the proposed building will not reduce the streetscape views from the police station from the northern approaches. It should also be noted that the existing line of pine trees, at the front of the police station, currently obscure any streetscape views of the police station when approaching the site from the north.

The public interest (EP& A Act s79C(1)(e))

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users.

The floor space ratio of the proposed development at the front of the site is well in excess of the FSR required which will result in a building that has excessive bulk and scale and will not be consistent with future development in this locality. The excessive floor space results in impacts on the amenity of the adjoining site to the south.

In view of the foregoing analysis it is considered that the development as proposed would not be consistent with the public interest.

Conclusion

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

Having regard to the relevant matters of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is unacceptable for the reasons outlined in this report. It is recommended that the development application be refused.

ATTACHMENTS

Please list your attachments below with the TRIM file reference.

Site Plans
Trim No.