

**Joint Regional Planning Panel
(Sydney East Region)**

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| JRPP No. | 2013SYE051 |
| DA No.: | DA/320/2013 – Demolition of the existing buildings; excavation works and construction of a part 6, part 7 mixed use development comprising ground level retail space, 109 residential units and 3 basement levels of 277 car spaces and associated landscaping works at 84-108 Anzac Parade |
| Applicant: | Luxcon Group |
| Report By: | Willana Associates Pty Ltd |

Executive Summary

Council is in receipt of a development application (DA) for demolition, excavation, dewatering and construction of a mixed use building of between six (6) and seven (7) stories at land known as 84 - 108 Anzac Parade, Kensington. The development is proposed to contain retail space at ground level, 109 apartments above and three (3) levels of basement parking for 277 vehicles, with associated excavation, dewatering and site works.

The application is referred to the Joint Regional Planning Panel for determination, pursuant to Schedule 4A, of the Environmental Planning and Assessment Act 1979 and Part 4 of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value in excess of \$20 million.

The proposal constitutes "integrated development" under Section 91 of the EP & A Act, 1979 as it will involve dewatering, connection to a classified road and disturbance of the existing water table. The application has therefore been referred to the NSW Roads and Maritime Services and the Department of Primary Industries Office of Water. The application has also been referred to Sydney Airport Corporation and Local Area Police. No fundamental concerns have been raised by any of the authorities. Both the NSW Roads and Maritime Services and the Department of Primary Industries Office of Water have issued general terms of approval, subject to conditions.

The proposal was the subject of a prelodgement meeting held between the applicants and Council Officers on 5 March 2013. A number of issues were discussed regarding the future development of the site. A number of issues were discussed including flooding, access to and from the site and the acquisition of the corner site (106 – 108 Anzac Parade, Kensington).

On the 29 May 2013 the subject application was lodged generally proposing demolition and construction of a part 6 and part 7 storey mixed use development comprising approximately 1935sqm of ground retail area, 90 units, 2 levels of basement parking for 166 car spaces and associated site and landscape works. The scheme did not include the corner property, known as 106-108 Anzac Parade. The scheme was notified in accordance with Council's requirements from 18 July until 19 August 2013. Six (6) submissions were received during this period

On the 4 October 2013 amended plans were lodged indicating inclusion of the corner site (106 and 108 Anzac Parade, Kensington) in the development scheme, as recommended in pre-DA discussions. The amended plans indicated a part 7, part 9 and part 11 storey built form, with the 11 storey component at the new corner location. The amended plans indicated a ground retail floor area of approximately 2,278sqm, 126 residential units and 3 levels of basement parking for 265 car spaces.

This scheme was publicly exhibited and notified between 16 October 2013 and 15 November 2013. During this time, eleven (11) submissions were received from the local residents objecting to the development, mainly on the grounds of height and unacceptable visual impact.

Subsequent to the notification / exhibition period, a further set of amended plans were submitted to Council. The plans were amended to address concerns raised by the Urban Design Review Panel. They altered the built form to consists of a part 6, part 7 mixed use development comprising of 2,240.89sqm ground level retail space, 109 residential units and 3 basement levels accommodating 277 car spaces. These amended plans have not been renotified. They constitute "the current" plans and are therefore the subject of this assessment.

The site is within the Kensington Town Centre, as such, Part D1 – Kensington Town Centre of the Randwick DCP 2013 applies. The proposal does not meet the relevant controls of the DCP and is inconsistent with the overall objectives for the Kensington Town Centre.

The proposal does not comply with the maximum height development standards as prescribed by Clause 4.3 of the Randwick Local Environmental Plan (RLEP) 2012 and the maximum number of storeys under the Randwick DCP 2013 – Part D1. The current proposal has a maximum building height of 29.87m, which exceeds the maximum building height control of 25m by 4.87m. The proposal also breaches the maximum 6 storey height limit having a 7 storey component that does not meet the requirements of the DCP in terms of habitable roof space.

In addition, the proposal does not comply with the Randwick DCP 2013 Part D1 – Kensington Town Centre in terms of setbacks, apartment layouts and habitable roof space.

The planning controls for this precinct are well considered and have been the subject of significant community consultation. The proposed application should comply with the planning controls in the absence of a well-considered change in the planning regime. The current proposal does not achieve compliance with many of the key objectives and performance criteria and is therefore recommended for refusal.

1.0 Site Description and Locality

The site is located on the corner of Goodwood Avenue and Anzac Parade. It has a 96 metre street frontage to Anzac Parade and is otherwise surrounded by development.

The proposal seeks to amalgamate eight (8) individual allotments, presently comprising a run of nondescript one (1) and two (2) storey commercial buildings, some with residential above. The site comprises the following lots:

- Lot 13 DP 2905 (site area 766m²), known as 84-88 Anzac Parade, which currently contains a show room with vehicular access.
- Lot 14 DP 2905 (site area 774m²), known as 90-92 Anzac Parade, which contains a Liquorland store.
- Lot 1 DP 953508 (site area 384m²), known as 94 Anzac Parade, which contains commercial office space.
- Lot 2 DP 953508 (site area 379m²), known as 96 Anzac Parade.
- Lot 2 DP 23733, (site area 244m²), known as 100 Anzac Parade, which contains an electronic repair centre.
- Lot 3 DP 23733 (site area 256m²), known as 102 Anzac Parade, which contains a local restaurant.
- Lot 4 DP 23733 (site area 293m²), known as 104 Anzac Parade, which contains a brake and mechanical service.
- Lot 5 DP 23733 (site area 466m²), known as 106-108 Anzac Parade, which contains a retail space.

The site is generally rectangular and of the following dimensions:

| Boundary | Length | Land area |
|------------------------------------|---------------|--------------------|
| Northern, side boundary | 39.345 metres | 3336m ² |
| Western, Anzac Parade boundary | 96.7 metres | |
| Southern, Goodwood Street boundary | 39.345 metres | |
| Eastern, rear boundary. | 98.81 metres | |

The site is bound by a six (6) storey mixed use building to the north, a mixture of residential dwellings and flat buildings to the east and fronts Goodwood Street to the south.

The site falls gently towards the south-west and like a majority of the Kensington Town Centre, is affected by flood freeboard levels.

2.0 Application History

On the 29 May 2013 the subject application was lodged generally proposing demolition and construction of a part 6 and part 7 storey mixed use development comprising approximately 1935sqm of ground retail area, 90 units, 2 levels of basement parking for 166 car spaces and associated site and landscape works, at 84 – 104 Anzac Parade. The scheme was notified in accordance with Council's requirements from 18 July until 19 August 2013. Six (6) submissions were received during this period

On the 4 October 2013 amended plans were lodged indicating inclusion of the corner site (106 and 108 Anzac Parade, Kensington) in the development scheme, as recommended in pre-DA discussions. The amended plans indicated a part 7, part 9 and part 11 storey built form, with the 11 storey component at the new corner location. The amended plans indicated a ground retail floor area of approximately 2,278sqm, 126 residential units and 3 levels of basement parking for 265 car spaces.

This scheme was publicly exhibited and notified between 16 October 2013 and 15 November 2013. During this time, eleven (11) submissions were received from the local residents objecting to the development, mainly on the grounds of height and unacceptable visual impact.

Subsequent to the notification / exhibition period, a further set of amended plans were submitted to Council. The plans were amended to address concerns raised by the Urban Design Review Panel. They altered the built form to consist of a part 6, part 7 mixed use development comprising of 2,240.89 sqm ground level retail space, 109 residential units and 3 basement levels accommodating 277 car spaces. These amended plans have not been renotified. They constitute "the current" plans and are therefore the subject of this assessment.

3.0 The Proposed Development

The development proposes to demolish the existing structures across the site and construct a part 6, part 7 mixed-use development, fronting Anzac Parade. The development is proposed to contain retail space at ground level, 109 apartments above and three (3) levels of basement parking for 277 vehicles, with associated excavation, dewatering and site works. Vehicular access is proposed off Goodwood Street.

| Proposal Overview | |
|---|--|
| No. of dwelling units | 109 |
| Apartment mix | 1 bedroom: 12 2 bedroom: 84 3 bedroom: 5 4 bedroom: 8 |
| Apartment Mix | <u>Requirement:</u> Studios and 1 bed apartments to comprise no more than 40% of the total number of apartments. <u>Provided:</u> 11% |
| Parking | <u>Requirement:</u> 254 car spaces <u>Provided:</u> 277 car spaces over 3 basements levels which also contains storage areas, plant rooms and *Refer to traffic comments |
| GFA | <u>Requirement:</u> 85% of the of the building envelope <u>Proposed:</u> 98% of the of the building envelope |
| Max Building Height and Number of Storeys | <u>Requirement:</u> 25m. <u>Proposed:</u> 29.87m at its highest point at the southern end. * Does not comply – Amended Clause 4.6 Exception has not been submitted. |

Vehicular access is provided via a double width two way driveway from Goodwood Street, at the south eastern corner of the site. The proposal will also involve associated landscape works and perimeter planting along the eastern boundary abutting the residential properties to the east.

Pedestrian access will be made available from two (2) entrances along Anzac Parade.

A single retail tenancy of 2,240.89m² is proposed to occupy the ground floor. An associated loading dock is provided, with access from Goodwood Street. The entrance to the loading dock is parallel to the entrance to the basement car parking. Above, 109 residential units are proposed. A podium level communal area along the eastern boundary, including lap pool and landscaping works are also proposed.

Excavation of the basement requires dewatering of the site. The application has been referred to the NSW Department of Water for general terms of approval.

4.0 Clause 4.6 Exception to Development Standard

A Clause 4.6 variation request to vary the development standard for the maximum building height under Clause 4.3 of RLEP 2012 was submitted in relation to a previous proposal at the site. The previous proposal had a proposed maximum building height of 41.25m which exceeded the maximum building height control by 16.25m. The Clause 4.6 variation request does not specifically address the current breach of the control and as a result, the Clause 4.6 variation for the previous proposal cannot be relied upon for the current proposal. Consequently the application is incomplete.

Despite this, an assessment of the Clause 4.6 variation in relation to the previous proposed maximum building height of 41.25m indicates that strict compliance with the controls would be reasonable and necessary in this instance. In particular, the excess building height has been applied on the south eastern corner. The proposed façade composition and external treatment further exacerbates the appearance of bulk and scale by accentuating the southern corner block.

4.1 Clause 4.6 Assessment

The land is subject to development standards under the RLEP 2012. The proposal seeks to vary a development standard within the RLEP 2012. Accordingly, a Clause 4.6 variation had been submitted with the development application. In assessing the applicant's Clause 4.6, the following matters are addressed:

The proposal seeks to vary a development standard contained within Randwick Local Environmental Plan 2012 being Clause 4.3 – Building Height.

The table below is an assessment of the proposal against the relevant standard:

| Standard | LEP | Proposal | Compliance |
|-------------------------|------------|-----------------|-------------------|
| Maximum Building Height | 25m | 29.87m | No |

Clause 4.6 – Maximum Building Height

A maximum building height of 25m applies to the development with the subject site, as identified in the relevant building height maps. The proposal has a maximum building height of 29.87m, which exceeds the maximum building height control by 4.87m.

The applicant has submitted an objection under Clause 4.6, and has argued that strict compliance with Clause 4.3 of the Randwick LEP and DCP building envelope controls is

unreasonable and unnecessary. Principles to granting consent to a variation to the development standard are detailed in Clause 4.6 (3) and (4) as outlined below:

(3) 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*
 - i. the applicant's written request has adequately demonstrated the matters required to be demonstrated by subclause (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 the development is proposed to be carried out*

The matters to allow development consent are addressed in the assessment of the applicant's submitted Clause 4.6 variation.

Matter 1: Is compliance unreasonable and unnecessary

An assessment of the proposal against the objectives of the relevant zoning and development standard objectives has been carried out below:

The assessment against the objectives of the zone is as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The development scheme proposes a ground floor commercial area of 2240.89m² – 2254m² (the submitted drawings are not consistent). It is proposed that this space will be a single supermarket tenant. The use of the ground floor area will be the subject of a separate application.

Council has recognized the need for a supermarket in the Kensington Town Centre area. However, in accordance with RDCP 2013 – Part D1 – Kensington Town Centre, the subject site is not an area identified for a supermarket. An objective under the RDCP 2013 for the Kensington Town Centre is to achieve a neighbourhood supermarket centre within the Retail Core of the Kensington Centre. Detailed block by block controls are included in the RDCP 2013. Blocks 4, 9 and 10 are identified as areas potentially suitable for a supermarket, rather than on the edge of the precinct in Block 1, where the subject site is located.

- *To encourage employment opportunities in accessible locations.*

The proposed Supermarket will generate employment opportunities.

- *To maximize public transport patronage and encourage walking and cycling.*

The site is located within walking distance from public bus services and will be adjacent to the proposed Carlton Street light rail stop on Anzac Parade (subject to approval). The proposal will create a resident population, commercial patronage and employees that maximize usage of public transport. The development scheme does not include any bicycle parking facilities to encourage sustainable modes of transport.

- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*

The proposal will introduce a residential population that contributes to the demand and economic viability of the local services and businesses.

- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*

The supermarket occupies the majority of the frontage, now with two (2) entries. This is an improvement from previous proposals, however given the expanse of the building façade to Anzac Parade, the pedestrian experience will primarily be a west facing blank wall. It is noted that towards the southern end of the site (near the corner of Anzac Parade and Goodwood Street) the supermarket floor level is approximately 1.5m above the pedestrian path on Anzac Parade.

The proposal indicates the area from existing ground level up to the supermarket finished floor level will be used for retail display purposes which is a poor outcome in terms of the pedestrian experience along this strip. There is a need to ensure that the supermarket is an anchor for community interaction with associated pedestrian amenity, shops and activity. If the supermarket is to be located here, then other things are required.

Council's Design Review Panel were critical of the aesthetics of the proposal (previous iterations of the design, however the palette of materials remain relatively unchanged). The DRP advised that thought needs to be given to the materials palette. *The Panel is concerned that the larger buildings in the Kensington should be designed and built with robust materials and an enduring character. Large rendered and painted surfaces, for example, are likely to present on-going maintenance problems for an Owners Corporation.*

It is considered that the proposal does not achieve the objective for a high standard of urban design and pedestrian amenity.

- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*

The development along Elsmere Street backing onto the subject site is a mix of residential dwellings including three (3) and four (4) storey residential flat buildings, single storey semi-detached dwellings and single storey detached dwellings.

The proposal is likely to result in damage to the stand of mature trees located to the rear of the adjoining properties of Elsmere. These trees provide amenity to these properties and would serve as a privacy screen to any development on the subject site. The applicant has not been able to demonstrate, to the satisfaction of Council's Landscape Engineer how these trees will be protected. In addition, no deep soil planting is proposed to the site's eastern boundary to provide a screen to neighbouring properties.

The proposal includes a wall to the rear of the Elsmere properties on the boundary rising above existing ground level between 5.3m up to approximately 6m. While it is proposed that this wall will be a green wall, to the landscape architect details, no details have been provided. Despite the proposal for it to be a green wall, the extent and height of the wall will impact on the amenity of neighbours to the east, presenting as a long monolithic structure. In addition, the common open space area (described as Level 5 on drawing No. 118 by Bureau of Urban Architecture) is situated directly adjacent to private open space areas to the rear of Elsmere properties. The raised common open space area, with zero setbacks to the eastern boundary of the site raises amenity impacts on neighbouring development in terms of visual and acoustic privacy.

A large majority of apartment units are single aspect limiting the opportunity for cross ventilation and natural lighting.

- *To facilitate a safe public domain.*

The proposal provides opportunities for surveillance of the street and perimeter garden areas. The entry paths are clearly arranged, with good address and way-finding.

The assessment against the objectives of the development standard is as follows:

- *To ensure that the size and scale of development is compatible with the desired future character of the locality*

The subject site is deemed to be part of the developable land within the Kensington Town Centre and forms Block 1, which is the subject of Part D – Kensington Town Centre of the Randwick Development Control Plan. Council considered the suitability of a range of proposed land uses and their location within the surrounding Town Centre. Consequently, the subject site is specifically identified in the DCP as being suitable for shop top housing development in Block 1.

The Design Review Panel was concerned minimal site analysis had been carried out to ensure the proposed development was compatible with the desired future character. This was particularly made evident with the concern of ground floor activation as the area is envisaged to provide an active and inviting street edge:

The current arrangement of the retail to the street would result in a miserable streetscape, with no diversity of accommodation. This would rob Anzac Parade of vibrancy – opposite to the DCP intent. Indeed the existing nondescript mixed retail is superior to the proposal.

- *To ensure the development is compatible with the scale of and character of contributory buildings in a conservation area or near a heritage item.*

The subject site is not located within a conservation area or near a heritage item. However, future development needs to consider any potential impacts on adjoining properties. The proposal has been designed with little regard to the neighbouring residential properties.

- *To ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The proposed building form generates negative amenity impacts within the site and locality, specifically in terms of bulk, scale, overshadowing and privacy. These are fatal elements in Council's assessment.

The proposal is likely to result in damage to the stand of mature trees located to the rear of the adjoining properties of Elsmere. The trees provide amenity to these properties and would serve as a privacy screen to any development on the subject site. The applicant has not been able to demonstrate, to the satisfaction of Council's Landscape Engineer how these trees will be protected. In addition, no effective deep soil planting is proposed to the site's eastern boundary to provide a screen to neighbouring properties.

The proposal includes a wall to the rear of the Elsmere properties on the boundary rising above existing ground level between 5.3m up to approximately 6m. While it is proposed that this wall will be a green wall, to the landscape architect details, no details have been provided. Despite the proposal for it to be a green wall, the extent and height of the wall will impact on the amenity of neighbours to the east, presenting as a long monolithic structure. In addition, the common open space area (described as Level 5 on drawing No. 118 by Bureau of Urban Architecture) situated directly adjacent to the open space areas to the rear of Elsmere properties. The raised common open space area, with zero setbacks to the eastern boundary of the site raises amenity impacts on neighbouring development in terms of visual and acoustic privacy and there are insufficient landscape details to establish that any adverse impacts are effectively mitigated.

Matter 2: Are there Sufficient Environmental Planning Grounds

The applicant's objections are not well founded and the proposal has a severe impact on the environmental amenity and aesthetic character of the area in that:

- The purpose of the standard is to limit the size and scale of a development. It is not legitimate for the applicant to claim that compliance with some but not all of the controls are adequate. The proposal is in excess of the DCP control for the maximum number of storeys and envelope and the development standard for

building height. These matters are fundamental to the size and scale of the development.

- The proposed height is inconsistent with the local context and built form in terms of height and building mass, which is a direct consequence of the excessive gross floor area sought under the current proposal. The gross floor area of the proposed scheme is in order 98% of the gross floor area of the envelope, while the DCP describes a maximum yield of 85%. The breaches in gross floor area and height translate directly to a perceptibly bulky and excessively scaled complex of buildings that do not relate appropriately with the context of the surrounding development and natural environment.
- The building fails to adopt a logical distribution of mass and proportioning; with the bulkiest elements being enhanced rather than made recessive.
- The proposal interrupts the prevailing height characteristics in a significant and undesirable manner. If approved, it would set precedent for similar height and scale characteristics for future development in the area and severely compromises the integrity of the controls set out by the DCP – Part D1 controls and RLEP 2012. Further breaches would impact on the surrounding town centre and streetscape in an undesirable manner.

Matter 3: The public interest

The proposed development is not considered to be consistent with the objectives of the relevant zoning and development standard. The planning controls for this precinct are well considered and have been the subject of significant community consultation. The proposal does not achieve compliance with many of the key objectives and performance criteria in terms of built form, provision of high environmental and amenity standards. Further departures from these controls have not been sufficiently justified and would serve to undermine the adherence to the controls in previous developments and therefore the scheme is not in the public interest. The proposal is an overdevelopment of the site and it would not be in the public interest to approve the development in its current form.

The adverse impacts generated by the development due to non-compliance with the applicable planning control provide no benefit to the local community and as such, it is not considered to be in the wider public interest.

The scheme does not provide high quality residential development in accordance with the RLEP 2012 and the RDCP 2013 – Part D1 - Kensington Town Centre.

Conclusion

In conclusion, the proposal has not adequately justified that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

For the reasons stated above, the Clause 4.6 objection fails and the development application is refused accordingly.

5.0 Notification/ Advertising

The subject development scheme has not been publicly notified given that the former scheme (for the part 7, part 9 and part 11 storey development) represented a much larger scheme (higher built form) compared to the current scheme. The current scheme, the subject of this report, has been reduced in scale and is more akin to the original part 6 and part 7 storey development notified from 18 July 2013 to 19 August 2013.

Notification 2: 16 October 2013 – 15 November 2013 (Part 7, Part 9 and Part 11 storey development)

The scheme that was exhibited during this time was a part 7, part 9 and part 11 storey built form, with a retail floor area of approximately 2,278sqm, 126 residential units, and 3 levels of basement parking for 265 car spaces. It was advertised from 16 October 2013 to 15 November 2013 in accordance with Development Control Plan – Public Notification of Development Proposals and the EPA Act 1979. Eleven (11) submissions were received which raised the following issues (issues have been grouped to avoid repetition):

- **Amended design increased height from 6 to 7 stories to 7, 9 and 11 stories. Consequently, the amended design does not address previous concerns regarding height.**
- **The proposed development is excessive in height and does not comply with the relevant height/number of storeys requirements as contained in the Randwick LEP 2012 and Randwick DCP 2013 Part D1.**
- **The proposal provides a nil setback to the rear of the site (with the boundary to properties fronting Elsmere Street) with a 7.0m wall on the boundary. This creates a significant number of negative impacts including visual bulk, overshadowing and amenity impacts to surrounding sites.**
- **The proposal represents an overdevelopment of the site and fails to meet the applicable objectives of Randwick DCP 2013 Part D1.**
- **The non-compliant height, setbacks and building envelope and parking, result in numerous amenity impacts on surrounding residential developments.**
- **The proposed development is inconsistent with the desired future character for the area.**
- **The proposal is not consistent with the DCP building envelope controls**
- **The treatment of the rear of the building is lacking articulation**
- **Development creates imposing corridors along Anzac Parade and does not provide sufficient setbacks to soften the built form or provide opportunity for any landscaping.**
- **No opportunity for deep soil planting particularly to rear.**

In response to Council's concerns regarding the previous 11 storey tower on the corner of Goodwood Street and Anzac Parade, the applicant has reduced the height of the development. Consequently, any objections in relation to the proposed Part 9 and Part 11 storey section of the development have been addressed. However, many objectors were also concerned with the height of the original application (Part 6 and Part 7 storey and notified from 18 July to 19 August). Although "the current" proposal is more reflective of the original proposal presented at the pre-lodgement meeting, as the amended plans were submitted during the notification period, it is unlikely these concerns have been addressed by the current proposal.

The objections regarding bulk, height, scale and other matters relating to density, building envelope and resultant adverse impacts to the amenity of surrounding and adjacent development are supported. Despite reducing the height of the building, the proposed building fails to meet the objectives of the height standard as it does not achieve the necessary transition from higher buildings fronting Anzac Parade to the R3 zone and mixed housing on Elsmere Street to the rear. The height of the building, bulk and scale of the development will adversely impact on the amenity of neighbouring properties to the east, particularly in terms of the scale and bulk of the wall on the eastern boundary of the development and the potential for loss of privacy. The proposal does not adopt an appropriate scale for the local context and fails to achieve compliance with the relevant controls of the Randwick DCP 2013.

No opportunity for deep soil planting has been provided which further exacerbates the bulk and scale of the building, particularly as viewed from adjoining properties to the east.

The proposal has now been amended to provide four (4) street trees on the 96m long Anzac Parade frontage. No information regarding these street trees (proposed species, height, etc) has been provided by the applicant and consequently, there is not enough information for Council's Landscape officer to accurately assess the landscape design of the proposal.

- **The proposal does not meet the requirements under Council's DCP for Parking and will further exacerbate parking and traffic congestion in the area**
- **The traffic report lodged with the application is inadequate as it did not take into account traffic surveys of supermarkets on weekends.**

Refer to the parking and traffic comments in Section 6 of this report.

- **The proposed development will result in loss of sunlight to the rear of Boronia Street facing east and the rear of the Elsmere properties adjoining the site to the east.**

The proposal has been amended for all surrounding properties to achieve a minimum of 3 hours sunlight on 21 June in accordance with the RDCP and SEPP 65 RFDC requirements. Refer to the detailed assessment in Section 10 of this report.

The proposed development has failed to address the cumulative impact of the recent development to the north on the properties to the east. Furthermore, the assessment has not taken into account the impact the "current" proposal has on the future development of adjoining sites and the limitations they may cause on future development potential.

- **The development will result in unacceptable loss of privacy to properties adjoin to the east on Elsmere Street**
- **The location of the pool and common open space and impact on Elsmere Street residents in terms of overlooking and noise impacts.**

The applicant has not provided an analysis of the separation distances between the proposed common open space area on Level 5 of the proposal and its relationship to the open space areas for properties on the western side of Elsmere Street, nor between

habitable rooms and non-habitable rooms on the subject site with existing dwellings on Elsmere Street.

- **The development will impact on mature trees on adjoining properties**

Refer to Section 6 for Council's Landscape Engineer's comments.

- **The proposed basement level carparks will be below the water table in Kensington and will necessitate the use of full time pumps to extract the water, which is not an energy efficient practice. As noted in the DCP, the Department of Land and Water Conservation will not endorse continuous extraction of groundwater.**

The subject application is recommended for refusal. However, any future development approval for the site will be subject to approval from the NSW Office of Water and Councils Development Engineers.

No further documentation appears to have been submitted detailing the proposed procedures to manage groundwater during construction and operational phase of the development. The application has not complied with the groundwater submission requirements outlined in Section 4.2 Part B8 of Council's DCP, and therefore, the proposal has failed to demonstrate that the proposed works can be feasibly constructed without reasonable impacts to neighbouring properties.

If approved, appropriate conditions of consent will be imposed to ensure the basement carpark or similar structures are to be suitably tanked and waterproofed. Additionally, a report, prepared by suitably qualified and experienced Geotechnical, Hydrological and Structural Engineers will be required to be submitted to and approved by the Certifying Authority or an accredited certifier, prior to issuing a Construction Certificate, detailing the proposed method of excavation and dewatering process.

- **The adjoining property owners on Elsmere Street (9 – 27 Elsmere Street) will not grant permission for ground anchors necessary for excavation beyond the perimeter of the development.**

Noted.

- **The accompanying Clause 4.6 Variation request is not well founded and should not be supported**

The proposed development will result in inconsistencies with the objectives of Clause 4.3 Height of Buildings under RLEP 2012. The applicant submitted an objection under Clause 4.6 justifying the height breach in relation to the previous proposal which was 16.25m above the maximum permissible building height (of 25m) for the site. The applicant's Clause 4.6 variation request included that as a result of the height variation, the proposal would not result in significant adverse amenity or visual impacts on the area. An assessment of the Clause 4.6 objection is included in Section 4 of this report.

The Clause 4.6 submitted, is not considered to be well founded and is not supported.

The current proposal before Council has been reduced in height, however it continues to exceed Council's maximum building height limit by 4.87m. The applicant has not

provided an amended Clause 4.6 variation request, but rather, relied upon the previous 4.6 variation report.

Clause 4.6 of RLEP 2112 requires the specific consideration of an amendment to a development standard. It is not considered acceptable to rely on a Clause 4.6 variation request for a different scheme, even if the breach is less than the original scheme (as is the case with the current proposal). Without an amended Clause 4.6 variation request, written specifically to justify the requested variation to the height by 4.87m, Council cannot support the application.

Refer to Section 4.1 of this report for detailed assessment.

- **Proposed roof top green space adds nothing to the public domain**

Although the proposed roof top terrace may not significantly contribute to the landscaping of the site, the recreation area will provide amenity for the occupants of the development.

- **Loss of outlook to Randwick racecourse and district views from the rear of Boronia Street properties facing east**

Some properties on the eastern side of Boronia Street currently enjoy distant district views towards Randwick Racecourse across the site to the east. These views are considered significant to the residents. It is imperative strict compliance with the planning height control is achieved as the impact on the distant district views would be minimised with a complying building height.

- **The Randwick DCP 2013 Part D1 – Kensington Town Centre does not contemplate a supermarket at this site**
- **Loading and unloading for the supermarket should be at basement level, not ground level adjacent to neighbouring properties**
- **The proposed supermarket is not consistent with The DCP controls – particularly the controls requiring an active street front to Anzac Parade**
- **There is no evidence of negotiations with a supermarket retailer**

The development scheme proposes a ground floor commercial area of 2240.89m² – 2254m² (the submitted drawings are not consistent). It is proposed that this space will be a single supermarket tenant. The current proposal will have two pedestrian entries off Anzac Parade dedicated to the ground floor commercial component, separate from the residential lobbies. The use of the ground floor area will be the subject of a separate application.

Council has recognised the need for a supermarket in the Kensington Town Centre area. However, in accordance with RDCP 2013 – Part D1 – Kensington Town Centre, the subject site is not an area identified for a supermarket. An objective under the RDCP 2013 for the Kensington Town Centre is to achieve a neighbourhood supermarket centre within the Retail Core of the Kensington Centre. Detailed block by block controls are included in the RDCP 2013. Blocks 4, 9 and 10 are identified as areas potentially suitable for a supermarket, rather than on the edge of the precinct in Block 1, where the subject site is located.

- **The objective of the light rail is to address existing deficiency in public transport, not support additional homes. Kensington is already too densely populated**

NSW State Government Policy is to substantially increase the supply of housing and employment, and improve housing choice and affordability in appropriate locations with good access to infrastructure, particularly transport, such as light rail. However, the light rail is still in the planning phases. In addition, the applicant has relied on the State Government's Urban Activation Precinct program, and in particular the proposed Randwick Urban Activation Precinct, to justify the increase in height of the development (both as the part 7, part 9 and part 11 storey development and the reduced part 6 and part 7 storey current scheme).

The purpose of the Urban Activation Precincts program is to deliver more homes in places with access to infrastructure, transport, services and jobs. The Department of Planning is currently undertaking community consultation on the planning phase for the Randwick Urban Activations Precinct (UAP). Two community forums have been held in the Randwick precinct. At the forums, working or draft plans and concepts have been discussed, and the participants' feedback is to be used by the urban designers developing the rezoning proposal for the precinct. The presentations given at these forums were not formal proposals. No decisions on the final plans for the Randwick UAP have been made at this early stage.

Given there is no policy in place, or even a draft policy, for the Randwick UAP, any concept proposals by the Department of Planning cannot be relied upon to justify the proposed scale of development. The policy base for the Randwick UAP should only be considered as part of the assessment for proposals in the Kensington Town Centre when the Randwick UAP plans are certain and imminent. When draft plans for the Randwick UAP have been formally exhibited and the formal rezoning process is initiated, Council will be required to take into consideration any proposed upzoning of the area.

- **Impact on property values**

Property valuation is a matter that goes beyond the scope of matters of consideration under Section 79C of the EP&A Act.

- **Development on the subject site should not be permitted to extend any higher than the permitted number of storeys under Part D1 (Kensington Centre) of Randwick DCP 2013 in order to uphold the aesthetic value of the surrounding area and maintain the established character of the area**

The DCP 2013 Part D1 – Kensington Town Centre allows for a block-perimeter envelope with a maximum height of 6 storeys along Anzac Parade and Goodwood Street (with upper 2 levels setback by 4m). The DCP controls have generally been consistently applied across the Kensington Town Centre. The proposal has been designed with little regard to the neighbouring residential properties, evident with the proposed height and minimal setbacks.

- **The proposed studio units are too small and insufficient to accommodate the needs of future occupants**

The proposed units generally comply with the minimum unit sizes as recommended by SEPP 65. Variations on the minimum apartment size criteria are considered to be minimal and achieve a reasonable level of internal amenity. Notwithstanding this, it is considered that the overall number of apartments proposed results in a development which is excessive in GFA, bulk and scale.

- **A number of the supporting documents cannot be relied upon, such as the geotech report as they do not appear to have been updated to reflect the taller structure.**

The proposal has been amended and reduced in scale to a part 6 and part 7 storey development, which is more akin to the original proposal for which supporting documents were prepared.

- **Proposal ignores planning principle in relation to transition between zones/ zone interface. To the east is R3 zone with a 12m height limit.**

The proposal is considered to be a suitable transition between Anzac Parade to the adjoining properties to the east. However, the properties in Elsmere Street are within a R3 residential zone with a maximum permissible height limit under RLEP 2012 of 12m.

The LEP requires new development to meet the relevant performance criteria through compliance with the maximum building heights specified in Clause 4.3. They have been tested and upheld by Council and the Land and Environment Court. The proposal does not comply with the building height control and will therefore impact on the relationship between the B2 zone and the R3 zone, and associated building height.

- **Noise from delivery trucks loading and unloading outside normal business hours.**
- **Concerned that the excavation and construction work associated with such a large development could cause damage to homes and destabilise Request that the developer cover the costs of pre development inspection to assess and confirm the current state of surrounding homes so any damage as a result of the development can be clearly demonstrated.**

The subject application is recommended for refusal. However if the application is approved appropriate construction management conditions would be recommended to ensure that the adjoining land will be supported, and that potential damage and disturbance to the neighbouring property will be avoided. A further condition would be recommended to require the preparation of a dilapidation report for monitoring any potential damage to the immediate adjoining properties.

A detailed development application will be required to be provided for the occupation of the ground floor supermarket area. The development application will need to include a considered Plan of Management for the operation of the supermarket and associated loading bays. This information will be subject to a separate assessment by Council.

- **The DA cannot be amended to include a whole new site (106 – 108 Anzac Parade). The DA should be withdrawn and formally re-submitted to include the additional block.**

Clause 55 (1) of the Environmental Planning and Assessment Regulation 2000 states that a development application may be amended or varied by the applicant (but only with the agreement of the consent authority) at any time before the application is determined.

Consequently, Council has the authority to accept and process the amended plans.

Notification 1: 18 July 2013 – 19 August 2013 (Part 6 and Part 7 storey development)

The original scheme (proposing the construction of a part 6 and part 7 storey mixed use development comprising approximately 1935sqm of ground retail area, 90 units, and 2 levels of basement parking for 166 car spaces and associated site and landscape works at 84 – 104 Anzac Parade, Kensington) was notified in accordance with Council's requirements from 18 July until 19 August 2013. This scheme attracted a total of six (6) submission letters (inclusive of one standard letter accompanied by 7 signatories). One (1) submission, being from the owners of 106 – 108, was subsequently withdrawn by way of email dated 21 August 2013.

The issues raised in these submissions are generally the same as the issues raised above in relation to the second notification. The amended proposal did not resolve any of the issues raised and further exacerbated objectors concerns by proposing an even taller building at Part 7, Part 9 and Part 11 storeys in height.

6.0 Technical Advice: Internal and External

Development Engineering Comments

The development application was referred to Council's Development Engineering Department primarily in relation to traffic and parking, flooding, and landscaping.

GENERAL ENGINEERING COMMENTS

The assessing officer is advised that there are a number of outstanding engineering issues associated with the amended proposal and the application is not able to be supported in its current form. The issues are outlined in detail within this report however in summary they are;

- *The access driveway width to the basement carpark is not compliant with Australian Standard 2890.1:2004. The development should be assessed as a Class 3A facility since it includes short term parking for the future shopping centre (See Table 1.1 AS 2890.1:2004). Entry and exit lanes should be separated at minimum.*
- *The summit grade change on the access driveway to the basement is not compliant with AS 2890.1:2004 as it exceeds 12.5% (23.6% indicated). This will result in vehicles scraping as they pass over the crest.*
- *The traffic study has used an inappropriate parking rate in determining the parking requirement for the commercial component resulting in an inadequate parking provision for the future shopping centre.*

- *As there is a surplus of residential parking, visitor spaces for the residents along with any required motorbike and service/delivery parking for residential component should be provided on the residential parking levels.*
- *No motorbike parking has been provided for either the residential or commercial components of the development as required in Council's DCP 2013 Part B7. A minimum provision of 5% of total parking requirements is required. (9 resident plus 4 commercial)*
- *No visitor bicycle spaces have been provided (13 required) for the residential component.*
- *Bicycle spaces for the commercial component (9 required) have not been indicated on the plans.*
- *The collection of recycling bins on site by side loading Council collection vehicles which are solely operated has not been addressed and is likely to be problematic with the current waste management arrangements.*
- *There does not appear to be enough room in the various bin rooms and loading dock area for the adequate storage and presentation of bins, especially on days when recycling bins are presented for collection. Individual bins have not been shown on the architectural plans.*
- *The application has not complied with the groundwater submission requirements outlined in Section 4.2 Part B8 of Council's DCP-2013 and as a result the proposal has failed to demonstrate that the proposed works can be feasibly constructed without unreasonable impacts to neighbouring properties, groundwater conditions, or the structural integrity of the development.*

No waste storage area for the commercial component has been indicated on the architectural plans.

TREES

The previous Issues Report of 23 July 2013 detailed that landscape/tree conditions could not be provided for this application as Council had serious concerns over the impact that works associated with the eastern wall of the proposal, right from the basement up to level 5, would have on the row of large and significant Gums that are growing wholly on adjoining private properties to the east, close to the common boundary, and which overhang substantially into the subject site.

The applicant was advised that more detailed site investigations would be required, along with a written report of any findings, including recommendations and a Tree Protection Plan, in order for Council to make an accurate assessment of any potential impacts on these neighbouring trees.

However, these revised plans do not resolve any of the previously identified issues relating to the trees, as the eastern wall of the basement (Levels 1-3) is shown as finishing 1200mm off the common boundary over the southern half of the site, expanding out to 2800mm at the northern end, then at the Ground Floor, a narrow 400mm wide strip of deep soil is shown along the length of the eastern boundary, with the 3 metre wide planter and screen planting for Level 5 also shown as finishing right up to the common boundary.

Bulk excavation for the three basement levels, as well as the need to provide a physical separation between the trees and the building are the main threats, and while reference is made to the submission of an 'Arborists Report', the 4 page 'Preliminary Advice' by Urban Forestry dated 16 October 2013 does not constitute a 'comprehensive arboricultural impact assessment' that is required as a standard for this stage of a development process, as detailed in AS4970-2009, Protection of Trees on Development

Sites', and as was requested in the Issues Paper, and is more the type of report that would be submitted prior to even preparing the plans, as it only identifies those trees which may be potentially affected, and does not contain any detailed analysis.

Despite the Arborist commenting that future root mapping will be undertaken, at which time they would attend the site and use the results to determine the likely impact on these trees, no evidence of this has been provided, which is a critical omission, and while the possibility of removing and replacing some of these trees is discussed as an option, this can not and will not be considered by Council as we are unable to consent to the removal of trees from another private property as part of a development. Another comment by the Arborist states that their canopies overhang to a greater extent into the subject site than what is shown on the survey (up to 10m in some cases), which will also have implications on the setback that needs to be provided for the building along this boundary.

Despite Council raising the presence of these trees as a major issue and site constraint for any development, alternative schemes and re-designs to lessen the impacts have not been provided or suggested, neither has the extent of pruning required to avoid damage by a piling rig in such close proximity, as well as the amount required to provide a clearance off the building both during construction as well as upon completion.

Council's primary focus is to ensure that these neighbouring trees are not compromised in anyway; and unfortunately, on the information provided to date, there is no way that Council can issue consent as the applicant has not been able to prove, with any degree of certainty, that these neighbouring trees will not be seriously and adversely affected by the works.

LANDSCAPE

The Design Review Panel comments (Attachment 4, page 6) list several areas of concern in relation to the proposed landscape scheme, and despite the applicant claiming that these have been addressed by the submission of additional information, the landscape plans dated 15/11/13 do not provide the details that have been requested; in that there no sections showing soil depths over podium; the mature height of planting has not been represented as an elevation and there is no planting schedule and planting plan, meaning there is no way for Council to gain an understanding of the type of treatment that will be provided, and how this will relate to both future occupants as well as neighbours.

*While the concepts and images promote a high quality scheme, for a development of this size and type, there is a distinct lack of information, **with the applicant needing to address the issues raised above, as well as those in the DRP feedback, on amended landscape plans, before conditions can be provided.***

DETAILED PARKING COMMENTS

Parking Provision has been assessed as per the rates provided in Council's DCP 2013 Part B7 which states the following rates for multi-unit dwellings;

Residential Component

Vehicle Parking

Vehicle Parking for multi-unit housing is to be provided at the following rates;

1 space per 2 studio units (<40m²)

1 space per 1 bedroom unit (over 40m²)

1.2 spaces per 2 bedroom unit

1.5 spaces per 3 bedroom unit

1 visitor space per 4 units (but none where development is less than 4 dwellings)

The amended proposal is for 109 units consisting of 12 x 1 bedroom, 84 x 2 bedroom, and 13 x 3/4 bedroom apartments

*PARKING REQUIRED (RESIDENTIAL) = 12 X 1 + 84 X 1.2 + 13 X 1.5 + 109/4 (Visitor)
= 12 + 100.8 + 19.5 + 27.25
= 159.6
= say 160 SPACES (including 27 visitor spaces)*

*PARKING PROVIDED = 103 (B2) + 106 (B3) + some visitor parking on B1
= 209 SPACES + visitor (COMPLIES)*

Motorbike Parking

Motorbike Parking is to be provided at 5% of the vehicle parking requirement equating to 8 spaces. The submitted plans do not appear to demonstrate compliance with this requirement. No motorbike spaces have been provided.

Bicycle Parking

For Flats/multi dwelling bicycle parking to be provided at 1 space per 2 units plus 1 visitor space per 10 units. This will require the provision of 65 bicycle spaces including 11 visitor spaces. The parking study states that these will be provided within the storage units in the basement however visitor spaces will have to be provided on communal bike racks. These have not been provided.

Service and Delivery Parking

Service and Delivery Parking is to be provided at the rate of 1 space per 50 units up to 200 dwellings, plus 1 space per 100 dwellings thereafter. For subject development a total of 2 spaces shall therefore be required. The submitted plans do not indicate any spaces dedicated for service and delivery. These should be provided on the residential parking levels.

Commercial Component

Vehicle Parking

The amended commercial component will comprise 2240m² of floor space which is envisaged to be dedicated as a supermarket. For parking demand associated with supermarkets, Council relies on the rate specified in the RMS document 'Guide to Traffic Generating developments' which specifies a rate of 42 spaces per 1000m².

The accompanying traffic report has relied on the general business parking rate provided in Council's DCP to determine the commercial parking provision. This is considered inappropriate for supermarkets and was highlighted in previous memo dated 12th July 2013. As a result the traffic and parking study significantly underestimates the peak parking demand.

*Based on the general business rate of 1 space per 40m² the applicant has calculated the parking demand at **51** spaces (56 spaces if adopting area of 2240.9m²) however using the above RMS rate Development Engineering has determined the parking demand to be;*

PARKING REQUIRED = 2.24 x 42 = 94 spaces.

*PARKING PROVIDED = 68 SPACES on B1 (with some spaces shared with residents)
= 56 exclusively available during business hours*

PARKING SHORTFALL = 94-56 = 38 SPACES OR 26 SPACES IF INCLUDING SHARED SPACES.

Even allowing for the site's location adjacent to good public transport and future light rail the shortfall is excessive and is not supported by Development Engineering. As the total parking provision complies it is recommended that some parking on the lower levels be reallocated to the commercial component.

Motorbike Parking- Commercial

Motorbike Parking is to be provided at 5% of the vehicle parking requirement equating to 5 spaces. The submitted plans do not demonstrate compliance with this requirement. No motorbike spaces have been provided.

Bicycle Parking- Commercial

Bicycle Parking is to be provided at 1 space per 10 carspaces resulting in a total of 9 bicycle spaces required. The submitted plans do not demonstrate compliance with this requirement. No motorbike spaces have been provided.

TOTAL PARKING REQUIRED = 160 (RESIDENTIAL) + 94(COMMERCIAL)
= 254 spaces

TOTAL PARKING PROVIDED = 68 (B1) + 103 (B2) + 106 (B3)
= 277 SPACES (209 residential + 56 commercial + 12 shared)

The total parking provision is satisfactory however the parking allocation does not comply with Council and RMS requirements since there is a significant shortfall in the commercial component.

It is recommended that the shortfall in commercial parking and all residential visitors parking together with any service and delivery parking for residents be provided by reallocation of parking spaces on basement level 2.

ACCESS DRIVEWAY/CARPARK LAYOUT

The submitted traffic & parking assessment has assessed the development as a Class 1/1A facility which requires a corresponding combined entry/exit width of the access driveway of between 6 and 9.0m. Development Engineering does not concur with this assessment and in consideration of the high turnover parking expected for the shopping centre is of the opinion that the facility should be assessed as a Class 3A facility.

This requires the driveway width to be a minimum of 6m entry width and a 4-6m exit width. Only a 6.4m wide combined driveway has been provided which is not supported.

For the purposes of flood mitigation a crest at RL 28.08 has been provided on the access driveways to both the loading docks and basement carpark. The crest on the loading dock driveway represents a change in grade of 12.5% and is acceptable. The crest on the basement carpark access however indicates an upgrade from the street of 1 in 9 (11.1%) intersecting with a down grade of 1 in 8 (12.5%) into the basement representing a change in grade of 23.6%. This grade change does not comply with AS 2890.1:2004 and may result in vehicles scraping as they proceed over the crest.

The remainder of the internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of Australian Standard 2890.1:2004. Generally the proposed basement layout appears to comply with the standard however a general condition requiring compliance will also be included in any consent.

DETAILED WASTE MANAGEMENT COMMENTS

Due to the amended proposal resulting in a reduction in the number of units to 109 there is now a discrepancy between the waste management Plan and the architectural plans. Waste calculations provided below are based on the amended Architectural Plans.

WASTE PROVISION

Council's 'Waste Management Guidelines for Proposed Developments' specify a waste generation rate for multi-unit housing of 120L/unit/week for normal garbage and 60L/unit/week for recycling. For the proposed development the following waste streams have been calculated.

Normal Garbage (weekly collection)

Amount (Litres) = $109 \times 120 = 13,080$ Litres

The applicant is proposing 660L bins for storage of normal garbage

*Number of 660L bins = $13,080/660$
= 20×660 L bins*

Recyclables (fortnightly collection)

Amount (Litres) = $109 \times 60 \times 2 = 13,080$ Litres

Only 240L bins are available for recyclables

Number of 240L bins = $13080/240 = 55$ bins

Green Waste

No provision for green waste appears to have been made. As there are some landscaped areas a minimum of 2×240 L bins for green waste shall also be provided.

WASTE STORAGE

The 660L garbage bins for normal garbage are proposed to be stored in 3 garbage rooms on basement level 1 bin. Residents will dispose of normal garbage via a chute system provided on each floor which will direct the waste to these rooms. This is acceptable to Development Engineering.

For recycling 240L bins are provided on each floor next to the chute and are rotated with additional 240L bins provided in the basement bin rooms. This is also acceptable.

It is noted that individual bins have not been shown on the architectural plans and there is concern that the proposed bin rooms are not of sufficient size to allow easy access to the waste bins.

Transfer to Holding Area

The proposed bin storage areas are located on basement level 1 and hence the waste bins must be transported up to holding area on ground floor for collection. A service lift has been provided to facilitate this. This is acceptable to Development Engineering

Holding Area/Collection Point.

It is proposed that the collection point will be on the ground floor via a loading dock which will require council collections vehicles to enter private property to collect the bins from the holding area. There is no objection to this from Development Engineering and Council's Manage of Waste since it will remove the potential visual impact of numerous bins lined up on Anzac Parade on collection days. Council's Manager of waste has requested that a condition be included in any consent that indemnifies Council against any damage to property by council vehicles should the application be approved.

The maximum amount of bins presented at any one time will be 75 consisting of 20 x 660L bins for garbage and 55 x 240L bins for recycling. The holding area of 54m² is not large enough to accommodate this number of bins during the weeks when recyclables are collected.

Council's recycling collection vehicles are side loading and are solely operated. This will require all 55 recycling bins to be lined up side by side for collection. There does not appear to be sufficient room within the loading bay to facilitate this. An alternative collection procedure will need to be considered.

Commercial Waste

The Waste Management Plan states that commercial waste will be stored adjacent to the commercial loading bay on the ground floor although this has not been indicated on the architectural plans.

The Development Engineer requires that all bin storage areas are clearly indicated on the architectural plans. Waste storage areas for the commercial and residential components must also be clearly separated

FLOODING COMMENTS

The assessing officer is advised that Council's Drainage Engineer has previously provided the following flood levels for the subject site.

Flood levels at the northern side boundary of 84-86 Anzac Parade (Lot 13 DP2905) are as follows:

- The level of the PMF is 29.7m AHD
- The level of the 0.2% AEP flood is 28.9m AHD
- The level of the 1% AEP flood is 28.6m AHD
- The level of the 5% AEP flood is 28.4m AHD

Flood Levels at the southern boundary of 106-108 Anzac Parade (Lot 5 DP23733 are as follows:

- The level of the PMF is 29.2m AHD
- The level of the 0.2% AEP flood is 27.9m AHD
- The level of the 1% AEP flood is 27.7m AHD
- The level of the 5% AEP flood is 27.4m AHD

Council currently specifies the following requirements in regards to flood planning levels:

- The minimum habitable floor level is to be at the 1% AEP flood + 0.5m freeboard.
- A crest on driveway shall be provided at the 1% AEP flood + 0.3m freeboard.

The submitted plans depict the floor level of the supermarket at RL 28.85. This is predominantly above the freeboard requirements specified above and is satisfactory.

The access driveway to the basement and loading docks have been designed with a crest provided at RL 28.08 which is 380mm above the level of the 1% AEP flood on Goodwood St which is compliant, however there are issues with vehicles scraping at the crest. (See Access Driveway comments).

GROUNDWATER COMMENTS

The proposed development includes basement carparking that will require excavation significantly below the level of the groundwater table. The submitted geotechnical report by Douglas and Partners dated May 2013 has determined the level of groundwater table as RL 25.6 AHD.

The amended architectural plans indicate the lowest basement level as RL 19.25 requiring excavation to below RL 19.0 (or min 6.6m below water table). In this regard it

is noted that the geotechnical report has not been amended to reflect the increased excavation depth as it refers to an excavation level of RL 24.75 AHD.

No further documentation appears to have been submitted detailing the proposed procedures to manage groundwater during construction and operational phase of the development. Given the scale of the development this is considered a significant omission.

The application has not complied with the groundwater submission requirements outlined in Section 4.2 Part B8 of Council's DCP-2013 and as a result the proposal has failed to demonstrate that the proposed works can be feasibly constructed without unreasonable impacts to neighbouring properties, groundwater conditions, or the structural integrity of the development.

THE APPLICATION IS NOT SUPPORTED BY DEVELOPMENT ENGINEERING IN ITS CURRENT FORM.

7.0 Comments from External Authorities

The application was referred to the following external referral agencies:

- Sydney Airport Corporation
- Roads and Maritime Services
- Department of Primary Industries Office of Water
- Local Area Police
- Joint Regional Planning Panel
- Design Review Panel – SEPP 65 Design Quality of Residential Flat Buildings.

7.1 Sydney Airport Corporation

The application was referred to the Sydney Airport Corporation Limited as the proposed height of the building would potentially result in permanent obstruction of controlled airspace. Any obstruction of this airspace requires approval under the Airports (Protection of Airspace) Regulations 1996. No objections have been raised by SACL to the erection of the proposal to a height of 68.25 metres above Australian Height Datum (AHD).

7.2 Roads and Maritime Services

The application was referred to RMS for comment, given its proximity to a classified road. The RMS referred the application to the Sydney Regional Development Advisory Committee.

The RMS provided advisory comments to Council dated July 2013, as detailed below:

1. *RMS has no approved proposal that requires any part of the subject property for road purposes.*

Therefore there are no objections to the development proposal on property ground provided all structures and works (other than footpath pedestrian awnings) are clear of the Anzac Parade road reserve (unlimited in height or depth).

2. *The proposed development should be designed such that road traffic noise from Anzac Parade is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 subdivision 3 of State Environmental Planning Policy (Infrastructure) 2007.*

3. *Council should ensure the post-development storm water discharge from the subject site into the RMS drainage system does not exceed the pre-development discharge.*

Should there be changes to the RMS's drainage system then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works.

4. *The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001).*
5. *All road works/regulatory signposting associated with the proposed development shall be at no cost to the RMS.*
6. *A Road Occupancy Licence should be obtained from the RMS for any works that may impact on traffic flows on Anzac Parade during construction activities.*
7. *The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various utility authorities and/or their agents.*
8. *All redundant driveways are to be removed and replaced with kerb and gutter to match existing.*
9. *Off street parking shall be designed and constructed in accordance with AS 2890.1-2004 and AS2890.2-2002.*
10. *Any traffic control during construction must be carried out by accredited RTA approved traffic controllers.*
11. *Any traffic facilities and road works associated with the subject development will be at no cost to the RMS.*
12. *The developer is to arrange with the Transport Management Centre (TMC) for any required road occupancy License during construction.*
13. *All vehicles must enter and exit the site in a forward direction.*

On the 5th November 2013, the RMS reviewed the amended proposal and raised no further objections. Notwithstanding, the issues raised in their previous correspondence are still applicable.

7.3 Department of Primary Industries Office of Water

The application was referred to the Department of Primary Industries Office of Water with respect to the dewatering of the site for the purposes of construction. The construction dewatering proposed for the proposal is deemed to be an aquifer activity in accordance with the definition in Water Management Act 2000. The Department of Water supported the application, subject to the following conditions.

General

1. *An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months*

from the date of issue and will be limited to the volume of groundwater take identified.

- 2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.*
- 3. Construction methods and material used in and for construction shall not cause pollution of the groundwater.*

Prior to excavation

- 4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.*
- 5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.*
- 6. A copy of a valid development consent for the project shall be provided to the NSW Office of Water.*
- 7. Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.*
- 8. The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.*
- 9. Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.*

During excavation

- 10. Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge.*

11. *Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.*
12. *Pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater (tailwater) shall be complied with.*
13. *Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.*
14. *The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.*
15. *Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.*

Following excavation

16. *All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.*

7.4 NSW Police

The application was referred to NSW Police in relation to Crime Risk Assessment and measures to achieve Crime Prevention through Environmental Design (CPTED).

No comments were received.

7.5 Design Review Panel – SEPP 65 Design Quality of Residential Buildings

The application was referred to the Design Review Panel (DRP) convened under SEPP 65. The DRP recommendations in relation to the design quality principles for residential flat buildings, as set out in Part 2 of SEPP 65, from the pre-DA meeting held in February 2013 and the second meeting on 7th July 2013. The comments from the pre-DA were retained, are in italics, with new comments added in bold.

PANEL COMMENTS

This is now a DA application, and the second time the Panel has seen a proposal for this major site. The pre-DA was reviewed in February 2013, when the drawings were in sketch form, and the property included the corner lot to the south (#106 & 108).

The Panel is familiar with the site and the broader Kensington Town Centre.

1 Relationship to the Context of the Proposal

The site is located on the eastern side of Anzac Parade in the Kensington Town Centre. Goodwood Street forms the southern boundary, while a 6 storey apartment building generally conforming to the Town Centre DCP has a party wall on the northern boundary. An assortment of houses and apartment buildings have their rear gardens adjoining the common boundary. The site is extremely well placed in relation to a range of public places and public transport, which is about to be further improved following the announcement of the tramline.

The proposal has an extensive frontage of almost 100 metres to Anzac Parade (**now reduced without #106 & 108**), replacing a run of nondescript and dilapidated buildings. The site is relatively flat, and like most of the centre, affected by flood freeboard levels. The site presents an unusual urban opportunity in Sydney of a long, level street façade (see discussion below).

The DA has minimal urban and site analyses to underpin the site planning and distribution of building volumes. There is very little information on the residential properties to the rear, including their mature trees near the boundary. To Anzac Parade, the proposal seems to closely match the DCP setbacks, except the 7th storey at the southern end. The architect should clearly annotate the extent of compliance / departure from the DCP envelopes, and calculate the volume of the DCP envelopes and the permissible FSR.

2 The Scale of the Proposal

Generally following the DCP envelope, the proposed building presents a consistent 4 storey street wall to Anzac Parade, with a further two upper storeys set back. This means that the proposal will match the cross-section and height of the future Anzac Parade buildings, reinforcing its role as a grand urban avenue. **The southern end varies the DCP envelope, (without the pre-DA return wing along the Goodwood Street frontage), creating a full 7th storey away from the corner and inconsistent with other recent nearby developments. This volume needs to be reduced.**

The Panel makes the following comments in relation to the form and scale of the proposal;

- The building mass is articulated as 3 linked volumes, creating a repetitive rhythm along the street front. It is acknowledged that this approach has merit, however the Panel considers that the architect could also investigate making 3 distinct buildings, with gaps or slices through to courtyard gardens behind. Such an approach could still retain the sense of rhythm that the architect is seeking and allows permeability for vistas, landscape and summer breezes to filter through to improve pedestrian amenity to Anzac Parade. **This has not been done – if anything the proposal is more monolithic, and more in need of articulation.**
- The Panel supports the small side setback to the side boundary on Goodwood Street, however it would preferably be increased to 3.5 metres for consistency with Council codes, and should comprise predominantly deep soil landscaping. The Panel supports the driveway passing under the building as is proposed. **This relationship in the DA is fundamentally different, as the applicant has not been able to secure the corner property. An easement for the driveway is shown, however it is not clear if this is an intention or real proposal.**
- The Panel considers that the 7 storey corner is an appropriate response, however its footprint should be reduced to correspond more precisely to the corner – it

should not extend over Building C, nor return for the full Goodwood Street frontage. **The 7th storey seems to have grown and is now away from the corner - neither is acceptable.**

- The proposal appears to have continuous retail frontage to Anzac Parade, but this is denied by its actual design. The supermarket now occupies the majority of the frontage, with only a single door at the northern end, raised due to flooding. **This means that the pedestrian experience is of a west facing blank wall with glazing above head height – a miserable, boring, hot and poorly sheltered interface that is the length of many a street block. The street awning should be lowered to normal height and allow for the establishment of street trees. Light can be admitted to the retail area above the awning. Further, a large substation is shown on the southern end, further deadening the frontage. The 3 pedestrian entries have now been made far too mean, with very narrow deep set entries with the doors a long way from the street.**
- The dock area is discretely located, but perhaps could be more compact if no supermarket eventuates. **The dock area seems to have significantly expanded, sacrificing any deep soil planting. There are successful examples of supermarkets in dense areas which operate without such large loading docks.**
- The Panel is concerned at the number of single orientation units, particularly those facing west to a main road. The Panel encourages a different form at the rear, allowing a thinner sectioned building than the 22metre deep volume in the DCP, which plainly is inconsistent with SEPP 65 requirements. As long as a 6 – 9 metre rear set back was provided, the architect could provide projecting elements and deep slots along the rear facade, allowing sun and air into all bedrooms. This could break up the long volume into articulated projections, and improve the environmental performance of what are otherwise single orientation units. **None of the above has been done – in the Panel's assessment the proposed configuration fails to meet key RFDC targets in terms of building depth, single orientation apartments, and probably 3 hours of sun.**
- The Panel supports the light and air in all the common lobbies. **Retained.**
- The Panel suggests that smaller, discontinuous 7 storey pop-up elements be deployed along the Anzac Parade frontage, to give the rhythm of the façade a more 3-dimensional silhouette. While these changes might slightly in part raise the overall height, the Panel considers that such minor variation to the height plane is reasonable, and would cause negligible negative effects. **Not attempted – instead a monolithic lump has been deposited on top of the building's south end.**
- The basement carparking is efficiently arranged across 2 levels, which run the full length of the site, including under part of the rear landscape zone. This is shown as an area of storage – it should be deep soil landscape instead. The cross aisles could be narrower if one way. **No deep soil area has been added – unacceptable. The height of the podium to the neighbours to the rear would clearly be a very poor outcome - overshadowing, over-looking and overbearing the 9 properties to the east. The proposal should be setback from the eastern boundary by the width of the proposed storage areas in the basement to allow for ground level deep soil planting of trees and under-storey planting. This space should be accessible and useful.**
- Gardens and courtyards could separate and complement the building volumes. **Not done – the landscape area shown on the podium is vestigial.**

The Panel considers that the potential evident at pre-DA stage has not been realized. The building depth is 18.3 metres glass to glass as a minimum, increasing in 3 places by 3.3 metres. The RFDC sets a maximum of 18 metres, with much less preferred. This results in an unacceptably deep building, with the middle third of the plan on all levels entirely dependent on artificial light and mechanical ventilation.

None of the Panel's suggestions have been taken up – instead the design has regressed. Major revisions are required.

3 The Built Form of the Proposal

See comments above.

4 The Proposed Density

The redevelopment of such a well-located site is welcome. The Panel notes that the proposal's floor space needs to be equated to 80 – 85% of the DCP's envelopes – this needs to be derived by a to-scale graphic comparison between the proposed building against the generic envelope, in both plan and section. **Despite being spelt out in the pre-DA report, this has not been done – the volume proposed appears to be more than the permitted percentage.**

5 Resource and Energy Use and Water Efficiency

The Panel previously considered that, although the architect claims a reasonable percentage of units are cross-ventilated, too many of the units are predominantly single orientation. By the Panel's calculation 12 of the 17 units on the typical floors, 13 of the 17 units on level 4, and 5 out of 5 units on level 6 are single orientation (the Panel is not convinced that the few secondary windows on the deep slots would provide much cross ventilation) Multiple design adjustments are required to substantially improve the proposal's substandard performance.

The Panel believes that a combination of BCA advice, better use of light and air from the common galleries, and fire-rated plenums and the like should be used to guarantee as high as possible a percentage of cross-ventilated units. Kensington benefits from the sea breeze, especially to the rear, however the frontage is exposed noise from Anzac Parade, so cross ventilation should obviate the need for air-conditioning. In this regard the reworking mass, footprint and section could significantly improve the environmental performance. **Not done.**

Ceiling fans should be provided for each bedroom and clearly shown on the plans. This is particularly relevant where the bedroom is deep within the plan and the cross ventilation is somewhat compromised. The Panel advises against having 'snorkel' or internalised bedrooms that are compromised in terms of natural ventilation. **Not done.**

Window operation should be clearly marked on all windows on the elevations – including any clerestorey windows. All units should have balcony doors and windows that can be secure, open-able and weather-sheltered to allow cross ventilation at night or when the apartment is not occupied. **Not done.**

The facade to Anzac Parade will need particular attention to reduce road noise and western sun problems whilst simultaneously allowing good ventilation. **Attempted, but solutions as yet not satisfactory. The window selection is not fully described or worked out, and the glazed balconies are not clear on the plans.**

The opportunity for added light, ventilation and winter sun through the roof by utilising clerestorey windows should be considered. Light and air can be achieved in this way without the problems of road noise and privacy issues. **Not done.**

Given the above, the environmental performance is substandard and does not meet SEPP 65 and RFDC standards.

6 The Proposed Landscape

No deep soil landscaping is provided, which is needed to assist in retaining the existing trees along that part of the boundary. The Panel recommends that the entire rear boundary be deep soil landscape area, to allow for trees planted to grow to maturity. In consultation with council, the proponent should provide street trees along the Anzac Parade frontage.

Creating open stairs and multiple vistas and routes through the complex generally open to or pass along the gardens could give future residents a better connection to the gardens. **Not done**

The landscape architect has been left with very little area to work. The landscape amenity of the rear properties has been severely compromised. No street trees are proposed. The proposal fails the SEPP65 and RFDC.

7 The Amenity of the Proposal for its Users

A variety of apartment types are proposed, including one, two and three bedroom units. Most units appear to be well planned, with reasonable amenity and well-sized balconies. There are a few two storey units on the upper levels – the amenity could be improved if there were more, including cross-over units. **Not done.**

However the Panel raises concerns about the following issues;

- there are too many single orientation units throughout. Single orientation west apartments should be minimized, and more use made of the slots provided – **As noted above, this aspect remains unacceptable.**
- there are too many embedded and 'snorkel' type bedrooms, and the occasional internal room. The Panel strongly suggests major indents and projections long the rear face of the building, which would increase the length of the perimeter, and much improve possibilities for cross ventilation, daylight and outlook to the rear gardens. **While the number of 'snorkel' type bedrooms have been decreased (there are however 2 totally internal bedrooms per floor, and others deep into the slots), no other improvements have been made – unsatisfactory.**
- the single orientation units on the Ground Level could benefit from parts with a greater ceiling height, or other sectional ideas, such as skylights / shafts etc – this could be skillfully done, and demonstrated in detailed sections. **Not done.**
- furniture layouts and room dimensions should be shown throughout. **This has been done, however these are too small to be read on the plans supplied to the Panel.**
- more use could be made of the roof terraces off the upper apartments.

In detailed design, providing each unit with a range of openings and weather shelter is important. **Not done.**

8 The Safety and Security Characteristics of the Proposal

The proposal provides good surveillance of the street and perimeter garden areas. The entry paths are clearly arranged, with good address and way-finding.

As noted above, the site and mix of uses is complex and BCA advice should be sought and incorporated into the design.

Unchanged

9 Social Issues

The intensification of such well-placed sites is socially beneficial. The provision of a range of units, including flexible units at ground floor, two storey and smaller units, is strongly supported.

The site planning arrangement has the benefit of allowing the future residents of what would be a large development to have a large rear landscaped garden. The Panel also supports each part being separately expressed and accessed. Not done

The current arrangement of the retail to the street would result in a miserable streetscape, with no diversity of accommodation. This would rob Anzac Parade of vibrancy – opposite to the DCP intent. Indeed the existing nondescript mixed retail is superior to the proposal.

10 The Aesthetics of the Proposal

The proposal has the potential to be a fine addition to Kensington, and to become a model for future apartment buildings along Anzac Parade. The parts are potentially well scaled and articulated, with the intention of creating a variety of elements and scales to make what is a large project as a series of well-related parts.

Thought needs to be given to the materials palette. The Panel is concerned that the larger buildings in the Kensington should be designed and built with robust materials and an enduring character. Large rendered and painted surfaces, for example, are likely to present on-going maintenance problems for an Owners Corporation. 1:50 part elevations / sections and showing colours and materials should be part of the DA drawing set to remove ambiguity.

A single 1:50 section has been provided, but it is not fully resolved and inconsistent with other DA drawings. The setbacks at levels 4 and 6 are not resolved, and the awning is far too high above the footpath to provide adequate protection for pedestrians and the shopfronts. The rear façade is monotonous, and the level 6 façade unconsidered. No advantage has been taken of the roof and the material palette has also not been sufficiently developed.

SUMMARY AND RECOMMENDATIONS

The Panel thanks the Applicant for a well-prepared pre-DA package, which has allowed discussion and comment at an early stage in the design process. On an usually long street frontage, the architect has proposed a scheme that has the potential to be a robust addition to Kensington's urban form, reinforcing the space and life of the street. **This potential has not been realized in the DA submission, which is deficient in many fundamental aspects, and has shown no signs at all of design development.**

Subject to the comments made in this report being addressed to the satisfaction of the assessing planner, the Panel looks forward to seeing this application at DA stage. **The Panel is very disappointed in the submitted proposal, which has not engaged with the pre-DA advice. The design falls well short of SEPP 65 standards in a number of key areas, and needs to be substantially improved before being resubmitted to the Panel at a future meeting.**

8.0 Relevant Environmental Instruments and Policy Controls

8.1 Environmental instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development, and are addressed in detail in Section 8 of this report:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
- Randwick Local Environmental Plan 2012

An assessment of the proposed development in relation to the above statutory instruments is provided in Section 8 of this report:

8.1.1 State Environmental Planning Policy (State and Regional Development) 2005

The application is referred to the Joint Regional Planning Panel for determination, pursuant to Schedule 4A, of the Environmental Planning and Assessment Act 1979 and Part 4 State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value in excess of \$20 million.

8.1.2 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment. To assist in considering these matters, the SEPP requires consideration of a report on a preliminary investigation where a rezoning/development allows a change of use that may increase the risk to health or the environment from contamination.

A preliminary contamination assessment report was prepared by Douglas Partners. The preliminary assessment concluded the development site has not been used for any potentially contaminating activities, apart from the mechanics workshop on one of the individual lots. Although it is considered that the site could be made suitable for the proposed development, further assessment of the entire site would be required relating to soil and groundwater contamination.

8.1.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves the development of a residential flat building being 3 storeys and more in height. The proposal has been considered by Council's Design Review Panel. The Panel's comments are included in Section 7.

8.1.4 State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

SEPP – BASIX applies to the proposed development. The development application is accompanied with a revised BASIX Certificate dated 4 October 2013 and numbered 475701M_03.

The commitments listed in the above certificate may no longer be relevant as further amended plans have been submitted to the consent authority. The subject application is recommended for refusal. However, if approved, the applicant will be required to submit a revised BASIX Certificate complying with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000.

8.1.5 Randwick Local Environmental Plan 2012

The subject site is zoned B2 Local Centre under the Randwick Local Environmental Plan 2012. The proposal is permissible in the zone with Council's consent. The proposed development will compromise the aims of the LEP in relation to aesthetic character, sustainability, environmental qualities and social amenity of the locality and will result in a development that compromises the amenity of the residential area. The proposal is inconsistent with the specific zone objectives and is recommended for refusal.

The assessment against the objectives of the zone is as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The development scheme proposes a ground floor commercial area of 2240.89m² – 2254m² (the submitted drawings are not consistent). It is proposed that this space will be a single supermarket tenant. The use of the ground floor area will be the subject of a separate application.

Council has recognized the need for a supermarket in the Kensington Town Centre area. However, in accordance with RDCP 2013 – Part D1 – Kensington Town Centre, the subject site is not an area identified for a supermarket. An objective under the RDCP 2013 for the Kensington Town Centre is to achieve a neighbourhood supermarket centre within the Retail Core of the Kensington Centre. Detailed block by block controls are included in the RDCP 2013. Blocks 4, 9 and 10 are identified as areas potentially suitable for a supermarket, rather than on the edge of the precinct in Block 1, where the subject site is located.

- *To encourage employment opportunities in accessible locations.*

The proposed Supermarket will generate employment opportunities.

- *To maximize public transport patronage and encourage walking and cycling.*

The site is located within walking distance from public bus services and will be adjacent to the proposed Carlton Street light rail stop on Anzac Parade (subject to approval). The proposal will create a resident population, commercial patronage and employees that maximize usage of public transport. The development scheme does not include any bicycle parking facilities to encourage sustainable modes of transport.

- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*

The proposal will introduce a residential population that contributes to the demand and economic viability of the local services and businesses.

- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*

The supermarket occupies the majority of the frontage, now with two (2) entries. This is an improvement from previous proposals, however given the expanse of the building façade to Anzac Parade, the pedestrian experience will primarily be a west facing blank wall. It is noted that towards the southern end of the site (near the corner of Anzac Parade and Goodwood Street) the supermarket floor level is approximately 1.5m above the pedestrian path on Anzac Parade.

The proposal indicates the area from existing ground level up to the supermarket finished floor level will be used for retail display purposes which is a poor outcome in terms of the pedestrian experience along this strip. There is a need to ensure that the supermarket is an anchor for community interaction with associated pedestrian amenity, shops and activity. If the supermarket is to be located here, then other things are required.

Council's Design Review Panel were critical of the aesthetics of the proposal (previous iterations of the design, however the palette of materials remain relatively unchanged). The DRP advised that thought needs to be given to the materials palette. *The Panel is concerned that the larger buildings in the Kensington should be designed and built with robust materials and an enduring character. Large rendered and painted surfaces, for example, are likely to present on-going maintenance problems for an Owners Corporation.*

It is considered that the proposal does not achieve the objective for a high standard of urban design and pedestrian amenity.

- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*

The development along Elsmere Street backing onto the subject site is a mix of residential dwellings including three (3) and four (4) storey residential flat buildings, single storey semi detached dwellings and single storey detached dwellings.

The proposal is likely to result in damage to the stand of mature trees located to the rear of the adjoining properties of Elsmere. These trees provide amenity to these properties and would serve as a privacy screen to any development on the subject site. The applicant has not been able to demonstrate, to the satisfaction of Council's Landscape Engineer how these trees will be protected. In addition, no deep soil planting is proposed to the site's eastern boundary to provide a screen to neighbouring properties.

The proposal includes a wall to the rear of the Elsmere properties on the boundary rising above existing ground level between 5.3m up to approximately 6m. While it is proposed that this wall will be a green wall, to the landscape architect details, no details have been provided. Despite the proposal for it to be a green wall, the extent and height of the wall will impact on the amenity of neighbours to the east, presenting as a long monolithic structure. In addition, the common open space area (described as Level 5 on drawing No. 118 by Bureau of Urban Architecture) is situated directly adjacent to private open space areas to the rear of Elsmere properties. The raised common open space area, with zero setback to the eastern boundary of the site raises amenity impacts on neighbouring development in terms of visual and acoustic privacy.

A large majority of apartment units are single aspect limiting the opportunity for cross ventilation and natural lighting.

- *To facilitate a safe public domain.*

The proposal provides opportunities for surveillance of the street and perimeter garden areas. The entry paths are clearly arranged, with good address and way-finding.

The following clauses of the LEP apply to the proposed development:

Clause 4.3 Height of Buildings

| Clause | Requirement | Proposal | Compliance |
|-------------------------|--------------------|---|---|
| 4.3 Height of buildings | Maximum 25m | Maximum 29.87m (southern tower) Lift overrun height varies between 2.15 and 2.69m above maximum height limit | No Clause 4.6 variation report submitted in relation to previous proposals. An amended Clause 4.6 variation has not been submitted. See section 4 above. |

Clause 6.1 – Acid Sulphate Soils

Clause 6.1 contains provisions for remediation of contaminated land to ensure that such land will be suitable for the purpose for which development is proposed. A Preliminary Contamination Report has been submitted with the application and concludes that the site could be made suitable for the proposed development.

Clause 6.2 – Earthworks

Clause 6.2 of the RLEP contains provisions for undertaking of excavation and filling of land. The proposal will require earthworks to be undertaken to construct the basement carpark (involving the excavation of 3 basement levels under the buildings) of the proposed development and foundations for the building.

Council's Landscape Officer has advised that the bulk excavation for the three basement levels is likely to compromise the trees on the neighbouring properties. The applicant has not submitted a comprehensive arboricultural impact assessment that details the protection of the trees. Council's Landscape Officer has advised that:

Council's primary focus is to ensure that these neighbouring trees are not compromised in anyway; and unfortunately, on the information provided to date, there is no way that Council can issue consent as the applicant has not been able to prove, with any degree of certainty, that these neighbouring trees will not be seriously and adversely affected by the works.

In addition, a number of neighbouring property owners to the east of the site, fronting Elsmere Street have advised they will not provide permission for installing anchors that will extend beyond the perimeter of the site.

Accordingly, the proposal is not considered acceptable in relation to the provisions of Clause 6.2.

Clause 6.3 Flood Planning

Refer to Council's Engineers assessment at Section 6.

Clause 6.4 Stormwater Management

Refer to Council's Engineers assessment at Section 6.

Clause 6.8 Airspace operations

Clause 6.8 of Randwick LEP aims to provide for the effective and ongoing operation of the Sydney (Kingsford Smith) Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport.

The proposed modifications to the previously approved alterations and additions will not penetrate the Limitation or Operations Surface of the Sydney (Kingsford Smith) Airport. Refer to Airspace Referral assessment at Section 7.

Clause 6.11 Design Excellence

The proposal does not satisfy the provisions of Clause 6.11 of Randwick Local Environmental Plan 2012 as it fails to demonstrate design excellence as is evident from the assessment above (SEPP 65). Refer to the Design Review Panel comments at Section 7.

8.2 Policy Controls

The following policy controls apply in the assessment of the proposed development and are elaborated upon in the section below:

- Randwick Comprehensive Development Control Plan 2013
- Randwick City Council Section 94A Development Contributions Plan.

8.2.1 Part D1 – Kensington Town Centre

The proposal has been assessed in relation to the Part D1 - Kensington Town Centre of the Randwick Development Control Plan 2013. The DCP provides a framework for the redevelopment of the wider Kensington Town Centre and surrounds, containing performance criteria and controls to guide built form, provide environmental and amenity standards, and give appropriate protection for local business, open space and residential development both on a block-by-block basis as well as a general overview.

The proposal does not comply with a number of applicable and critical block-specific controls of the DCP. These non-compliances are assessed and discussed in detail below.

Clause 4.2.1 - New Built Form

Clause 4.2.1 of Part D1 - Kensington Town Centre serves to achieve a new built form that responds to the Building Envelope Controls of the DCP. Specifically, the DCP requires new built form in the Town Centre to occur within designated building envelopes as outlined by the block controls. A key performance criteria under this clause is that new development must demonstrate the achieved gross floor area occupies no more than 80-85% of the building envelope.

The amended plans exclude the supermarket ground level from the building envelope calculation, with the remaining 5 levels equating to 87.7% of the envelope. When including the proposed gross floor area of the supermarket, the proposed scheme is in order of 98% of the building envelope. The breaches in gross floor area is clearly reflected in the resultant building height and translates into the perceptibly more bulky development that does not relate to the building envelope controls.

Clause 4.2.4 - Building Heights

Clause 4.2.4 of the DCP acknowledges that Anzac Parade can visually support slightly taller buildings along the main street, with a visual transition between heights of buildings on Anzac Parade and the heights of buildings 'behind' the main street. Generally, this means the maximum height of any building along Anzac Parade should be 4 storeys setting back to 6 storeys. This ensures that buildings reflect an appropriate scale relationship between new development, street width, local context, and the scale of adjacent dwellings.

The DCP requires new development to meet with the relevant performance criteria through compliance with the maximum envelope heights specified in the Block by Block controls. These have been upheld by Council and the Land and Environment Court.

Council explicitly advised the applicant that the maximum number of storeys and building height controls would have deciding weight in the final assessment. There are no grounds to support the proposed height, bulk and scale of the development as the resultant amenity impacts are significant and detrimental.

Clause 4.2.5 - Building Zone

Clause 4.2.5 for Building Zone aims to optimise the position of new development in relation to the lot, the street edge and neighbouring development. This is to achieve the

following objectives through location of buildings within the building zones indicated on the block-by-block controls:

- *To achieve a strong street edge to Anzac Parade.*
- *To achieve environmentally sustainable, dual aspect apartments with natural cross-ventilation.*
- *To achieve a high standard of environmental amenity for residents of new development.*
- *To ensure the bulk and scale of new development reinforces positive neighbourhood amenity and character and responds to the scale of the street and surrounding buildings.*
- *To distribute building bulk and height in order to maximise accessible, well configured communal open space.*

Council's Design Review Panel was critical of the aesthetics of the proposal (refer to Section 7)

Clause 4.2.8 - Neighbourhood Supermarket Shopping Centre

Clause 4.2.8 notes that:

The Kensington Centre would benefit from the development of a neighbourhood supermarket shopping centre, fulfilling local day to day shopping needs with the provision of groceries, fresh food and other convenience items. Subject to suitable site amalgamation, there are three Blocks within the Core Retail Precinct with the potential for redevelopment as a neighbourhood supermarket shopping centre: Blocks 4, 9 and 10.

An objective under the Part D1 - Kensington Town Centre is to achieve a neighbourhood supermarket centre within the Retail Core of the Kensington Town Centre. Detailed block by block controls are included in the RDCP 2013. Blocks 4, 9 and 10 are identified as areas potentially suitable for a supermarket.

The development scheme proposes a ground floor commercial area of 2240.89m² – 2254m² (the submitted drawings are not consistent). It is proposed that this space will be a single supermarket tenant. The current proposal will have two pedestrian entries off Anzac Parade dedicated to the ground floor commercial component, separate from the residential lobbies. The use of the ground floor area will be the subject of a separate application.

Clause 4.2.5 - Setbacks

Consistent with the intention of Clause 4.2.5 for Building Zones above, Clause 4.2.10 of the DCP – Kensington Town Centre aims to: -

- *Reinforce the prevailing character of the Town Centre.*
- *Provide visual and acoustic privacy between neighbouring buildings.*
- *Orientate buildings and habitable rooms towards the street, and towards communal open space.*
- *Minimise any negative impact on the amenity of adjacent sites.*

Development along Anzac Parade is prescribed a 0m setback for both Anzac Parade and side boundaries for the first 4 storeys, with upper levels setback by 2m and the 6th storey at the rear setback by 4m. As indicated in the table below, the proposal does not achieve satisfactory setbacks from streets and therefore the proposed development, with its excessive height and scale, combined with lack of setbacks at the upper floors is considered to be visually dominating and overbearing.

| Location | Building | Setback Distance | Setback From | Proposed |
|---------------------|---|------------------|---------------------------------------|----------|
| Anzac Parade | First 4 storeys | 0m | Anzac Parade & side boundaries | 0m |
| | 5 th & 6 th storeys | 4m (min) | Anzac Parade & side street boundaries | 0m |
| | 6 th storey rear | 4m (min) | Floor below | 0m |

Clause 4.3.1 - Block 01 Controls

In relation to Block 01, Part D1 - Kensington Town Centre notes that:

"This Block marks the northern edge of the centre boundary. Between this Block and Darling Street, the potential to create synergies with the Randwick Racecourse are important to the future of the centre."

Clause 4.3.2 provides building envelope controls. Adherence to these controls will promote development which enhances the visual and environmental amenity of the Town Centre.

The RDCP 2013 – Part D1– Kensington Town Centre describes a block-perimeter envelope with a maximum height of 4 storeys along Anzac Parade, Goodwood Street and Carlton Street, with upper 2 levels setback by 4m; and 5 storeys adjoining properties on Elsmere Street, with the upper level set back 4m. The proposal will be 7 storeys, with the habitable roof space, such that it will exceed the designated envelopes on the street frontages. The DCP stipulates a building zone of 22m.

The excessive GFA and resultant height and number of storeys proposed erodes the benefits of distributing floor space across the entire site will result in significant adverse impacts to adjoining developments. As such, the development does not meet the relevant envelope controls for Block 01.

Clause 4.5.2 - On-Site Parking

Clause 4.5.2 On-Site Parking aims to ensure new development can provide adequate on-site parking, relieving the existing or potential pressure on residential streets. The relevant objectives in relation to the on-site parking provision are:

- *To provide on-site parking for commercial users, residents and visitors.*
- *To ensure that on-site parking does not significantly affect the groundwater system.*
- *To ensure that car parking access and garaging for not dominate the street or the site.*

- *To integrate parking facilities with the overall site planning and maximise on-site open space.*
- *To ensure the development makes adequate provision for service and delivery vehicles, including access circulation, manoeuvring, safety and headroom.*

The proposal provides a total of 277 spaces within 3 levels of basement car parking. The proposal complies with the overall provision of car spaces. However, individually, the commercial component has a shortfall of 38 car spaces. The application is recommended for refusal, however, if approved it was recommended some parking on the lower levels be reallocated to the commercial component. However, issues in relation to any conflict between the movement and security of residential car space and location of commercial spaces would need to be resolved.

Clause 4.6.9(a) – Habitable Roof Space

Clause 4.6.9(a) aims to create opportunities for habitable roof spaces as well as opportunities to conceal mechanical structures such as lift overruns and service plants. The relevant objectives to the current proposal include:

- *To ensure habitable roof spaces and roof plant and service areas are not visible from adjoining public roads or private property.*
- *To ensure that habitable roof spaces are a result of roof forms rather than 'pseudo' storeys.*

Although the roof space is seen as a positive contribution to the public domain of the town centre, where it is desirable to maintain open space, the proposal fails to satisfy the relevant objectives as the habitable roof spaces and service areas are visible from adjoining private properties to the east and west. In addition, the roof space is designed more as an additional storey rather than the result of an articulated roof form.

A key performance criteria under this clause is that the application needs to demonstrate that the total floor devoted to habitable roof space does not exceed 40% of the floor below. The roof space has a total floor area of 1524m². This exceeds the floor area below and therefore does not comply with the performance criteria.

Clause 4.6.11 - Solar Access, Overshadowing & Natural Daylight

Clause 4.6.11 of the DCP describes solar access as a major determinant of personal environmental comfort. As such, new development must recognise that existing adjacent buildings require reasonable access to sunlight for living spaces, and private and public open spaces.

The relevant objectives of Clause 4.6.11 are:

- *To minimise the negative impact of overshadowing on the internal and outdoor areas of neighbouring buildings.*
- *To optimise solar access to habitable rooms and to minimise the need for artificial lighting during daylight hours.*
- *To retain the amenity of the public domain by maximising solar access.*

The orientation of the subject site in relation to the adjoining residential flat buildings to the east, ensures the proposed development maintains a minimum of 3 hours of sunlight during the winter. The neighbouring residential flat buildings to the east along Elsmere Street maintains their solar access, as the units to the north and south will continue to receive their morning and afternoon sun.

However, the proposal has not taken into account the cumulative impact of the recent development to the north on the properties to the west. Furthermore, the assessment has not taken into account the impact the “current” proposal has on the future development of adjoining sites and the limitations it may cause on future development potential.

Clause 4.6.12 – Visual Privacy

Clause 4.6.12 – Visual Privacy aims to ensure adequate visual privacy to residential developments in the centre and to associate private open space.

The applicant has not provided an analysis of the separation distances between the proposed common space and the relationship to the open space to the properties on the western side of Elsmere Street, nor the relationship between habitable rooms and non-habitable rooms on the subject site with existing dwellings on Elsmere Street. However, the architectural plans demonstrate the proposal achieves the separation distances of the RFDC to windows and balconies. In relation to the common open space area (described as Level 5 on drawing No. 118 by Bureau of Urban Architecture) situated directly adjacent to the open space areas to the rear of Elsmere properties, the raised common open space area, with zero setbacks to the eastern boundary of the site raises amenity impacts on neighbouring development in terms of visual and acoustic privacy and there are insufficient landscape details to establish that any adverse impacts are effectively mitigated.

Clause 4.7.2 – Apartment Layout

Clause 4.7.2 of the DCP describes apartment layout is a major design tool for achieving environmental sustainability in terms of natural ventilation and daylight access, and residential amenity in terms of apartment quality.

The “current” proposal has attempted to improve the opportunities for cross-ventilation in the apartments through increasing the depths of the light wells. This will increase the level of natural cross-ventilation.

Council’s Design Review Panel raised concern at the number of single orientation units, particularly those facing west to Anzac Parade. The amended plans failed to address the Panel’s comments.

Clause 4.7.3 – Apartment Mix

The main objective of Clause 4.7.3 is to provide a mix of apartment types and size to accommodate a range of household types.

DCP – Kensington Town Centre stipulates no more than 40% of the total number of apartments comprise of studio/1 bedroom apartments. The proposal has an apartment mix of:

- 1 bedroom apartments – 11%
- 2 bedroom apartments – 77%
- 3/4 bedroom apartments – 12%

Provision of a reasonable apartment mix is intrinsic to higher levels of amenity for existing and future residents. Failure to do so results in lack of housing options for future residents moving into the Town Centre. The proposal provides a satisfactory housing mix.

8.3 Development Control Plan Parking

Residential Component

The DCP Parking requires, amongst other things, car parking to be provided for multi-unit residential development at a rate of 1 space per 1 bedroom dwelling, 1.2 spaces per 2 bedroom dwellings, and 1.5 spaces per 3/4 bedroom dwellings and 1 visitor space per 4 dwelling units. The car parking provision for the residential component is assessed in the table below: -

| Requirement (DCP-Parking) | Proposed number and/or floor area | Required provision | Proposed provision |
|---|--|---------------------------|---------------------------|
| 1 space per one bedroom dwelling | 12 x one bedroom dwellings | 12 | |
| 1.2 spaces per two bedroom dwelling | 84 x two bedroom dwellings | 101 | |
| 1.5 spaces per three/four bedroom dwellings | 13 x three or four bedroom dwellings | 19.5 | |
| Visitor: 1 space per four units | Total dwellings: 109 | 27.25 | |
| TOTAL | | 160 | 209 spaces |

The proposal provides 209 residential car spaces, including visitor parking, comprising 103 spaces on B2, 106 spaces on B3 and visitor parking on B1. The proposed parking provision complies with Council requirements.

Commercial Component

The amended commercial component will comprise 2240.89 sqm of floor space envisaged to be dedicated as a supermarket. For parking demand associated with supermarkets, Council relies on the rate specified in the RMS document 'Guide to Traffic Generating developments' which specifies a rate of 42 spaces per 1000m².

Council's Development Engineer has concluded that there is a shortfall of commercial car spaces for the site. Despite the site's location adjacent to good public transport and future light rail (if approved), they do not support the application in its current form.

The application does not demonstrate compliance with the required number of motorbike and bicycle spaces.

Combining residential and commercial parking space, the total parking provision complies, and although the application is recommended for refusal, if approved, Council's Development Engineer has recommended that some parking on the lower levels be reallocated to the commercial component. This has the potential to cause conflict with the residential component of the basement parking. Access to B2 and B3 is restricted to residents only and not for public access and may cause security concern and conflict with vehicle movement between residential and commercial components.

9.0 Other Environmental considerations

The suitability of the site

The subject site is deemed to be part of the developable land within the Kensington Town Centre and forms Block 1, which is the subject of Part D – Kensington Town Centre of the Randwick Development Control Plan, adopted on 28 May 2013 and effective from 14 June 2013. In doing so, Council considered the suitability of a range of proposed land uses and their location within the surrounding Town Centre. Consequently, the subject site is specifically identified in the DCP as being suitable for multi-unit housing development in Block 1.

The DCP also notes if well designed and presented to the street, new development should encourage movement between the centre and surrounding areas. The proposal is inconsistent with the terms of the DCP and, as demonstrated above, the new apartment development will have an adverse impact on the overall environmental quality and amenity (for existing residents) within the Kensington Town Centre.

Any submissions made in accordance with this Act or the Regulations

The subject application was advertised and notified as integrated development over two periods in accordance with Council's notification requirements and the EP&A Act 1979.

Following Notification 1 Council received six (6) submissions, however one (1) submission was withdrawn. At the completion of Notification 2, eleven (11) submissions have been received by Council. The concerns raised in the submissions received have been discussed in relevant sections of this report as indicated in Section 5 above.

Subsequent to the notification / exhibition period, a further set of amended plans were submitted to Council. The plans were amended to address concerns raised by the Urban Design Review Panel. They altered the built form to consists of a part 6, part 7 mixed use development comprising of 2,240.89 sqm ground level retail space, 109 residential units and 3 basement levels accommodating 277 car spaces. These amended plans have not been renotified.

Submissions from the relevant authorities have also been discussed in Section 6 and 7.

The public interest

The proposed development is not considered to be consistent with the Development Control Plan for the Kensington Town Centre. The planning controls for this precinct are well considered and have been the subject of significant community consultation. The proposal does not achieve compliance with many of the key objectives and performance

criteria in terms of built form, provision of high environmental and amenity standards. Further departures from these controls have not been sufficiently justified and would serve to undermine the adherence to the controls in previous developments and therefore the scheme is not in the public interest. The proposal is an overdevelopment of the site and it would not be in the public interest to approve the development in its current form.

The adverse impacts generated by the development due to non-compliance with the applicable planning controls provide no benefit to the local community and as such, it is not considered to be in the wider public interest. The scheme does not provide high quality residential development in accordance with the Randwick LEP 2012 and the Kensington Town Centre.

Relationship to City Plan

The relationship with the City Plan is as follows:

| | |
|---------------|--|
| Outcome 4: | Excellence in urban design. |
| Direction 4a: | Improved design and sustainability across all development. |

10.0 Conclusion

The subject application proposes the demolition, excavation, dewatering and construction of a mixed use building of between six (6) and seven (7) stories at land known as 84 - 108 Anzac Parade, Kensington. The development is proposed to contain retail space, for one (1) supermarket tenancy at ground level, 109 apartments above and three (3) levels of basement parking for 265 vehicles.

The proposal does not comply with the maximum height development standards as prescribed by Clause 4.3 of RLEP 2012 and the maximum number of storeys under Randwick DCP 2013 – Part D1. The current proposal has a maximum building height of 29.87m, which exceeds the maximum building height control of 25m by 4.87m. The proposal also breaches the maximum 6 storey height limit having a 7 storey component.

A Clause 4.6 variation request to vary the development standard for the maximum building height under clause 4.3 of RLEP 2012 was submitted in relation to a previous proposal at the site. The previous proposal had a proposed maximum building height of 41.25m which exceeded the maximum building height control by 16.25m. The Clause 4.6 variation request does not specifically address the current breach of the control and as a result, the Clause 4.6 variation for the previous proposal cannot be relied upon for the current proposal. Consequently the application is incomplete.

The site is within the Kensington Town Centre, as such, Part D1 - Kensington Town Centre of the Randwick DCP 2013 applies. The proposal does not meet the relevant controls of the DCP and is inconsistent with the overall objectives for the Kensington Town Centre.

The proposal was submitted for consideration under Council's prelodgement service. Council explicitly advised that the maximum number of storeys and building height controls would have deciding weight in the final assessment. There are no grounds to support the proposed height, bulk and scale of the development as the resultant amenity impacts are significant and detrimental. Additionally, the proposal does not comply with the Randwick DCP 2013 Part D1 – Kensington Town Centre in terms of setbacks for development on Anzac Parade as outlined in the Kensington Town Centre DCP.

The proposal is not supported by Council's Development Engineers in its current form.

The planning controls for this precinct are well considered and have been the subject of significant community consultation. The proposed application should comply with the planning controls in the absence of a well-considered change in the planning regime. The current proposal does not achieve compliance with many of the key objectives and performance criteria and is therefore recommended for refusal.

RECOMMENDATION

That the Joint Regional Planning Panel as the responsible authority refuse its development consent under Section 80 of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/320/2013 for the demolition, excavation, dewatering and construction of a mixed use building of between six (6) and seven (7) stories and containing retail space, for one (1) supermarket tenancy at ground level, 109 apartments above and three (3) levels of basement parking for 277 vehicles for the following reasons:

1. The proposal does not satisfy the objectives of the B2 Local Centre zone specified in the Randwick Local Environmental Plan 2012.
2. The proposed development will compromise the aims of the Randwick Local Environmental Plan 2012 in relation to achieving a high standard of design in the private and public domain, aesthetic character, sustainability, environmental qualities and social amenity of the locality.
3. The proposal does not provide an adequate Clause 4.6 variation to the development standard in Clause 4.3. This is required as the proposal has a maximum building height of 29.87m and exceeds the maximum height of development standard of 25m specified in Clause 4.3 of Randwick Local Environmental Plan 2012. The proposal has an adverse impact on the aesthetic character and environmental amenity of the area and does not satisfy the purpose for the standard.
4. The proposal does not satisfy the relevant development and design control objectives for the Kensington Town Centre as contained within Randwick DCP 2013 Part D1: -
 - *To ensure that redevelopment achieves an appropriate scale and is able to meet the Performance Criteria of this Plan.*
 - *To achieve new residential development comprising dual aspect, cross-ventilated apartments located on the perimeter of lots.*
 - *To maintain street rhythm and expression.*
5. The proposal has a maximum number of 7 storeys and exceeds the maximum number of storeys specified under the Randwick DCP 2013 Part D1.
6. The proposal does not satisfy the design principle for Context, Scale, and Built Form specified in Clauses 9, 10 and 11 of State Environmental Planning Policy No 65 –Design Quality of Residential Flat Buildings.
7. The proposal does not satisfy the objectives or controls for New Built Form set-out in Clause 4.2.1 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre.
8. The proposal does not satisfy the objectives or controls for Building Heights set-out in Clause 4.2.4 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre

9. The proposal does not satisfy the objectives or controls for Building Zones set-out in Clause 4.2.5 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre
10. The proposal does not satisfy the objectives or controls for Setbacks set-out in Clause 4.2.10 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre.
11. The proposal does not satisfy the objectives or controls for Block 01 Controls set-out in Clause 4.3.1 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre.
12. The proposal does not satisfy the objectives or controls for Visual Privacy set-out in Clause 4.6.12 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre.
13. The proposal does not satisfy the objectives or controls for Apartment Layout set-out in Clause 4.7.2 of Randwick Development Control Plan 2013 Part D1 – Kensington Town Centre.
14. The proposal fails to provide any bicycle or motorbike parking and does not comply with the requirements specified in Part B7 of Randwick DCP 2013 – Parking. The proposal is not considered to meet the relevant objectives of the Clause 4 of Part B7 of Randwick DCP 2013.
15. The proposal may impact on neighbouring mature trees on the western boundary of properties fronting Elsmere Street. The applicant has not addressed, to Council's satisfaction how these trees will be protected.
16. The proposed development is unacceptable and unreasonable in that the proposed height, bulk, scale, built form and design will have an adverse impact on the amenity of neighbouring residents in terms overbearing height, bulk and scale, and in that regard is not compatible with the scale of residential development in the Kensington Town Centre.
17. The proposal fails to satisfy the relevant considerations under Section 79C(1) (b),(c) and (e) Environmental Planning and Assessment Act 1979 for natural and built environmental impacts, social impacts, suitability of the site, and the public interest.