

Version 23 December 2013	
File Number	DA-16/2013/A

Department: Planning and Environment

## DA ASSESSMENT DELEGATED REPORT – Section 96 Application

<b>Address:</b>	6 - 14 Park Road, AUBURN, Lot 9 Sec 4 DP 982836, Lot 1 DP 1041051, Lot 10 Sec 4 DP 982836, Lot 11 Sec 4 DP 982836, Lot 12 Sec 4 DP 982836, Lot 13 Sec 4 DP 982836		
<b>Description of Original DA:</b>	Demolition of existing structures and construction of 8 storey mixed-use strata building including 98 residential units over ground level commercial premises with 3 levels of basement car parking		
<b>Description of Modification:</b>	Section 96(2) application to modify basement layout (B1-B3) and ground floor layout and reduce floor height to ground floor		
<b>Zoning:</b>	Zone B4 - Mixed Use		
<b>Area:</b>	2965.73m <sup>2</sup>	<b>Current Use:</b>	Construction site
<b>Applicant:</b>	Zhinar Architect	<b>Owner:</b>	Park Auburn Pty Limited

### Recommendation

***That The Joint Regional Planning Panel approves Section 96 application No. DA-16/2013/A to modify basement layout (B1-B3) and ground floor layout and reduce floor height to ground floor on land at 6 – 14 Park Road, AUBURN.***

### 1. Required Information

Item	Received			Item	Received		
	Yes	No	N/A		Yes	No	N/A
Owners Consent	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site Analysis	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Specification	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stormwater Management Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Erosion & Sediment Control Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Statement of Environmental Effects	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of Heritage Impact	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Statement of Species Impact (8 part)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Landscape Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Survey Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BASIX certificate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Waste Management Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Shadow Diagrams / Profiles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Driveway Longitudinal Section	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Colour/Material/Finishes Schedule	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contamination Assessment: Prelim Site Investigation (Stage1) Detailed Site Investigation (Stage2)	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
				Remediation Action Plan Site Audit Statement	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Flood Study	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Site Inspection Date: 28/03/14.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## 2. Requirements/Affectations

<b>Planning Instruments:</b>	SEPP 55 SEPP 65 Auburn LEP 2010	<b>Zoning:</b>	Zone B4 - Mixed
<b>Draft Planning Instruments:</b>	Nil	<b>Draft Zoning:</b>	Nil
<b>DCP:</b>	ADCP 2010 – Local Centres ADCP 2010 – Residential Flat Buildings	<b>BCA Class:</b>	2 and 6
<b>Integrated:</b>	<input type="checkbox"/> Yes: if 'Yes' - Type: <input checked="" type="checkbox"/> No	<b>Crown:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Concurrence:</b>	<input type="checkbox"/> Yes: if 'Yes' - Type: <input checked="" type="checkbox"/> No	<b>Acid Sulphate Soils</b>	<input checked="" type="checkbox"/> Yes: Class: 5 (nil impact) <input type="checkbox"/> No
<b>Heritage Item:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Flood Affected:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Disclosure of Political Donations</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Councillor Call In to Determine DA</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## 3. Site & Locality Description

The subject site is identified as Lot 9 DP 982836, Lot 10 DP 982836, Lot 11 DP 98283, Lot 12 DP 982836 and Lot 13 DP 982836 and is known as 6-14 Park Road, AUBURN. The site is located on the eastern side of Park Road, between intersections with Queen Street to the north and Mary Street to the south. The site is generally rectangular with a stepped northeastern corner and a site area of approximately 2,965.73sqm. The site has a street frontage of approximately 63.07m to Park Road and a stepped northern boundary with a total length of approximately 50.27m, a stepped eastern boundary of approximately 60.92m and a southern boundary of approximately 50.3m.

The site has a fall of approximately 4m from west to east away from the Park Road frontage. The site has a slight cross fall (0.32m) from south to north at the street frontage.

The site is located within the high density residential and commercial area of Auburn, and within the Auburn Town Centre. The site is currently a construction site pursuant to development approval granted under DA-16/2013. Access to the site is via Park Road.

To the immediate north of the site is a residential flat building fronting Park Road and a mixed use development fronting Queen Street. The six storey residential flat building adopts a triangular shape in plan and contains private open space in the form of balconies facing east towards Park Road or west towards the adjoining development. The eastern portion of the northern boundary is adjoined by a part 7 and part 8 storey residential flat building which has its primary frontage to the Queen Street precinct.

The northern portion of the eastern boundary is adjacent to a 6 storey mixed use building and the southern portion of the eastern boundary is adjacent to a 5 storey commercial building. To the south of the subject site is a 3 storey residential flat building.

Opposite the subject site to the west is Trinity (Catholic College). The college occupies a large linear site extending in a north to south direction on the western side of Park Road. A three storey classroom building extends along the western side of the site with a large setback to Park Road.

## 4. Background

JRPP, at its meeting of 23 May 2013 resolved to approve Development Application No. 16/2013 for Demolition of existing structures and construction of 8 storey mixed-use strata building including 98 residential units over ground level commercial premises with 3 levels of basement car parking.

#### **4. Detailed Description of Proposed Modification**

Council has received on the 11-Feb-2014 an application under the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:-

- Expansion and reconfiguration of all basement levels. Storage areas within the proposal will be expanded, however overall parking numbers will remain consistent as approved. In addition, the expanded basement provides a revised ramp layout and additional manoeuvring areas for vehicles.
- A reduction in deep soil provisions to accommodate the expanded basement below. Overall landscaped area and communal open space to remain largely consistent with the approval;
- Minor alterations to the ground floor layout to accommodate the proposed basement and deep soil reduction; and
- The reduction of the ground floor ceiling height by 740mm and resultant reduction of the overall building height by the same amount.

#### **5. Referrals**

##### **(a) Internal Referrals**

The development application was referred to Council's Development Engineer for comment. No objections have been raised to the proposed development subject to the imposition of additional conditions on any development consent that may be issued.

##### **(b) External Referrals**

The development application was not required to be referred to any external bodies or approval agencies.

#### **6. Assessment**

Section 96(2) of the Environmental Planning and Assessment Act 1979 allows Council to modify a development consent if:-

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)**

The development consent granted approval for construction of a new 8 storey mixed use building and the proposed modifications do not seek to alter the nature of the approval. The amendments within the development relate only to an expansion and reconfiguration of the basement levels, a reduction in deep soil provisions to accommodate the expanded basement below, minor alterations to the ground floor layout to accommodate the proposed basement and deep soil reduction; and a reduction of the ground floor ceiling height by 740mm to a minimum of 3900mm with a resultant reduction of the overall building height by the same amount. The modifications are not to such an extent that they could be construed as being a substantially different development to that which for consent was originally

granted. Accordingly, the modifications are considered acceptable in respect of Section 96(2) of the Act.]

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirements of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent

The application did not require any consultation with a Minister, public authority or other approval body.

- (c) it has notified the application in accordance with:
- (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

In accordance with Council's Notification of Development Proposals Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposed modification and were invited to comment. During this period, one submission commenting on the proposal were received. The issues raised in the submissions and relevant responses are summarised below:-

- Objection in respect of overshadowing

Comment: The alterations the subject of this modification does not affect solar access.

## **7. Other Considerations**

In determining an application for modification of consent, Council must also take into consideration relevant matters referred to in Section 79C(1). These matters have been considered in the assessment of the Section 96 Application. Following is a discussion of matters arising in relation to section 79C(1) relevant to the proposed modification.

## **8. The provisions of any Environmental Planning Instruments (EP& A Acts 79C(1)(a)(i))**

### State Environmental Planning Policies

#### **State Environmental Planning Policy Number 65 - Design Quality of Residential Flat Development**

The relevant provisions and design quality principles of Part 2 of SEPP 65 have been considered in the assessment of the development application within the following table:

Requirement	Yes	No	N/A	Comment
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Requirement	Yes	No	N/A	Comment
<p><u>Principle 6: Landscape</u></p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</i></p> <p><i>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</i></p> <p><i>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbour's amenity, and provide for practical establishment and long term management.</i></p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The expansion of the basement levels results in a reduction in the deep soil landscaping. However, the overall landscaped area and communal open space to remain consistent with the original approval and continue to provide appropriate private and communal open spaces for future residents of the development.</p>

### Residential Flat Design Code

Requirement	Yes	No	N/A	Comment
<b>Part 02 Site Design</b>				
<u>Deep Soil Zones</u>				
<p><u>Objectives</u></p> <p>To assist with management of the water table.</p> <p>To assist with management of water quality.</p> <p>To improve the amenity of developments through the retention and/or planting of large and medium size trees.</p>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>The amendments continue to provide a satisfactory planting scheme for the site with affected areas of deep soil being converted to planters. The landscape plan is satisfactory for approval and shows an adequate planting regime for the site.</p>
<p><u>Design Practice</u></p> <p>Optimise the provision of consolidated deep soil zones within a site by the design of basement and sub basement car parking so as not to fully cover the site; and the use of front and side setbacks.</p> <p>Optimise the extent of deep soil zones beyond the site boundaries by locating them with the deep soil zones of adjacent properties.</p> <p>A minimum of 25% of the open space area of a site should be a deep soil zone.</p>	<input type="checkbox"/>   <input type="checkbox"/>  <input type="checkbox"/>	<input checked="" type="checkbox"/>  <input checked="" type="checkbox"/>  <input checked="" type="checkbox"/>	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	<p>The approved DA has 301m<sup>2</sup> of deep soil landscaped areas. The subject proposal will result in zero deep soil landscaping.</p> <p>The provision of zero deep soil landscaping has not been objected to by Council's Engineer.</p> <p>The proposal retains 972m<sup>2</sup> of communal open space, with 822m<sup>2</sup> provided as ground floor open space and 150m<sup>2</sup> as first floor podium. This equates to approximately 33% of the site area. The communal open space areas are generous.</p> <p>The communal open areas are provided with 272m<sup>2</sup> of planted areas, which include small trees and shrubs within 1m deep planter boxes.</p> <p>The provision of zero deep soil areas to similar developments has been permitted within the 'town centre' area.</p>
<u>Apartment Mix</u>				
<u>Design Practice</u>				

Requirement	Yes	No	N/A	Comment
Mixed use buildings: 3.3 metres minimum for ground floor retail/commercial and for first floor residential, retail or commercial.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Proposal will continue to comply with the minimum ground floor ceiling heights.  The minimum floor to ceiling height at ground floor level will be 3.9m.
<i>Storage</i>				
<b>Objectives</b> To provide adequate storage for everyday household items within easy access of the apartment. To provide storage for sporting, leisure, fitness and hobby equipment.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	Storage is provided within each unit in the form of built in wardrobes, kitchen cupboards and dedicated separate storage cupboards.
<b>Design Practice</b> Where basement storage is provided: ensure that it does not compromise natural ventilation in car parks or create potential conflicts with fire regulations; exclude it from FSR calculations. In addition to kitchen cupboards and wardrobes, provide accessible storage facilities at the following rates: Studio = 6cum; 1 bed = 6cum; 2 bed = 8cum; 3+ bed = 10cum.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	The amendments do not compromise natural ventilation within the car park or create conflicts with fire regulation.  The total required storage totals 796cum for the development. The amendments result in a total of 1,212cum of storage within the basement exceeding these requirements.

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

The requirement at clause 7 of SEPP No. 55 for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development has been considered in respect of the original development application and no changes are proposed in this respect as part of the Section 96 Application.

### Regional Environmental Planning Policies

The proposed development is affected by the following Regional Environmental Plans:

#### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The site is located within the Sydney Harbour Catchment area and thus, SREP (Sydney Harbour Catchment) 2005 is applicable to the development application. The development application raises no issues in this regard, as the proposal is considered to be consistent with the requirements and objectives of the SREP.

#### Auburn Local Environmental Plan (LEP) 2010

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

The proposal will lower the overall building height by 740mm and as such continue to comply with the maximum allowable height limit of 27m.

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

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

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

### ADCP 2010 – Local Centres

The relevant objectives and requirements of the DCP 2010 Local Centres have been considered in the following assessment table:

Requirement	Yes	No	N/A	Comments
<b>2.0 Built Form</b>				
<b>2.1 Number of storeys</b>				
<b>D1</b> The minimum finished floor level (FFL) to finished ceiling level (FCL) shall be as follows: - 3300mm for all commercial/retail levels; and - 2700mm for all residential levels above ground floor.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		The reduction to the ground floor ceiling height will maintain a minimum 3.9m ceiling height to the ground floor.
<b>6.0 Access and Car Parking</b>				
<b>6.1 Access, loading and car parking requirements</b>				
<b>Development controls</b>				
<b>D1</b> Car parking rates shall be provided in accordance with the Parking and Loading Part of this DCP.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The modifications will not change the approved number of spaces. The enlargement and reconfiguration of the basement levels will result in more workable ramps and manoeuvring areas for the basement levels only.
<b>7.0 Landscaping</b>				
<b>D1</b> At grade car parking areas, particularly large areas, shall be landscaped so as to break up large expanses of paving. Landscaping shall be required around the perimeter and within large car parks.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Visibility of at grade car parking will not be affected by the amendments. Podium landscaping is provided within the perimeter of the site and car park at ground level.

### DCP 2010 Residential Flat Buildings

The relevant objectives and requirements of the DCP 2010 Residential Flat Buildings have been considered in the following assessment table:

Requirement	Yes	No	N/A	Comments
<b>3.0 Open space and landscaping</b>				
<b>Objectives</b>				
a. To provide sufficient and accessible open space for the recreation needs of the likely residents of the proposed dwelling.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The development continues to be consistent with the open space and landscaping objectives.
b. To provide adequate opportunities for water infiltration and tall trees to grow and to spread, so as to create a canopy effect.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.1 Landscaping</b>				
<b>Development controls</b>				

<p><b>D2</b> All landscaped podium areas shall maintain a minimum soil planting depth of 600mm for tree provision and 300mm for turf provision.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Soil depth within the planters is to be a minimum of 900mm.
<p><b>3.3 Deep soil zone</b></p> <p><b>Performance criteria</b></p> <p><b>P1</b> A deep soil zone allows adequate opportunities for tall trees to grow and spread.</p> <p><b>Development controls</b></p> <p><b>D1</b> A minimum of 30% of the site area shall be a deep soil zone.</p> <p><b>D2</b> The majority of the deep soil zone shall be provided as a consolidated area at the rear of the building.</p> <p><b>D3</b> Deep soil zones shall have minimum dimensions of 5m.</p> <p><b>D4</b> Deep soil zones shall not include any impervious (hard) surfaces such as paving or concrete.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The 900mm depth to the proposed planters will be able to accommodate an appropriate landscaping scheme.</p> <p>The proposed development provides no deep soil areas. Previously the development provided 301sqm (10%) of deep soil zone. The provision of 900mm deep planters is deemed a reasonable compromise and allow good planting opportunities.</p>
<p><b>3.4 Landscape setting</b></p> <p><b>Development controls</b></p> <p><b>D5</b> All podium areas and communal open space areas, which are planted, shall be provided with a water efficient irrigation system.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Capable of compliance through standard conditions of consent.
<p><b>3.6 Communal open space</b></p> <p><b>Development controls</b></p> <p><b>D1</b> Communal open space shall be useable, have a northern aspect and contain a reasonable proportion of unbuilt upon (landscaped) area and paved recreation area.</p> <p><b>D2</b> The communal open space area shall have minimum dimensions of 10m.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The communal open space area will generally remain as approved, with some minor changes to accommodate the revised basement and ground floor levels.</p> <p>The modifications will not result in any changes to the proposed dimensions.</p>



4.0 Access and car parking					
4.2	Basements				
	Development controls				
D1	Where possible, basement walls shall be located directly under building walls.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not strictly applicable to the proposal being mixed-use development within a Local Centre area.
D2	A dilapidation report shall be prepared for all development that is adjacent to sites, which build to the boundary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Noted Council may impose conditions.
D3	Basement walls not located on the side boundary shall have minimum setback of 1.2m from the side boundary to allow planting.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Not strictly applicable to the proposal being a mixed-use development within a Local Centre area.
D4	Basement walls visible above ground level shall be appropriately finished (such as face brickwork and/or render) and appear as part of the building.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Complies as shown on rear elevation.
D5					
7.0 Ancillary site facilities					
7.1	Storage				
	Development controls				
D1	Storage space of 8m <sup>3</sup> per dwelling shall be provided. This space may form part of a garage or be a lockable unit at the side of the garage.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The total required storage is 796m <sup>3</sup> . The modifications provide a 1,212m <sup>3</sup> of storage within the basement levels.
D2	Storage space shall not impinge on the minimum area to be provided for parking spaces.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The storage areas do not compromise the number of car parking spaces, which continue to comply with Council's requirements.

### **Section 94 Contributions Plan**

The development does not require the payment of contributions in accordance with Council's Section 94 Contributions Plans.

### **11. The provisions of the Regulations (EP& A Act s79C(1)(a)(iv))**

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

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

It is considered that the proposed modifications will have no significant adverse environmental, social or economic impacts in the locality.

### 13. Submissions made in accordance with the Act or Regulation (EP&A Act s79C(1)(c))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification of Development Proposals Development Control Plan, the modification was publicly exhibited for a period of 14 days between 25 February 2014 and 11 March 2014. The proposal was also advertised in the Auburn Review Newspaper on 25/2/14. The notification generated one submission in respect of the proposal. The issues raised in the public submissions are summarised and commented on as follows:

- Objection in respect of overshadowing

Comment: The alterations the subject of this modification does not affect solar access.

### 14. The suitability of the site for the development (EP&A Act s79C(1)(d))

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

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

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis it is considered that the proposed modifications, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

### 16. Operational Plan / Delivery Program

This assessment and report relates to the Auburn City Council Operational Plan and Delivery Program, Our Places – Attractive and Liveable theme, action “2a.1.1.3 Assess development applications, complying development and construction certificates”.

### 17. Conclusion

The proposed modification, under the provisions of Section 96(2), is considered acceptable having regard to the provisions of Sections 79C(1) and 96(2) of the Environmental Planning and Assessment Act 1979. The proposed modification is considered to result in a development substantially the same as that development for which consent was granted.

### 18. Recommendation

Pursuant to the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979 (as amended)

**That** approval be granted to modify Development Consent No. **DA-16/2013** on land at **6 - 14 Park Road, AUBURN** as follows:-

- A. Amend condition 1, 40 & 59 as follows;

# 1. **Approved Plans**

The development is to be carried out in accordance with the approved stamped plans as numbered below::

<b><i>Plan Number</i></b>	<b><i>Prepared By</i></b>	<b><i>Revision No.</i></b>	<b><i>Dated</i></b>
<b>S96-C:01 – S96-C:25 (inclusive)</b>	<b>Zhinar architects</b>	<b>C</b>	<b>03 February 2014 or 10 February 2014</b>
<b>12069DA 1 - Landscape Plan</b>	<b>Vision Dynamics</b>	<b>E</b>	<b>04 February 2014</b>
SEPP 65 Design Verification Statement	Zhinar architects	B	April 2013
1312 - DA01	HKMA Engineers	A	4 June 2012
1312 - DA02	HKMA Engineers	A	4 June 2012
1312 - DA03	HKMA Engineers	A	4 June 2012
Crime Risk Assessment Report	Planning Ingenuity	00500/12	15 June 2012
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	12149	14 June 2012
BASIX Certificate 431391M	Designview		14 June 2012
ABSA Assessor Certificate 42990629	Designview	2055	4 June 2012
Phase II Environmental Site Assessment	Aargus Australia	ES4972	15 May 2012
Acoustic assessment report	Acoustic Logic	20130300.1/2904A/R0/JR	April 2013
Arboricultural Impact Assessment	Redgum Horticultural	7148	14 May 2012
Waste Management Plan	Vince Bilotta		

except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

Reason:- to confirm and clarify the terms of Council's approval.

**[Condition amended by Section 96 modification DA-16/2013/A]**

# 40. **Submission of full stormwater disposal details**

Full stormwater drainage details showing the proposed method of stormwater collection and disposal are to be submitted to Council or the Accredited Certifier to ensure the approved stormwater plans are incorporated with the Construction Certificate.

The details shall be prepared by a suitably qualified person and must be in accordance "Auburn Development Control Plans 2010 - Stormwater Drainage" and "Australian Rainfall & Runoff 1987".

In this regard,

- The proposed stormwater system shall be generally in accordance with the concept stormwater plans Stormwater plans 1312-C DA01, 1312-C DA02 & 1312-C DA03 issue A dated 04. 06. 2012 prepared by HKMA Engineers.
- Minimum 10,000 Litres capacity rainwater tank shall be provided.
- Stormwater plan shall be updated to comply with architectural plans.
- All access grates to the 900x900 size pit shall be double (2/900x450) hinged grates.
- **The 3x300mm diameter pipes shall be connected to the side wall of the proposed overflow pit.**
- Amended plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority **prior to issue of a Construction Certificate.**

Note: "Auburn Development Control Plans 2010 - Stormwater Drainage" is available to purchase at Council or the document can be found at Auburn Council's web page [www.auburn.nsw.gov.au](http://www.auburn.nsw.gov.au)

**[Condition amended by Section 96 modification DA-16/2013/A]**

Reason:- to ensure the stormwater is suitably discharged.

59. **Car parking to Comply with Approved Details**

The area set aside for the parking of vehicles, and so delineated on the plan prepared by Zhinar Architects and endorsed plan **Drawing No's S96 – C:03 to S96 – C:06 (inclusive) dated 10 February 2014**, shall not be used for any other purpose.

Reason:- to ensure the car parking area is not used for purposes other than the parking of cars associated with the use.

**[Condition amended by Section 96 modification DA-16/2013/A]**

B. Addition of conditions 101, 102 & 103 as follows

101 **Parking Layout Design**

**Prior to issue of construction certificate** amended plans addressing following matters shall be submitted and approved by Principal Certifying Authority:

- a) Shared zone shall be provided for accessible parking spaces 1 and 14 (Ground level Plan 8067 S96-C:06 dated 10.02.14) to comply with Australian standard AS2890.6.
- b) Accessible parking spaces including shared zones (**Parking 11, 12, 21 and 22 of all three basements and 29 & 30 of basement 3**) shall be redesigned in accordance with Australian standard AS2890.6. No obstructions except bollards shall be located within the shared zone. Alternately the accessible parking can be relocated.
- c) The parking aisle adjacent to the access ramp on basement 1 (parking 39 - 44) shall be redesigned to relocate the parking adjacent to ramp to facilitate easy operation of the parking aisle. The bays 43 & 44 as part of tandem parking arrangement.
- d) Swept path analysis shall be provided at all intersection of circulation aisle and the ramp in order to ensure B85 and B99 vehicles can pass each other.
- e) Headroom clearance including all services for garbage delivery truck access and path shall be minimum 4.0m. In this regard detail longitudinal section shall be prepared and approved as part of Construction certificate.

Reason:- to ensure parking and loading spaces are designed in accordance with Australian standard AS2890.1, AS2890.2 and AS2890.6.

**[Condition added by Section 96 modification DA-16/2013/A]**

102. **Service Vehicle related to Commercial Premises**

Vehicles making deliveries to the commercial premises shall be limited to small rigid vehicle (SRV) as defined in Australian Standard AS.2890.2

Reason:- to ensure delivery trucks use approved loading area.

**[Condition added by Section 96 modification DA-16/2013/A]**

103. **Low Clearance Sign**

**Prior to the issue of any Occupation Certificate**, low clearance sign showing the available head room clearance shall be installed at the entrance to the loading and garbage collection area.

Reason:- to warn and prevent vehicles that require higher headroom clearance from entering the site.

**[Condition added by Section 96 modification DA-16/2013/A]**