

AUBURN COUNCIL

(Report for the Joint Regional Planning Panel)

2-8 Vaughan Street & 1 Kerrs Rd, LIDCOMBE

DA-287/2011/A

SUMMARY

Applicant	Mr Tony Khattar
Owner	Mr T Khattar and Ms C Khattar and Mr G Khattar and Mr J Khattar and Mr R Khattar and Mr R Khattar and Proprietors of SP 438
Application No.	DA-287/2011/A
Description of Land	2-8 Vaughan Street & 1 Kerrs Rd, LIDCOMBE, Lot C DP 416771, Lot D DP 416771, Lot A DP 432751, Lot B DP 432751, Lot 0 SP 438, Lot 5 Sec 8 DP 3424, Lot 6 Sec 8 DP 3424
Approved Development	Demolition of existing structures and construction of 8 storey mixed use development comprising of 108 residential units and 16 ground floor commercial tenancies over 2 levels of basement carparking with stormwater and landscaping works and strata subdivision.
Proposed Development	Section 96(2) application to modify layout of ground floor & basement car park levels and construct an additional basement car park level
Site Area	2736 m ²
Zoning	Zone B4 - Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Issues	Nil

1. Recommendation

That the Joint Regional Planning Panel approve Section 96(2) application No. DA-287/2011/A to modify the layout of ground floor & basement car park levels and construct an additional basement car park level on land at 2-8 Vaughan Street and 1 Kerrs Road, LIDCOMBE.

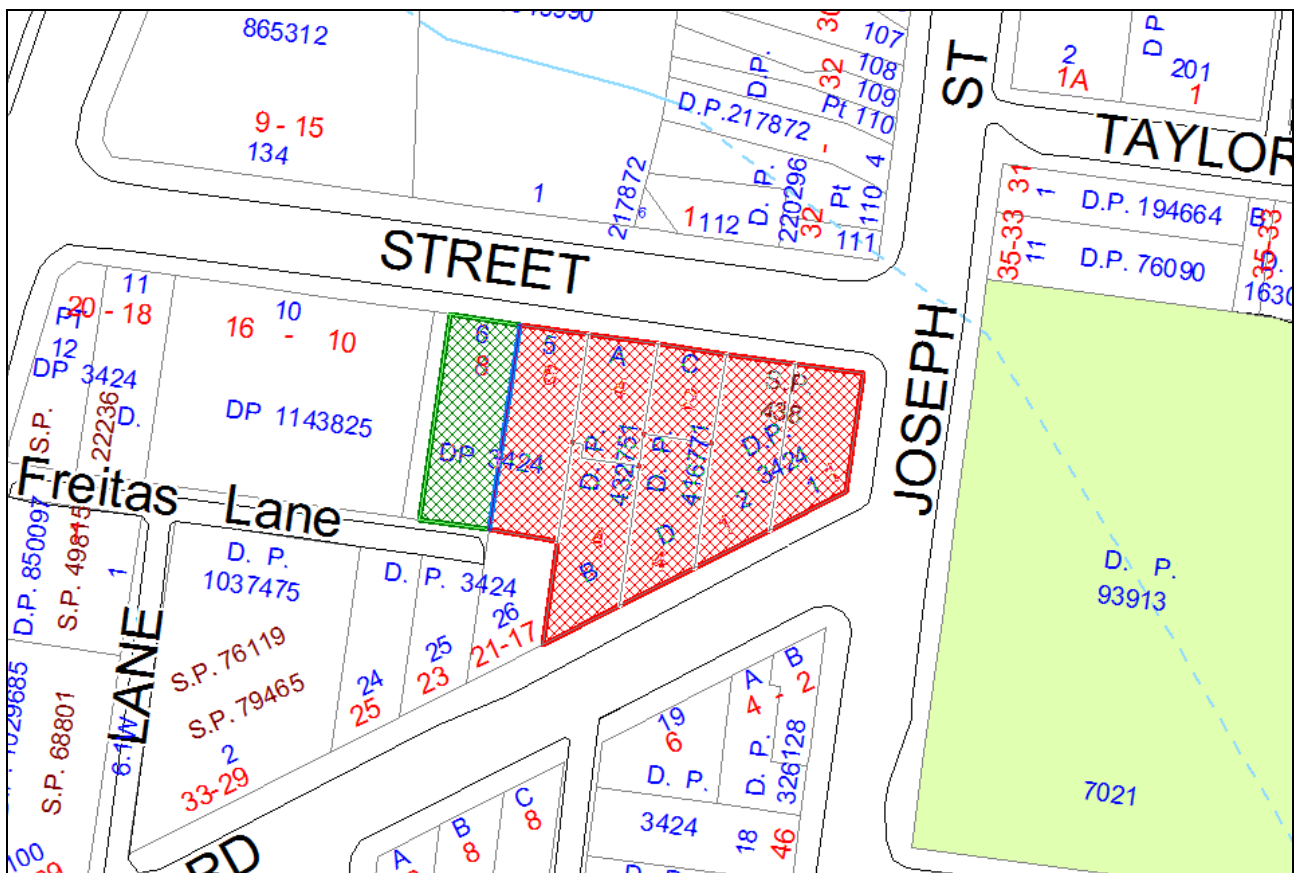
2. Site & Locality Description

The subject site is legally described as Lot C & D in DP 416771, Lot A & B in DP 432751, Lot 1, 2, 5 & 6 Sec 8 in DP 3424. The site is known as 2-8 Vaughan Street & 1 Kerrs Rd, LIDCOMBE and is located on the south eastern corner of Vaughan and Joseph Street. The proposal comprises of 8 lots in total, forming an irregular shaped configuration with a frontage width of 73.585 metres to Vaughan Street, 20.115 metres to Joseph Street and 60.35 metres to Kerrs Road. The proposed development creates a combined land area of 2736 square metres.

The land is currently a vacant construction site and all existing buildings have been demolished and cleared. The land has a gentle slope with a level change of approximately 1.2 metres across the entire site.

The site is situated within the Lidcombe Town Centre on the southern side of the Lidcombe Railway Station. Adjoining developments immediately to the west of the subject site comprise a recently completed residential flat building of 4 storeys over basement parking. Light industrial type service uses are also located further south of the site. To the north of the subject site (opposite the site of Vaughan Street) is a large expansive car parking area that operates in conjunction with a function centre and small scale retail/business uses. Directly to the east of the subject site is a substantial area of public open space known as Wellington Park and an item of local heritage significance known as the Lidcombe War Memorial Statute.

The site is identified on the map below:



3. Background

JRPP, at its meeting of 9 August 2012 approved Development Application No. 287/2011 for demolition of existing structures and construction of 8 storey mixed use development comprising of 108 residential units and 16 ground floor commercial tenancies over 2 levels of basement carparking with stormwater and landscaping works and strata subdivision.

4. Detailed Description of Proposed Modification

Council has received on the 07-Mar-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 ground floor and approved basement levels and construct an additional basement car park level 3. Basement levels 1 and 2 will be reconfigured to provide 76 and 69 parking spaces respectively and the new basement level 3 will provide 72 spaces, resulting in a total of 217 spaces. Upon further assessment of the application, a total

of 197 spaces are to be provided instead. This is discussed in more detail under the referrals section.

- Minor amendments to reconfigure the size and layout of the ground floor level, particularly the commercial units will be altered within the approved building footprint and thus does not generate additional floor space. Merging of shops 1 and 2 is noted as well as the reduction in size of shop 14.
- Design changes to site access and surrounds with respect to ramp grades, fire stairs, egress and exits on all basement levels and ground floor level to ensure compliance with BCA standards. Sprinkler and hydrant booster assembly to be located at western corner of Vaughan Street and newly created service laneway.

5. Referrals

(a) Internal Referrals

The development application was referred to relevant internal Council departments for comment:

Engineering

The application was referred to Council's Engineering Unit for comment and the advice provided raised concerns with regard to 20 parking spaces identified as not complying with the relevant Australian Standards (AS2890.1-2004) requirements. Council Officers advised the applicant of the concerns and the applicant has requested that the 20 parking spaces be deleted thus resulting in a total of 197 spaces being proposed as part of the subject application. In addition, relevant conditions will also be amended or included so as to ensure compliance. As a consequence of these amendments, Council's Engineering unit supports the application based on compliance with Australian Standards with regard to carpark design, suitable drainage arrangements and provisions of appropriate waste services and loading facilities.

(b) External Referrals

Roads and Maritime Services

The development application was not required to be referred to RMS for comment as the proposed modification resulting in the deletion of some 20 parking spaces is below the minimum threshold required to trigger clause 104 of SEPP Infrastructure 2007, where schedule 3 indicates that any development accommodating car parking of less than 200 vehicles in total are not required to be referred to RMS.

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 the construction of 8 storey mixed use development with basement parking and the proposed modifications do not seek to alter the nature of the approval. The amendments within the development relate primarily to the expansion and reconfiguration of the basement level car park to accommodate for the future increase in the number of residential units anticipated to be submitted under a separate application by the applicant as a result of the recently notified Planning Proposal PP-3/2010, which now permits for increased floor space and higher density under the B4 – Mixed use zone.

The original consent approved 177 vehicle parking spaces over 2 basement levels. With the introduction of the third basement level and taking into account of the deletion of the 20 non-complying parking spaces as previously discussed above, the parking layout is proposed to be modified and reconfigured over 3 levels to comprise of the following:

Basement Level 1 – 68 spaces
 Basement Level 2 – 64 spaces
 Basement Level 3 – 65 spaces
Total proposed – 197 spaces

Other minor amendments included in the subject application include reconfiguration of the ground floor level commercial units within the approved building footprint and other works required to demonstrate compliance with relevant BCA requirements.

Having regard to the above, the modifications proposed 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. This is discussed in further detail below under section 13 of the report.

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 Act s79C(1)(a)(i))

The proposed modifications which relate to an additional basement level and minor amendments to the ground floor commercial units will have no impact on the main residential component of the development as originally approved. In this instance, the proposed modification will remain

substantially the same and will not alter Council's conclusions regarding the proposal and its compliance with the relevant Environmental Planning Instruments assessed under the original application.

The Environmental Planning Instruments considered in the original application (in order of the assessment in the report) are as follows:

a) 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 the proposed modification which includes the provision of a new basement level will not alter the previous conclusions regarding contamination. As such, existing conditions imposed in the original consent will still remain effective and will not change as a result of this Section 96 Application.

b) State Environmental Planning Policy 65 - Design Quality of Residential Flat Development

The provisions and design principles of SEPP 65 have been considered in the assessment of this application. As discussed above, the proposed modifications will have no impact on the main residential component of the development as originally approved and thus, to this extent, the SEPP 65 design quality principles and the relevant provisions of the Residential Flat Design Code are limited to this Section 96 modification application.

c) State Environmental Planning Policy – BASIX 2004

The relevant provisions of the SEPP BASIX 2004 is limited to the this Section 96 modification application as the proposed modifications do not alter the main residential component of the development as originally approved. In this regard, the proposal remains consistent with the SEPP – BASIX 2004.

d) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the area within the Sydney Harbour Catchment and SREP (Sydney Harbour Catchment) 2005 is applicable to the development application. The proposed modification raises no issues and is consistent with the requirements and objectives of the Development Control Plan.

e) Auburn Local Environmental Plan 2010

The Auburn Local Environmental Plan 2010 has been considered in the assessment of the application. The result of the proposed modification raises no issues with regard to the requirements and objectives of the ALEP 2010 and will not alter the previous conclusions regarding its compliance with the ALEP 2010.

It should also be noted that as a result of the recently notified planning proposal PP-3/2014 which now provides for increased height and density controls in the B4 zone, the revised FSR and height controls are 5.0:1 and 32 metres respectively. Consequently, these changes will result in subsequent applications to be lodged separately by the applicant in the near future to increase the number of residential units to coincide with the expansion and modification of the basement level car park proposed under this section 96 application.

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))

Auburn Development Control Plan 2010

The proposed modification will not alter Council's conclusions regarding the proposal and its compliance with the relevant Development Control Plans assessed under the original application.

The Development Control Plans considered in the original application (in order of their assessment in the report) are as follows:

- Local Centres

The proposed modifications will not alter Council's conclusions regarding the proposal and its compliance with the relevant controls under the Local Centres chapter of the ADCP 2010 assessed under the original application.

- Residential Flat Building

The proposed modifications will not alter Council's conclusions regarding the proposal and its compliance with the relevant controls under the Residential Flat Building chapter of the ADCP 2010 assessed under the original application.

- Parking and Loading

The original approval required a maximum of 162 car parking spaces in accordance with Council's parking rate under the ADCP 2010 whereas 177 spaces was proposed and approved. The proposed modification would result in the provision of an additional 20 spaces resulting in a total of 197 spaces.

Whilst this is more than the minimum required to meet the Parking and Loading chapter of the ADCP 2010, no objections have been raised in this instance, given that the intent of this proposed modification is to cater for the future increases in residential units as a result of the recently approved increases in height and density controls provided for the B4 zone.

- Access and Mobility

The proposed modifications will not alter Council's conclusions regarding the proposal and its compliance with the relevant controls under the Access and Mobility chapter of the ADCP 2010 assessed under the original application.

- Stormwater Drainage

The relevant requirements and objectives of the Stormwater Drainage DCP have been considered in the assessment of the section 96 (2) application. Council's Engineers have raised no objection to the proposed modification. The application is therefore considered to be consistent with the objectives and relevant requirements of the DCP.

Section 94 Contributions Plan

The proposed section 96(2) modification will not remove the requirement for the development to pay section 94 contribution payments for the development.

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

The proposed modification(s) 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 modification(s) 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(s) was publicly exhibited for a period of 14 days between 25 March 2014 and 8 April 2014. No submissions were received in respect of the proposed development.

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 modification(s). Accordingly, the site can be said to be suitable to accommodate the modification(s). The proposed modification(s) has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the modification(s) 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 modification(s), 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-287/2011** on land at **2-8 Vaughan Street & 1 Kerrs Rd, LIDCOMBE** as follows:-

A. Amend condition no. 1 to read as follows:

1. **Approved plans**

<i>Plan Number</i>	<i>Prepared By</i>	<i>Revision No.</i>	<i>Dated</i>
001.DA Site/roof plan	Le design studio	D	05.06.12
DA2_102 Basement 01 Floor plan (including any amendments in red)	Le design studio	B	30.01.14
DA2_101 Basement 02 Floor plan (including any amendments in red)	Le design studio	B	30.01.14
DA2_100 Basement 03 Floor plan (including any amendments in red)	Le design studio	B	30.01.14
304.DA Basement carpark section	Le design studio	C	27.11.12
305.DA Proposed laneway	Le design studio	B	27.11.12
DA2-103 Ground floor plan	Le design studio	B	30.01.14
104.DA Floor plan Lvl 1	Le design studio	H	27.08.12
105.DA Floor plan Lvl 2	Le design studio	G	27.08.12
106.DA Floor plan Lvl 3	Le design studio	E	27.08.12
107.DA Floor plan Lvl 4 - 7	Le design studio	G	27.08.12
110.DA Adaptable units	Le design studio	A	22.02.12
111.DA Adaptable units	Le design studio	A	22.02.12
DA2_201 North & East Elevations	Le design studio	B	30.01.14
DA2_202 South, West & South-East Elevations	Le design studio	B	30.01.14
DA2_301 SectionS	Le design studio	B	30.01.14
302.DA Section B	Le design studio	E	25.07.12
303.DA Section C	Le design studio	B	25.07.12
304.DA Basement carpark section	Le design studio	C	27.11.12

305.DA Proposed laneway	Le design studio	B	27.11.12
L-01/2 Landscape plan (including any amendments in red)	Ray fuggle & Associates	B	30.08.12
L-21/2 Lvl 2 Planter box (including any amendments in red)	Ray fuggle & Associates	B	30.08.12
Landscape maintenance program	Ray fuggle & Associates	-	-
SW2089-1 Stormwater site layout ground level	Wehbe consulting	E	01.02.14
SW2089-2 Stormwater basement 3 layout	Wehbe consulting	E	01.02.14
SW2089-3 Stormwater basement layouts	Wehbe consulting	E	01.02.14
SW2089-4 Stormwater site layout ground level	Wehbe consulting	E	01.02.14
SW2089-5 Stormwater roof layout & long section	Wehbe consulting	E	01.02.14
SW2089-6 CDS Detail	Wehbe consulting	E	01.02.14
801.DA Site management plan	Le design studio	A	15.08.12
802.DA On-going waste management plan	Le design studio	C	27.08.12
Basix Certificate no. 384328M	Assessor no. 20891	-	15.08.11
Assessor Certificate no. 83721270 Thermal performance specs	Assessor no. 20891	-	11.08.11
Materials & finishes	Le design studio	-	Aug 2011

except as otherwise provided by the conditions of the 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).

[Condition amended by Section 96 modification DA-287/2011/A]

B. Insert new condition no. 109:

109. **Compliance with AS2890.6 – shared zones for accessible parking spaces**

The shared zones for the accessible parking spaces within the basement levels of the development shall be clear of any obstructions other than bollards in accordance with the Australian Standard AS2890.6

Reason:- to ensure compliance with the relevant AS2890.6.