

Joint Regional Planning Panel (Sydney East Region)

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| JRPP No. | 2015SYE011 |
| DA No. | DA/320/2013/B |
| Local Government area | Randwick City Council |
| Proposed Development | Section 96 modification of the approved development (S96B) by replacing the supermarket at ground floor level with 4 retail tenancies, total reduction of 180sqm in approved gross floor area, changes to basement parking configuration including modification to access ramp and circulation, 8 new 2 bedroom residential units at mezzanine level, changes to loading dock configuration, reduction in total number of car parking from 283 to 200, and increase the overall building height to RL53.00. Original consent: Demolition of the existing buildings and construction of a new part 6 and part 7 storey mixed use development comprising of ground floor retail space, 100 residential dwellings, 3 basement levels of parking, associated site and landscaped works |
| Street Address | 84 - 108 Anzac Parade, Kensington |
| Applicant | Luxcon 88 Pty Ltd |
| Owner | Luxcon 88 Pty Ltd |
| Number of Submissions | 6 |
| Recommendation | Approval |
| Report By | Elias Coorey, Environmental Planning Officer |

1. Executive Summary

Council is in receipt of a Section 96(2) application seeking modification of the consent for DA/320/2013; which was approved by the Joint Regional planning Panel (JRPP) on 27 March 2014. The original approval was for the demolition of the existing buildings and construction of a new part 6 and part 7 storey mixed use development comprising of ground floor retail space, 100 residential dwellings, 3 basement levels of parking, associated site and landscaped works.

This section 96 modification is identified as S96B for clarity to distinguish between a previous section 96A modification determined by the JRPP on 3 December 2014 and a current Section 96C modification (made under S96(1A) of the Environmental Planning and Assessment Act 1979 (Act)) currently with Council for assessment (detailed under application history).

This S96B application (DA/320/2013/B) is seeking to remove the lower basement level and increase the basement setback from rear boundary, remove terraced planting and replace with sheer wall, delete the supermarket (as modified under S96A) and replace with on ground parking and mezzanine level above (Level 3) containing 8 additional apartments, lower the common property pool area by 2.2m allowing for direct access from the new mezzanine level apartments, and the reduction in the number of visitor parking spaces. The applicant also seeks an increase in the height of the development in certain sections to RL53.00 exceeding by 18cm the maximum RL52.80 imposed under condition 3a of the determination made under S96A.

The S96B application is referred to the Joint Regional Planning Panel for determination, as the application is made pursuant to S96(2) of the Environmental Planning and Assessment Act 1979 and Part 4 of State Environmental Planning Policy (State and Regional Development) 2011.

This scheme was publicly exhibited and notified and a number of submissions were received from the local residents objecting to the development, mainly on the grounds of excessive height, bulk and scale, overshadowing, loss of privacy, and potential damage to adjoining properties to the east and the loss of the supermarket.

The proposed height of the building is consistent with the determination made under S96A in so far as the overall height of the building between Sections 1 to 9 do not encroach over the maximum RL52.82 imposed under Condition 3a of the S96A determination. However, plant and equipment is shown as being located on the roof over apartment 914 (not shown on elevation), conflicting with condition 3b of the S96A determination requiring its deletion. The applicant has since amended their roof plan deleting the plant and equipment from the roof plan.

The application also shows an amended roof form and screening for the mechanical plant and equipment. The plant screening is largely metal screening which is generally inconsistent with the form and materials of the main building and roof and is therefore not supported. Condition 3a of the previous S96A is considered sufficient for the purposes of addressing this aspect of the proposal and no further assessment will be made of the changes to the roof form and plant and screening under this application (a condition is included deleting these aspect from the development application).

The increase in the number of apartments within the building from 113 to 121 (accommodating 8 apartments at upper level 3) is achieved by deletion of the supermarket. The eight apartments have been identified by the DRP as having very little light and ventilation due to their "snorkel" like internal layout and inability to provide windows within the "slots" as these slots are the main access to the communal gardens, and the windows would be compromised for privacy along these corridors. The proposed configuration and access corridors do not markedly change from the original determination by the JRPP. The amenity of these units is considered reasonable in so far as window openings along these slots will likely be highlight windows and these apartments have larger open deck areas with direct access to the communal open space/pool area. Further, management of access along these corridors will likely be limited during reasonable hours.

The enclosed ground level parking at the rear will reduce the overall bulk of the building at ground level achieving a 2.2m lower floor level at the rear communal open space area. The applicant has submitted a sketch plan showing louvre openings along the eastern elevation in response to the DRP comments. This louvres section is considered appropriate as it will improve natural ventilation to the ground level parking area. A condition is included requiring an amended acoustic report ensuring the emissions from the ground level parking satisfy relevant standards.

The proposal results in the loss of 11 visitor parking spaces. The applicant has submitted traffic and parking management plan indicating that this could be demand managed by sharing the residential and retail visitor parking at ground level. This in turn would ensure greater levels of security for residents of the apartments. Council's Development Engineer raises no objections to the arrangement.

The application seeks to revert to a more conventional method of excavation. The proposed change to the method of excavation and loss of a basement level is considered less intrusive and recommended for approval. The increased basement wall setbacks from the eastern boundary will increase deep soil levels. Council's

Landscape officer anticipates that this modification will minimise the degree to which the roots of the significant trees along the rear boundaries on neighbouring properties would be comprised thus improving the likelihood of their future health and stability. The increased setbacks will also minimise the need to prune these nearby trees associated with the machinery that would need to access these parts of the site during construction.

The proposed modifications relating to the increase in number of apartments, loss of the supermarket, four retail premises, ground level parking, loss of a basement level, and change in method of excavation do not give rise to unacceptable amenity impacts and would generally reduce the physical massing of the approved development, if implemented in accordance with the recommended conditions.

2. The Proposal

The current Section 96 application seeks approval for modifications to the approved scheme arising from a change in the mix of apartments and modifications to floor plans at all levels including the basement.

The proposed modifications are detailed below:

Delete Basement 3 (level 1)

Lower Basement 1 (Level 1)

- Modify Ramp and access cores
- Modify service and access cores
- Reconfiguration of car parking spaces (total of 61 spaces)

Upper Basement (level 2)

- Modify ramp and circulation
- Modify access cores
- Reconfiguration of car parking spaces (total of 93 spaces)

Ground floor

- Remove supermarket,
- Enlarge 4 retail tenancies along Anzac Parade frontage
- Enclosed (shared residential and retail visitor) parking at rear (46 Spaces)
- Garbage rooms in parking area
- Modified service layout
- Sketch of eastern elevation of ground level parking provided showing louvres to assist with natural ventilation of the ground level parking.

Upper level 3

- Remove S96A approved residents gymnasium at south western corner
- 8 new apartments with access onto common open space pool area
- Common open area lowered 2.2m reconfiguring access (from level 5 apartments) to new Level 3 apartments

Levels 5 – 9

- Remove direct access from level 5 apartments facing east due new mezzanine level and lowered common area.

Level 10

- No changes

Roof

- Alteration in roof form mainly to accommodate mechanical plant requirements
- Results in increase to roof height

General

- Amended excavation/construction method, results in a tapered setback from the eastern boundary measuring between 3m and 4.5m from the north to south.
- Tiered wall on eastern elevation has been deleted allowing for a larger deep soil area.
- Amended landscape design to accommodate reduced pool and modified rear boundary setback.

The table below contained in the SEE accompanying the S96 applications summarises the development statistics as approved and proposed to be modified

Table 1: Development statistics

| Proposal Overview | Approved under DA320/2013 | S96A | S96B modification |
|--|---|--|---|
| No. of dwelling units | 100 | 113 | 121 |
| Apartment mix | 1 bedroom: 22 2 bedroom: 65 3 bedroom: 13 Total= 100 | Studio & 1 bed = 43 2 bed= 49 3 bed= 21 Total 113 units | Studio & 1 bed = 45 2 bed= 55 3 bed= 21 Total = 121 units |
| Max. studio and 1 bed Require: Max of 40% | 22/100 = 22% | 43/113-38% | 45/121 = 37% |
| Parking (spaces) (B) Basement | Basement 1 = 68 Basement 2 = 88 Basement 3 = 100 Total = 257 | Basement 1 = 72 Basement 2 = 101 Basement 3 = 110 Total = 283 car 52 bicycle 10 motorbike | Lower (B) = 61 Upper (B) = 93 Ground = 46 Total = 200 76 bicycle 10 motorbike |
| GFA | 10,772sqm | 10,835sqm | 10,655 sqm |
| Max Building Height and Number of Storeys | 25m 6 storeys plus habitable roof | Majority of building =25m 27.5m to roof architectural feature 6 storeys plus habitable roof (7 th storey) | Majority of building = 25m Between 25.4m /25.6m to top of roof and plant (RL52.80/RL53.00) |

Application history

Approved development DA/320/2013

DA/320/2013 was approved by the JRPP on 29 May 2014 for demolition of existing structures and construction of a part six (6), part seven (7) storey mixed use development, comprising three (3) basement levels with 257 car spaces, ground floor supermarket with loading dock and 100 residential units above. Associated excavation, dewatering and landscaping works were included.

Approved Section 96A application DA/320/2013/A

The S96A application (DA/320/2013/A) determined by the DRPP on 3 December 2014 modified the original development by reconfiguring the ground floor retail to allow for four (4) tenancies in addition to the supermarket, increased number of approved units from 100 to 113, reconfigure apartment layouts and increase roof height limited to RL52.82 from Section 1 of the building at the northern elevation to Section 9, requirements for additional details to be provided relating to the roof form, additional operational glazing within the "slots" of the building, and requirements for waste management, colours and materials and parking.

Section 96C application under assessment - DA/320/2013/C

The S96C application (DA/320/2013/C) is seeking consent under Section 96(1A) of the Act to make changes to the basement level sought under this S96B application, although with the supermarket still being part of the proposal.

Subject Site

The subject site is known as 84- 108 Anzac Parade, Kensington. It has a 96 metre frontage to Anzac Parade.

The approved development amalgamates nine (9) individual allotments, previously comprising a run of nondescript one (1) and two (2) storey commercial buildings, some with residential above. The applicant has commenced demolition of the buildings on the site.

The amalgamated 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 | |

3. Community Consultation:

The owners of adjoining and neighbouring properties were notified of the proposed development; and the proposed development was also advertised, in accordance with the DCP – Public Notification. Six (6) submissions were received from the following properties and one submission was received from a town planning consultant. The issues raised in the submissions are addressed below and in the subsequent sections of this report.

- 102 Eastern Avenue, Kensington
- 33 Boronia Street, Kensington
- 65 Doncaster Avenue, Kensington
- Unit 24/Level 2 76-82 Anzac Parade, Kensington
- 9 Cottenham Avenue, Kensington
- 29 Elsmere Street, Kensington

| Issues | Comments |
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| <ul style="list-style-type: none">• Reduction in car parking on site will result in greater demand for on street parking.• The net reduction in parking associated with the loss of retail space only results in the | Council's Development Engineers have assessed the application and no objections have been raised on safety, parking or traffic grounds. Whilst the proposed parking provision does not achieve compliance with the numerical requirements under Council's |

| Issues | Comments |
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| <p>reduction of 4 spaces not 83. The methodology used to calculate the shortfall is inconsistent with the required methodology under the DCP.</p> | <p>Comprehensive DCP 2013 – Part B7, Transport, Traffic, parking and access it is considered that the parking shortfall is minor and that subject to appropriate conditions the parking provided will meet the demand generated by the development. Refer to discussion in key issues section.</p> <p>Part B7 of the DCP provides design guidelines, Parking and Service Delivery requirements that are modelled on Australian standards, Roads and Maritime Services (RMS) guide to traffic generating development 2002 and Austroads guides.</p> <p>It is noted that the RMS rate for supermarkets is 42 spaces per 1000m² which meant that the originally approved supermarket required 94 spaces. It was noted at the time that the RMS rate derived the parking requirements from 1990 data and upon taking into account the site's location close to buses and future light rail, Councils development engineer suggested a minimum of 84 spaces would be required for the supermarket. The S96B application seeks to reduce the parking on site by 83 spaces offsetting the reduction of parking commensurate with the removal of the supermarket.</p> |
| <ul style="list-style-type: none"> The layout of units containing study can be used for the purposes of a third bedroom thus increasing the parking required for the development. | <p>One of the main objectives of the Kensington Town Centre DCP is to provide a mix of apartment types and size to accommodate a range of household types. The two bedrooms apartments that contain study areas will cater for a range of demographics.</p> |
| <ul style="list-style-type: none"> Suggest that Council consider declaring the mezzanine level apartments not be used in future for additional retail, commercial or ancillary retail GFA for the life of the building and that the developer apply an easement to this effect under S88 of the EP&A Act 1979 to be placed on the title | <p>The application is not seeking to use this area as office space. Any application that would seek to convert this area into office space will be required to address the relevant matters for consideration such as parking.</p> |
| <ul style="list-style-type: none"> The retail voids add bulk to the overall building and should be otherwise treated as additional GFA | <p>The proposed application reduces the buildings bulk at the rear and the ground floor level is designed with high ceilings in order to present a vibrant and open presence along the street thus contributing to the economic viability of the Kensington Town Centre. The additional units at the rear are mostly located over the ground level parking at the rear and will not extend further to the rear than the originally approved building depth.</p> |

| Issues | Comments |
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| <ul style="list-style-type: none"> No materials details for fencing along the rear boundary | <p>Whilst a dividing fence is a matter between the respective neighbours under the Dividing Fences Act, the S96B application details on the eastern boundary setback section, an 1800mm high wall along the eastern rear boundary located wholly within the subject site. A condition is included requiring further fencing material details to be provided to Council for approval and for the treatment to the eastern elevation of the fence/wall to be carried out to a high standard of workmanship.</p> |
| <ul style="list-style-type: none"> There is no indication on the documentation of the design and placement for car parking basement mechanical exhaust outlet locations as these may create noise and amenity impacts having regard to proximity of clothes lines and bedrooms | <p>Mechanical plant items are not typically identified at DA stage. In this respect, condition 55 of the original determination required compliance to be detailed with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2 (including exhaust air quantities and discharge location points) which are required to be submitted to and approved by the Certifying Authority with the construction certificate and a copy of such relevant documentation is to be provided to Council. In terms of acoustic amenity, the original consent contains conditions: 35, 128 and 153 requiring the emissions from the proposed development to comply with relevant standards, prior to, during and within one month of occupation. In addition, should there be a concern that emissions are a nuisance; Council has the authority to require the proponent of the site to furnish details that demonstrate compliance with relevant standards.</p> |
| <ul style="list-style-type: none"> This application addresses an area marked as Block 01 with a 4 + 2 storey building envelope. The Randwick LEP of 2012 relaxed the height limit to 25m accommodate the de facto 7th storey developments approved during the first 10 years of the DCP's operation. The applicant is again attempting to exceed the generous height limits and densities approved for blocks fronting Anzac Parade. | <p>The proposed height of the development will not exceed the limit that was placed on the S96A determination. On this basis Condition 3a remains in place.</p> |
| <ul style="list-style-type: none"> The original development application made much of the fact that the building would house a supermarket, something that has been missing in Kensington for a number of years. This application seeks to remove this provision & | <p>See key issues section under loss of supermarket. The four new retail premises are of various sizes and will be suitable for a variety of uses. Four separate tenancies break up the frontage contributing to a more active street frontage than that which would occur with one tenancy.</p> |

| Issues | Comments |
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| <p>break up the space into 4 smaller lots and 8 additional apartments. Already in Kensington there are many small vacant retail spaces & the town centre does not need another 4. The retail spaces fronting Anzac Parade were supposed to be 'active' but there are now many vacant premises. A supermarket was going to be a point of difference & the original development approval was based on this positive feature being delivered. Removing the supermarket removes a key component of the original approval. I believe that the S96B should be assessed as if it were a new application. The concessions afforded on the basis that the development was going to provide a supermarket for the benefit of the local community should be revoked.</p> | <p>Whilst the loss of the supermarket is a negative aspect of the application, the overall bulk and scale at the rear of the development is being reduced as a result of the removal of the supermarket and amenity impacts from servicing a supermarket would also be reduced. The loss of the supermarket is not considered to result in a development that would not be substantially the same as originally approved.</p> |
| <ul style="list-style-type: none"> The approved supermarket provision was used as a justification for providing no setback of the podium from the common boundary among other things. This Section 96 modification does not suggest the setback should be re-instated. The application to remove provision for a supermarket is disingenuous & should be rejected. | <p>Noted, however the original building envelope at ground level is approved with the podium level with a rear setback. This S96B application reduces the bulk and the development at the rear and effectively increases the rear setback of the closest walls from the eastern rear boundary. Consequently, it is not considered that a greater setback is warranted or grounds for refusal.</p> |
| <ul style="list-style-type: none"> The Kensington Town Centre DCP sought to ensure quality design of not just the building envelope but the configuration of residential apartments. One feature most promoted was that of flow through apartments. The number of 'flow through' apartments proposed is still below that expected for a development of this size. | <p>See key issues section under Increased number of apartments.</p> |
| <ul style="list-style-type: none"> The modification does not address the many concerns raised previous with regards the over-bearing mass of such a large building. | <p>The S96B application reduces the bulk of the development as originally approved and that conditioned under the S96A determination.</p> |
| <ul style="list-style-type: none"> I should mention that many documents of this DA that are included/listed on the council's website were actually not | <p>Documents associated with this S96B application were accessible from the DA tracking website and the time was provided to persons making a submission.</p> |

| Issues | Comments |
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| <p>available for download/viewing (attempts to do so return "file does not exist" errors on 3/2/15). Perhaps this could be rectified, and the period for submissions extended to allow further study?</p> | |
| <ul style="list-style-type: none"> An updated geotechnical report should be submitted based on their most recent and comprehensive findings of earthworks and potential impacts on neighbouring properties. | <p>Upon receipt of this email, the shoring reports were made available from Councils website.</p> <p>It is also noted that the display copy of the S96B application contained a copy of all documentation submitted.</p> |
| <ul style="list-style-type: none"> A structural engineers report shall also be submitted. | <p>The original conditions and amended conditions are considered suitable for the purposes of assessing the potential impacts on neighbouring properties.</p> |
| <ul style="list-style-type: none"> Councils dewatering policy is deficient, lacks any reference to re-injection of water on the subject site outside the perimeter walls which must be located on the subject site. i.e. Perimeter wall cannot be located on the boundary of the site-area. If this happens, adjoining surrounding properties lying within the zone of influence of dewatering, will almost certainly suffer subsidence. | <p>The dewatering implications of the proposed development have been assessed by Councils Development engineers. The level of detail submitted relating to dewatering is consistent with Council methodology and requirements of assessment at DA stage. In this respect, conditions imposed on the original and as amended by this S96B application are considered satisfactory.</p> <p>The dewatering implications of the proposed development have been assessed by Ian Young and Associates Pty Ltd (consultant engineering firm) and their report has subsequently been considered by Councils Development Engineering Team. The level of detail submitted with the S96B application relating to dewatering is generally consistent with Council's requirements and other applications adjacent to this site. The S96B application reduces the depth of excavation when compared with the original development application and the eastern basement wall has been moved off the eastern site boundary. The depth the water table needs to be lowered is now in the order of 5 metres and the dewatering report has indicated that groundwater recharge should not be required. If recharge were to be considered the recharge wells could be located along the perimeters of the pile walls (on the Anzac Parade and Goodwood Street frontages) and in the area between the eastern basement wall and the eastern site boundary.</p> <p>Groundwater dewatering conditions imposed</p> |

| Issues | Comments |
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| | in this S96B application are considered satisfactory and require the applicant to commission preparation of a detailed dewatering plan by suitably qualified engineers, (including consideration of groundwater recharge). |

4. Design Review Panel comments:

The Panel's comments on the proposed modifications are provided below:

"The Panel was informed that this is now a new DA for this major site, although it only covers an adaptation of part of the overall scheme. The Panel understands that the JRPP had approved the previous DA, notwithstanding many and significant design shortcomings. This is the fifth time the Panel has seen a proposal for this major site, the most recently in September 2014.

The Panel notes that the applicant has not changed architects, although the architect who attended the meeting continued to show out of date drawings prepared by the previous architect. The Panel reiterates that this is in itself is a cause for concern, for it is widely seen in the architectural profession that a lack of continuity in the design of the project rarely produces good buildings.

Few of the Panel's previously stated concerns appear to have been substantively addressed in this application - the proposal remains monolithic and risks having an overbearing presence in the street, with many apartments of compromised amenity and environmental performance.

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

Since this is a modification that affects only the highlighted parts of the scheme (principally ground and first floor), previous comments are retained only where necessary, with new comments added.

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 mediocre 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 due to the tramline.

The site has an extensive frontage of almost 100 metres to Anzac Parade, is relatively flat, and like most of the centre, is affected by flood freeboard levels.

2. The Scale of the Proposal

The main changes seem to be as follows;

- deletion of the third basement level
- deletion of the supermarket, and replacement by three large retail areas to the street and the addition of a surface car park behind for shoppers

- reduction in height of the retail at the rear, which has allowed 8 additional units facing the common garden, which has been reduced in size
- marginal increase in landscaped setback from the properties to the rear, in order to preserve the mature planting in their rear gardens

The Panel makes the following comments regarding problems with form and scale that still need to be resolved in the revised proposal;

- The rear setback has been increased in width and predominantly comprises deep soil landscaping to provide a green outlook and screening between buildings. However it remains too narrow, difficult to access for maintenance and impossible for residents to use. The landscape design lacks character and design quality. Improvements should be made to address these issues. The shoppers' car parking could be more open to it to provide fresh air and a green outlook.
- The Anzac Parade frontage has been marginally improved by deleting the supermarket, however there should be opportunities for a greater variety of access and size of shop. The elevations seem to show the glazing now coming down to the pavement level (as noted in the previous Panel report), but the construction is not adequately shown on the sections.
- As suggested, the street awning has been lowered to normal height, and windows light the retail area above the awning, however this is not consistently shown on the drawings submitted.
- Neither the architectural or landscape drawings show any street trees along what is almost a full block frontage. The awning design should allow for street trees. This has been raised before – still no response from the applicant.
- The 2 residential entries to Anzac Parade remain rather mean, with narrow deep set entries. The space in front of the lifts seems inadequate, and there is unnecessary conflict with shoppers using the residential foyers to access the street. In contrast, the entry to Goodwood Street is quite generous.
- The Panel reiterates its concerns regarding building depth and the number of predominantly single orientation units, particularly those facing west to a main road. This remains a major non-compliance with the RFDC's 18m maximum building depth – the overall building depth is more than 24 metres. 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.
- This situation has now been exacerbated by the addition of 8 effectively single orientation units facing the rear. They claim a degree of cross ventilation by the slots, yet at this level these slots are the main access to the communal gardens, so windows would be compromised for privacy, which is in no way anticipated by the selected window configuration.
- In addition to the above failing, 2 of the units have amongst the deepest 'snorkel' type bedrooms seen by the Panel – the bed is interred more than 8 metres from the edge of the balcony above – a totally substandard arrangement.
- The Panel supports the light and air in all the common lobbies, though the linking of the cores, seemingly in order to save on lifts, results in exceedingly long common corridors - albeit relieved by a small amount of access to light in the middle - natural ventilation should also be available.

- The information on the sections and elevations is incomplete and full of discrepancies (see below). This calls into question the detail and material selection, which does not appear resolved to DA standard.

Few of the Panel's suggestions have been taken up –the design remains regressive. The design does not meet SEPP 65 or RFDC standards, and 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.

However the Panel again 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 - this has still not been done satisfactorily – the floor space proposed has further increased and appears to be more than the permitted percentage. This contributes directly to the deficiencies noted above.

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. The Panel remains unconvinced that the occasional secondary windows on the deep slots would provide enough effective cross ventilation.

If anything these percentages are now likely to be worse, as the 8 new apartments are all predominantly single orientation.

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 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 clerestory 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. – Still not done.

Given the above, the building will be heavily reliant on artificial cooling and lighting therefore environmental performance is considered substandard and continues to fail SEPP 65 and RFDC requirements.

6. The Proposed Landscape

The landscape information provided is scant, and lacking in detail and design consideration.

The following landscape issues are inadequately considered and require further design resolution;

- Inadequate sections are shown through the podium. The podium roof terrace should be coordinated with the service and exhaust risers, which all have

clearances to communal areas. This has the potential to severely compromise the landscape, and needs to be resolved

- The Panel is concerned that the maintenance required for the proposed landscape areas, such as they are, have not been considered.
- No reliable soil depths are indicated on either the architectural or landscape drawings - this does not meet either SEPP 65 or Council's submission requirements
- An inadequate planting schedule has been provided, including species, indicative numbers, sizes etc.
- Are external clothes lines provided?
- No information has been provided that shows how privacy to the rear neighbours would be achieved from the common terrace and pool. The landscape amenity of the properties to the rear remain severely compromised, and their existing trees would be imperiled by the deep excavation and height of the party wall along the entire boundary.
- Privacy at podium level between the new rear terraces and the common open space has not been considered.
- The 4 standard details shown are perfunctory and wholly inadequate for a DA of this size
- No street trees are proposed to either frontage (these are essential and should be as large as possible), nor are any details of public domain improvements indicated

The extent of landscape has decreased and its poor design and documentation does not meet SEPP 65 and RFDC standards.

7. The Amenity of the Proposal for its Users

The Panel reiterates multiple concerns regarding residential amenity, and notes the lack of any design response to the following issues;

- the excessive glass to glass building depth of 23.7m for the lower 4 residential levels far exceeds the 18 metres maximum set out in the RFDC. Recent research is indicating that about 15 metres glass to glass is the maximum for effective cross ventilation in units, so the few genuine dual aspect units at the lower levels still would not have a good internal environment
- there are too many single orientation units throughout, yet an additional 8 have been included. Single orientation apartments should be minimized, and more use made of the slots provided
- there are too many embedded and 'snorkel' type bedrooms, and the occasional internal room. Instead 2 more extended snorkel types have been added.
- virtually all bathrooms, laundries and ensuites are internalised, and would rely on artificial light and mechanical ventilation all day and night. Many bathrooms have an external wall to the slots - which would be ideal for openable windows - why hasn't this been carried out, as suggested?
- almost no kitchen complies with the RFDC requirement to be within 8 metres of the openings to the exterior
- the single orientation units on the Podium Level could benefit from parts with a greater ceiling height, or other sectional ideas, such as skylights / shafts etc – this could be skilfully done, and demonstrated in detailed sections. Yet this has not been attempted.

- in detailed design, each unit should have a range of openings and weather shelter is important, yet this has not been attempted
- The perforated screens to the west elevation seem to have more concern with aesthetics than acoustic or thermal performance. The Panel has discussed with the applicant the need for acoustic and sunshade devices on the west. Perforated soffit material to the balconies and other such strategies remain to be investigated.

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 the Panel was informed that BCA advice was sought and incorporated.

Despite the removal of the supermarket, the double driveway to Goodwood Street remains overstated, which would create avoidable conflicts with pedestrians.

9. Social issues

The intensification of such well-placed sites can be socially beneficial. The introduction of garden units at podium level has some pluses, however the rear common landscaped garden has been significantly reduced in size and utility. The pool seems over scaled, and the useable area could be usefully increased if connected to the widened landscape strip at ground floor.

Despite the deletion of the supermarket, the proposed arrangement of the retail to the street would result in a monotonous streetscape, with no diversity of retail frontage. This could rob Anzac Parade of vibrancy – opposite to the DCP intent.

The Panel supports the reduction in parking caused by the deletion of the supermarket. A minimarket, with far less or no parking, would have a much better presence in Kensington's shopping strip.

The division / security between the public and private lobbies, when accessed from the car park risks causing CPTED problems. As discussed at the meeting, the Panel strongly recommends that the residential lobbies are secure and separate from the commercial passageways, particularly after hours.

10. The Aesthetics of the Proposal

The proposal lacks the thought needed to the detailed design and materials palette. The Panel is concerned that the larger buildings in 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 – instead the larger scale sections and part elevations provided are poor and full of inconsistencies. The detailed design and material palette are notional and have not been sufficiently developed to be convincing.

There appears to have been little attempt to advance the architectural resolution of the design. The information presented appears uncoordinated, lacks detail and constructional reality. for example;

- the cantilevered awning roof above level 10, which appears to be such a distinctive feature of the scheme, lacks any structure.
- the privacy screens at levels 8 and 9 which could be very prominent in 3d, are not clearly illustrated
- there remains scant information on the awning or the circular elements, their material, support, detail
- the pictures, montages and larger scale elevation appear unrelated, and do not give a reliable or enforceable aesthetic character to the scheme

SUMMARY AND RECOMMENDATIONS

The site is an exceptionally important one, as it has an usually long frontage to Anzac Parade, the area's most important boulevard, which is central to Kensington's evolving town centre, and has the potential to reinforce the spatial definition and life of the street. It would also become home for hundreds of people for many decades to come.

The site's potential has not been realized in either the earlier DA nor this revised submission. The Panel reiterates that the application is deficient in many fundamental aspects, and has shown no signs of design improvement. For example the drawings continue the faults of not showing any relationship to the DCP envelopes, lacking boundary dimensions, not showing surrounding development adequately, nor overall or grid dimensions, nor setbacks from boundaries.

The Panel reiterates its previous advice that this application significantly fails SEPP 65's Good Design Principles and the RFDC standards and that it should be refused.

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Planner's Comments:

The Panel's comments relate in large part to aspects of the original approval and the S96A proposed modifications. In respect to the S96A determination several conditions relating to the roof form, use of colour backed glazing, requirement for additional openings between the "slots" will remain and not recommended for deletion as part of the S96B application. Having regard to the majority of other issues associated with this S96B application the following comments are made:

Scale of the proposal and Aesthetics

- The landscaped area at ground level is largely a buffer zone between the proposed development and the rear properties. It is not considered that this area will be capable of providing any reasonable amenity in relation to usable open space.
- The size of the shops along the Anzac Parade frontage are not changing and condition 23 as amended under S96A requires the submission of additional details including that of the colour backed glass to the ground floor level to be provided to Council for approval.
- The original determination contained suitable conditions relating to the works within the Public Domain.
- The proposed configuration and access corridors do not markedly change from the original determination by the JRPP. The amenity of these units is considered

reasonable in so far as highlight window openings are still being provided along these slots and these apartments have larger open deck areas with more direct access to the communal open space/pool area. Further, management of access along these corridors will likely be limited during appropriate hours.

- Condition 23 of the determination required the provision of colours and materials schedule to be submitted and approved by Councils Director of City Planning prior to a Construction Certificate being issued for the development. This S96B application contains additional detail relating to the operable metal screens across the face of some apartments. In light of the DRP comments, this condition is further amended requiring a consolidated set of colours and materials finishes schedule (inclusive of sample board, 1:50 sections of the Anzac Parade frontage, roof and plant, rear landscaped areas) shall be required to be submitted to Council for approval prior to a Construction certificate being issued for the development.
- The applicant has submitted a sketch plan showing louvre openings along the eastern elevation in response to the DRP comments recommending improved natural ventilation to the ground level parking area. A condition is included requiring an amended acoustic report ensuring the emissions from the ground level parking satisfy relevant standards

The Proposed Density

- The bulk of the development at the rear has been reduced by virtue of the loss of roof space over the rear of the now removed supermarket.

The Proposed Landscape

- The planting of a row of super advanced (800 litre) evergreen native screening trees (minimum mature height of 10m) and under-storey planting provided, with two separate rows of screening hedges at the Communal Open Space Level (Level 3), will provide suitable amenity for future occupants and neighbours alike.

The Safety and Security Characteristics of the Proposal

- The driveway has been reduced in width in accordance with Councils Development engineer's recommendations.

Social issues

- The rear common landscaped area has been reduced in length by approximately 10m between Sections 9 and 10. However this loss of this open space area is offset by the fact that a portion of this area was largely taken up as a transient area with stairs.
- The retail arrangement along the street remains generally consistent with the S96A modifications. In this respect, there are no significant changes to the street frontage as part of this S96B application. Notwithstanding, condition 23 has been amended under S96A requiring the submission of colours and materials schedule prior to a CC being issued for the development.

5. Technical Officers Comments:

The application has been referred to the relevant technical officers, including where necessary external bodies and the following comments have been provided: -

5.1 Development Engineer Referral Comments:

A Section 96(2) application of the approved development has been received which seeks to modify the approved of the approved development by replacing the supermarket at ground floor level with 4 retail tenancies, total reduction of 180sqm in approved gross floor area, changes to basement parking configuration including modification to access ramp and circulation, 8 new 2 bedroom residential units at mezzanine level, changes to loading dock configuration, reduction in total number of car parking from 283 to 200, and increase the overall building height to RL53

Original consent: Demolition of existing structures and construction of a part six (6), part seven (7) storey mixed use development.

This report is based on the following plans and documentation:

- Statement of Environmental Effects stamped by
- Plan stamped by Council 8th August 2011;
- Landscape Plans by Site Image, job SS13-2668: Ground Level, dwg 102, issue E; and Level 9 & 10 Planters, dwg's 103-104, issue C, dated 14.11.14.

General Comments

There is no objection to the S96 application subject to the required amendments to conditions outlined in this report.

PARKING COMMENTS

The required parking provision has been determined by using the parking rates specified in Part B7 of Council's DCP 2013.

Residential Parking

The residential component contains 121 units comprising of 27 x studio, 18 x 1 bedroom, 55 x 2 bedroom & 21 x 3 bedroom.

$$\begin{aligned}\text{Parking Required} &= (27 \times 0.5) + (18 \times 1) + (55 \times 1.2) + (21 \times 1.5) + 121/4(\text{visitor}) \\ &= 13.5 + 18 + 66 + 31.5 + 30 (\text{visitor}) \\ &= 129 + 30 \text{ visitor spaces} \\ &= 159 \text{ spaces}\end{aligned}$$

Commercial Parking

With the proposed deletion of the supermarket only 26 spaces are now required for the commercial tenancies which is based on the parking rate of 1 space per 40m².

$$\text{Total Parking Required} = 159 + 26 = 185 \text{ spaces}$$

$$\text{Total Parking Provided} = 199 \text{ spaces (complies)}$$

The applicant proposes the basement levels be exclusively for the residents and will contain 153 spaces. Forty six spaces are provided on the ground parking level shared between the visitor spaces for the residents (20) and 26 for the commercial. There is therefore a shortfall of 11 visitor spaces for the residents however the applicant argues they can be shared with the commercial spaces.

Development Engineering generally does not favour this approach and prefers resident visitor parking to be separated from the commercial however in consideration of the total number of resident car spaces, which is compliant, and the absence of any other parking issues there is no objection in this instance.

Bicycle Parking

For the residential component the development is required to provide bicycle parking at the rate of 1 space per 2 units plus 1 space per 10 units for visitors

Bicycle Parking Required = $121 \times 0.5 + 121 \times 0.1$
(Residential) = 61 spaces + 12 visitor spaces

For the commercial component the development is required to provide bicycle parking at the rate of 1 space per 10 carspaces.

Bicycle Parking Required = $26/10$
(Commercial) = 2.6 = say 3 spaces

Twelve bicycle space shave been provide on the ground level which are shared between the residential and commercial visitors while the remainder of the residential component (61 spaces) is provided on the upper basement level. The bicycle provision is there satisfactory.

Motorbike Parking

Part B7 of Randwick Council's DCP requires motorbike parking to be provided at the rate of 5% of the total vehicle parking requirements

Parking required = $0.05 \times 199 = 10$ spaces

8 spaces have been provided for residents while 2 spaces have been provided for the commercial. The motorbike provision is therefore satisfactory.

It is considered the Section 96 parking provision is satisfactory and condition 44 (fixed) & 115 in the consent are no longer required and may be deleted

~~44. Plans submitted for the construction certificate shall demonstrate compliance with the following amendments/requirements for parking allocation;~~

~~a) A minimum of 72 spaces shall be allocated to the retail component (future supermarket)~~

~~b) Visitor parking for the residents must not be shared with the retail component.~~

~~c) A minimum of 1 space shall be allocated to each unit~~

~~d) Three or 4 bedroom units shall be given preference if two spaces are intended to be dedicated to a unit.~~

~~e) A minimum of two spaces in the residential parking level shall be dedicated for service and delivery parking~~

~~f) Motorbike parking is to be provided at 5% of the total parking provision.~~

~~g) Adequate provision is to be made for a minimum of 68 bicycle spaces (including 11 visitor spaces) on the residential parking levels.~~

~~h) Adequate provision is to be made for a minimum of 9 bicycle spaces on the main retail parking level.~~

Parking

~~115. The PCA shall be satisfied that the parking has been provided and allocated in accordance with the conditions of this consent prior to the issuing of an occupation certificate for the development.~~

Access Driveway

It was specified in the original consent that a driveway width of 7.5m comprising of two trafficable lanes of 3.0m with a 0.5m dividing median would be required. In

consideration of the removal of the supermarket & reduced number of spaces a reduced width of 6.0m is now acceptable to Development Engineering. Condition 42 dot point 2 may therefore be deleted as follows;

42. *The internal access driveway must be designed and constructed to match the alignment levels at the property boundary (as specified by Council) and the driveway must be designed and constructed in accordance with AS2890.1:2004 and the following amendments/requirements:*

- *A crest at minimum RL 28.08 AHD is to be provided on the driveway for flood protection of the basement.*
- ~~*The access driveway from Goodwood St to the basement shall be widened to 7.5m consisting of 2 x 3.5m wide trafficable lanes and a 0.5m central traffic island.*~~

Flooding

Floor levels and crest in driveway are satisfactory.

Waste Management & Loading bay

I spoke with Talebul Islam Council's Waste Management Coordinator today. No major issues with waste. There are some minor aspects which can be conditioned.

Planner's comments: Waste management conditions have been included in the original determination as well as the previous S96A determination. Having regarded these conditions, it is recommended condition 3e be amended to address the increase in apartments.

The loading bays are ok and will be able to accommodate a turning path for Council's garbage collection vehicle (length 8.0m). There is a minimum overhead clearance required of about 4.4m in this area due to the operating arms of Council's garbage collection vehicle. It's not easy to tell on the plans if this has been complied with as there does not appear to be section through the loading bay however based on the floor levels indicated, it appears to be satisfactory. An additional section through the loading bay would be helpful however.

Ground Water

Due to the change of the original construction method by Aurecon to a more conventional excavation & dewatering method, some changes to groundwater conditions will be required. There are no issues with this. Condition 28 may be deleted;

Basement Construction

~~28. To ensure protection of the neighbouring trees adjacent to the eastern boundary and adequately manage groundwater on the site, the excavation and construction of the basement carpark must be in accordance with the construction sequence plans by Aurecon drawing S0001-S005 Job no. 23849 and stamped by Council 11th February 2014 and the following additional requirements;~~

- ~~a) Construction certificate plans showing full details of the construction sequence are to be submitted to and approved by Council~~
- ~~b) There must be no variation to the construction sequence without the prior approval from Council. The applicant shall note that any request to vary the construction sequence and technique may require a formal amendment to the development consent.~~

~~e) A schedule detailing the inspection and certification regime for construction of the basement wall is to be submitted and approved by Council.~~

Alignment Level condition

It is noted the alignment level fee has not been added to consent condition 46 and is a Council error. It is recommended that opportunity shall also be taken with this S96 application to correct this error. Condition 46 shall therefore be amended as follows;

1. *The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$4250** calculated at \$50.00 (inclusive of GST) per metre **of Anzac Parade** site frontage. This amount is to be paid prior to a construction certificate being issued for the development.*

Ground Water

Due to the change of the original construction method by Aurecon to a more conventional excavation & dewatering method, some changes to groundwater conditions will be required.. Condition 28 may be deleted;

As the construction sequence by Aurecon has been deleted from the application bullet point two and a portion of bullet point 3 in condition 52 may be deleted as follows.

52. *As the site is affected by groundwater or fluctuating water table a report must be submitted to and approved by the Certifying Authority, with the Construction Certificate, detailing the proposed methods of excavation and management of groundwater. The report is to be prepared by a suitably qualified and experienced Geotechnical and/or Hydro-geological Engineer and shall :*
 - *Include details of compliance with Council's conditions of consent and any Water Licence from Department of Planning / Department of Water & Energy).*
 - ~~*Demonstrate consistency with the construction sequence plans by Aurecon drawing S0001-S005 Job no. 23849 and stamped by Council 11th February 2014.*~~
 - *Include details of any proposed connection and or disposal of any groundwater or construction site stormwater to Council's drainage system.*
~~*Note: Based on the construction sequencing plans, no significant dewatering will be required and none will be permitted without the prior approval of Council in writing.*~~

Include details of the zone of influence of any possible settlement.

- *Include details of any consultation and arrangements made with owners of any potentially affected nearby premises (i.e. in relation to access, monitoring and rectification of possible damage to other premises)*
- *Include details of groundwater quality and proposed disposal of any potentially contaminated groundwater in accordance with relevant requirements and approvals of the Department of Environment & Climate Change, Council and the Protection of the Environment Operations Act 1997, in an environmentally sensitive manner.*

- *The location of all pumping equipment in relation to the property boundaries.*
- *The proposed method of noise attenuation for all pumping equipment, so as not to be more than 5dB (A) greater than the A – weighted L90 background sound pressure level between the hours of 7am to 10pm within any residential premises and not to be audible at all between the hours of 10pm and 7am within any residential dwelling.*

A copy of the reports, certification and details of compliance with the conditions of consent must be provided to the Principal Certifying Authority and a copy must be forwarded to the Council if Council is not the PCA.

Condition 118 dot point 3 may also be deleted as follows

118. *The applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced professional engineer, confirming that;*

- *The walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s. Certification is to be provided to the certifying authority and Council if Council is not the certifying authority for each level of the basement.*
- *Any required sub-soil drainage systems have been provided in accordance with the conditions of this consent.*
- ~~*Inspection and certification has been undertaken and provided in accordance with the schedule approved by Council as required by the conditions of this consent.*~~

Neighbours Trees

The amendments proposed as part of this S96B application will impact on condition 32, 'Protection of neighbours trees', as follows:

- The setback to be provided between the eastern wall of the basement and the eastern site boundary will be increased from 1200mm at the southern end of the site out to 3000mm; and from 2700mm at the northern end of the site out to 4500mm;
- The eastern wall of the basement will no longer be constructed as per the approved, staged 'Aurecon shoring scheme', with the eastern wall now to be built in the same, more traditional method as the rest of the basement.

The assessing officer is advised that increasing the setback of the eastern wall from the eastern boundary will be of benefit to these neighbouring trees, as this will minimize both the potential for root damage, and will also reduce the amount of canopy pruning that is required to provide a clearance from the piling rig during construction; and as these amendments can be supported, **condition 32 needing to be amended (in red), and will now read as follows:**

Protection of neighbours trees

32. In order to ensure retention of those 10 trees located in the rear yards of the adjoining private properties to the east, comprising from south to north, a *Corymbia maculata* (Spotted Gum) in 25 Elsmere Street, then starting in the southwest corner of 9-19 Ellesmere Street, two *Eucalyptus microcorys* (Tallowoods), then a row of three *Eucalyptus botryoides* (Bangalays), another

large *Eucalyptus microcorys* (Tallowood), an even larger *Eucalyptus saligna* (Blue Gum), a *Eucalyptus microcorys* (Tallowood) then a smaller *Callistemon viminalis* (Weeping Bottlebrush) near the northwest corner of 9-19 Elsmere Street in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show the retention of these neighbouring trees, with the position and diameter of both their trunks and canopies to be clearly and accurately shown in relation to all levels of the proposed development.
- ~~b. The requirements of the 'Basement Construction' condition specified earlier in this report by the Development Engineer must be complied with in relation to preservation of these trees.~~
- c. Tree numbers must be assigned to each of these individual trees, and are to be included on all plans and correspondence.
- d. A consulting Arborist, who holds a minimum of AQF Level V in Arboriculture, and is also a registered member of a nationally recognized organization/association, must be appointed for the duration of works to inspect, monitor, provide recommendations and written reports/certification relating to protection of these trees and compliance with conditions of consent.
- e. A separate, practicing Arborist, who holds a minimum of AQF Level III in Arboriculture, and is also a registered member of a nationally recognized organization/association, must also be appointed for the duration of works to physically perform any canopy or root pruning works that is approved via the conditions or joint site inspections with Council.
- f. All relevant contact details for both must be provided to Council's Landscape Development Officer (9399-0613), with reports or tree works only to be performed by either of the appointed Arborists, with any changes to either personnel to require the notification of Council in writing.
- g. The consulting Arborist must submit to, and have approved by, Council's Landscape Development Officer, a list of critical stages where joint site inspections will be required, with the adopted schedule to be complied with during the course of works, and must include at minimum, the following hold points:
 - i) Prior to removal/demolition of existing concrete surfacing and structures along the eastern site boundary;
 - ii) Prior to commencement of any works associated with construction of the eastern wall of the basement;
 - iii) Prior to any root or canopy pruning;
 - iv) Relevant stages during construction of the eastern wall of the basement, as defined by the Basement Construction condition earlier in this report.
- h. As is shown on the Level 1 & 2 plan by MKD Architects, dwg 101, revision E, dated 14.12.14, measurements must be clearly shown on all plans confirming that a minimum distance of at least 3000mm will be maintained from the eastern wall of the basement to the eastern site

boundary at the southern end of the site, and will gradually taper out to a distance of at least 4500mm at the northern end of the site.

- i. The PCA must ensure that the basement is constructed in accordance with these prescribed setbacks.
- j. The consulting Arborist must be present on-site during the initial demolition of surfacing and structures along the eastern site boundary, within their TPZ's, with all site staff to comply with any instructions issued relating to root and crown protection.
- k. Where roots with a diameter of **75mm** or more are encountered, which are in direct conflict with the approved works, the Arborist must note the date, location (tree number) and size.
- l. Council's Landscape Development Officer (9399-0613) must be contacted, prior to proceeding with any further works, and giving at least 2 working days notice, to inspect the affected area, with the applicant to comply with any instructions issued.
- m. Where permission is granted for their pruning, they can be cut cleanly by hand, only by the practicing site Arborist, and using only hand held tools, with the affected area to be backfilled with clean site soil, or; their cut ends wrapped/covered in hessian which is to be kept moist during the course of works.
- n. All initial excavations for footings for the low wall shown along the eastern site boundary must be performed under the direct supervision of either site Arborist, with the same procedure described for the basement above in relation to roots to also apply to this wall.
- o. Any roots encountered with a diameter of less than **75mm** that are in direct conflict with the approved works and need to be pruned may be cut cleanly by the practicing site Arborist.
- p. Following demolition of existing structures/surfacing along the eastern site boundary, 1.8m high chainwire fencing must be erected adjacent their trunks (extent to be as per their individual TPZ's, to be confirmed by the consulting Arborist), to which, safety tape/para-webbing/shade cloth or similar shall be permanently attached.
- q. Where trunk or branch protection is required, this must comprise geo-textile, underfelt or layers of Hessian, which shall be wrapped around the affected areas, to which, lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around the circumference of their trunks or branches, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- r. These measures must be installed prior to the commencement of construction works and shall remain in place until all works are completed (or until they need to be pruned), to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION, DO NOT REMOVE/ENTER".
- s. In order to prevent soil/sediment being washed over their root systems, erosion control measures shall be provided at ground level along the eastern boundary, for the extent of their TPZ's.

- t. Where ground protection is required along the eastern boundary, so as to prevent soil compaction and root damage, it shall comprise strapped together rumble boards, plywood or similar, with mulch to be provided beneath, and must remain in place for the duration of works, until such time as the approved landscaping is being installed. Refer point 4.5.3 & Figure 4 of AS 4970 – 2009: Protection of trees on development sites.
- ~~u. As referred to in the previous Arboricultural Impact Assessment by Urban Forestry dated December 2013, in order to minimise the extent of clearance pruning required, a 'low height piling rig' must be used for construction of the eastern wall of the basement, with confirmation of compliance to be provided.~~
- v. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
- w. The PCA must ensure compliance with all of these requirements on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

Landscaping

In order to soften the appearance of the eastern boundary wall on those adjoining private properties in Ellsemere Street, the current approval provides for stepped/terraced planting for its full height, along with ground level planting in a soil depth of 1m over the previously approved Aurecon basement scheme.

The revised landscape treatment now shows undisturbed deep soil at ground level, between the eastern wall and eastern site boundary, to which, a row of super advanced (800 litre) evergreen native screening trees (minimum mature height of 10m) and under-storey planting will be provided, with two separate rows of screening hedges to be provided at the Communal Open Space Level (Level 3), all of which will provide suitable amenity for future occupants and neighbours alike.

These amendments are satisfactory, **with the assessing officer advised that the following amendments are required to condition 60, which will now read as follows:**

Landscaping

- 60. The following additional details must be added to the **Landscape Plans by Site Image, job SS13-2668: Ground Level, dwg 102, issue E; and Level 9 & 10 Planters, dwg's 103-104, issue C, dated 14.11.14.**, which must be submitted to, and be approved by, the Certifying Authority/PCA, **prior to the issue of a construction certificate:**
 - ~~a. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting within the site, with all species to be shown at their mature size, including for those planters on Levels 6, 8, 9 & 10.~~
 - ~~b. A planting schedule listing all plants by botanic & common names, quantities, spacings/densities, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.~~

- ~~e. The 'ground level tree and large shrub boundary planting' must be a minimum pot/bag size of 45 litre at the time of planting; must extend across the full length of the eastern site boundary; must be an evergreen species which will attain a minimum height of 8 metres at maturity, and must be installed so as to provide a dense, continuous screen for those properties to the east.~~
- ~~d. The terraced planters on Level 5 must include ground covers that will spill over the eastern edge as a softening element, with suitable accent species to be provided along both of the planters.~~
- ~~e. Details of how safe access can be provided to perform routine maintenance for the terraced planters on the eastern edge of Level 5 must be provided.~~
- ~~f. Equally spaced accent/feature species must be provided for the common area along the eastern edge of the proposed lap pool on Level 5, selecting a palm (as shown on the Landscape Plan & DA.103) that will achieve a minimum height at maturity of 6 metres.~~
- g. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in order to describe the proposed works.
- h. Sectional elevations through the site showing proposed groundlines, building elevations, and mature height of the proposed screen planting.
- i. All planter boxes and garden beds constructed on slab/podium must have a minimum soil depth of 600mm with details confirming compliance to be provided.
- j. Species selection for all raised planters must be restricted to hardy, wind tolerant species which are not reliant on high quantities of moisture and fertilizer for survival.
- ~~k. To ensure satisfactory maintenance of landscaping within those planters that are not open to natural rainfall, an automatic drip irrigation system must be installed, with details to be provided showing that the system will be connected to the sites rainwater tanks, with back-up connection to the mains supply, in accordance with all current Sydney Water requirements.~~
- l. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping.
- m. Any substation required shall be screened from view. The proposed location, elevation and screening method shall be shown on all detailed landscape drawings and specifications, and must also comply with any Ausgrid requirements for access or similar.

Pruning of neighbours trees

Despite relying on the use of a 'low height piling rig' as part of the previously approved Aurecon shoring scheme, it has now been confirmed that such a machine does not exist (all have a mast height of at least 18m); but as the eastern basement wall has now been setback almost twice as far as what was

originally approved, this alone will minimise the amount of pruning that is required, with the use of a low height piling rig now no longer required.

The assessing officer is advised that condition 103 should be deleted:

~~103. So as to minimize the extent of pruning required, a low height piling rig must be used for construction of the eastern wall of the proposed basement, as was referred to in the Arboricultural Impact Assessment by Urban Forestry dated December 2013.~~

Landscape Certification

Condition 120 needs to be amended to now reference the amended Landscape Plans that have been submitted with this current application, **and will now read as follows:**

120. Prior to issuing any type of Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry (must be a registered member of AILDM or AILA) must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Ground Level Landscape Plan by Site Image, dwg 102, issue C, dated 31/01/14, and relevant conditions of consent.

5.2 External Referrals:

The application was assessed as integrated development, due to the excavation and basement levels protruding into the water table. The NSW Office of Water has commented on the proposed modifications and advised that:

Roads and Maritime Service

The Roads and Maritime Services raised no objection to the modifications sought as part of this S96B application.

NSW Office of Water

The NSW Office of Water has previously provided general terms of approval for the original development application. It is noted that the construction of now a two level basement reduces the depth of excavation within the water table and therefore it is considered that general terms of approval in relation to an authorisation for the take of groundwater remain in place."

6. Section 96 Assessment

Section 96(2) of the Environmental Planning and Assessment Act 1979, states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the 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), and*
- (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 requirement 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, and

(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, and*

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

The proposed modifications are generally contained within the approved building envelope. The removal of the supermarket and replacement with a ground level shared visitor car park and eight additional mezzanine apartments will result in loss of floor area. The floor area occupied by the additional apartments will be contained within the building envelope and the ground level parking at the rear will be accommodated within a reduced building envelope. These modifications do not alter the essence of the approved development for shop top housing. Therefore, the proposed modifications are considered to result in a development that remains substantially the same as the development for which consent was originally granted

7. Assessment of Key issues:

Height

The proposed S96B modifications seek, as a matter of clarity, to incorporate the height approved under the previous S96A and comply with condition 3a imposed in the S96A determination which required that the maximum height to the building from sections 1 to 9 (north to south) be limited to a maximum height of RL52.82. Having regard to the relevant matters required to be considered under the RLEP 2012 and the RDCP 2013 it is considered that the 520mm above the 25m height maximum, as conditioned in the S96A determination, and shown in this application is reasonable in the context of the site and neighbouring developments.

Roof elements

The S96B application also shows plant and equipment located on the roof over apartment 914 (building element between Section 9 and 10) which was required to be deleted as part of the determination made under condition 3b of S96A. This application shows plant and equipment over apartment 914 (in plan not elevation). The applicant submitted an amended roof plan deleting the plant over apartment 914.

This S96B application also shows plant screening and an amended roof form which is also seeking to comply with condition 3a. The roof form is considered generally acceptable having regard to the streetscape however the proposed plant screening presents disjointedly when compared with the architectural form of the overall building and therefore does not integrate with the roof form and will detract from the appearance of the building as viewed from the east.

Therefore, there is no justification for deviating from the S96A determination and a recommendation is made for the retention of condition 3a requiring details of an amended roof form including plant screening to be submitted to the Manager of

Development Assessment prior to a Construction Certificate being issued for the amended development.

Increase in number of apartments

It is proposed to increase the number of apartments within the building from 113 to 121. The additional floor area is offset by the loss of the supermarket. This has been achieved by removing the supermarket and incorporating upper level 3 apartments over portions of the enlarged retail tenancies and proposed ground level parking area (see Figure 1 below). The additional apartments result in additional floor area however there will be an effective reduction in the buildings bulk and scale when viewed from the neighbouring properties at the rear.

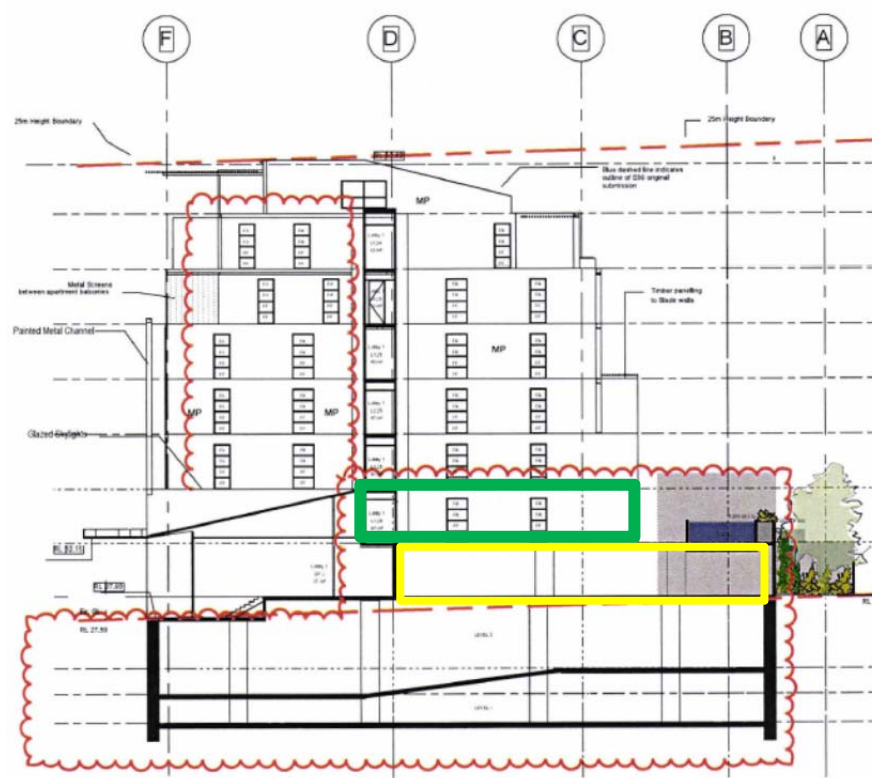


Figure 1 shows the S96B building envelope, the location of the additional apartments (outlined in green) , ground level parking (bounded in yellow) and for comparison purposes the originally approved building envelope (shaded grey)

As discussed in the previous S96A application, *"the increase in the number of apartments was achieved by reducing the number of cross through apartments resulting in the residential floor plates of the building being dominated by a double loaded arrangement. The reliance on the "slots" to allow for a double loaded arrangement of the floor plate was not considered by Council in the original assessment of the application as being adequate to allow suitable levels of amenity both in terms of light and ventilation to the apartments. Notwithstanding, the JRPP have accepted this approach as an appropriate design solution.*

The S96A resolved this amenity issue by requiring under condition 3c additional window openings within these slots. However this solution cannot be applied to four of the proposed new apartments as the slots they are located adjacent to also form main access corridors to the communal open space areas and the provision of more openings within these corridors will result in additional privacy impacts on the occupants of these units.

The proposed configuration and access corridors do not markedly change from the original determination by the JRPP or that of the previous S96A approval. The amenity of these units is considered reasonable in so far as highlight window openings are still being provided along these slots and these apartments have larger open deck areas with more direct access to the communal open space/pool area. Further, management of access along these corridors will likely be limited during appropriate hours.

Transport, Traffic, Parking and Access

The proposed development is subject to certain RLEP aims and Part B7 objectives and controls under of the DCP.

The proposed S96B modification provides 46 visitor parking spaces for residents and retail tenancies falling short of the total visitor parking demand for 57 spaces under Part B7 Section 3 Parking requirement controls. Council's Development engineer has raised no major concerns with the deficiency in car parking (See Development engineering comments above).

Notwithstanding, in accordance with Section 3.3 Exceptions to the Parking Rates and as required by Part B7 of the DCP, the applicant submitted with their S96B application a Traffic Report, providing the following justifications for the shortfall:

- The traffic generation between the residential and commercial (retail) visitor parking will be complimentary whereby the demand for visitor parking spaces between the retail and residential components will likely occur during and after business hours respectively.

It is also considered that the following also provide additional weight to the exception being sought:

- There is an extensive public transport bus service in the locality accessible within close walking distance along Anzac Parade and the site will benefit from the planned light rail service whose corridor runs along Anzac Parade in front of the site
- The site is conveniently located with respect to the arterial and local road systems serving the region in all directions and is therefore able to effectively distribute traffic onto the wider road network, minimising traffic impacts.
- The development readily satisfies the requirements for bicycle and motorcycle spaces.
- The previous uses had substantial shortfalls in parking across the whole of the site
- The amended parking and access layout resolves the previous concerns with the conflict between the residential (non-visitor) and commercial components.

The abovementioned justifications in total are considered to reasonably address the numerical deficiency in visitor parking of 11 spaces of this development.

Loss of the supermarket

The proposed S96B seeks to remove the supermarket from the development replacing it with the apartments and ground level parking. Its proposed replacement with four large retail tenancies is considered an acceptable outcome for the following reasons:

- In terms of built form and envelope, this part of the S96B modification reduces the overall building envelope at the rear (as previously identified in Figure 1) and
- The provision of four retail tenancies along Anzac Parade frontage will maximise street level activity by breaking up the large glazed shopfronts into sections associated with separate uses ensuring greater levels of visual interest thus contributing positively to the Kensington Town Centre.
- Reduction in noise and amenity impacts with servicing a large supermarket.

Excavation method and Groundwater

Council's Development Engineers and Landscape Officer raise no objection to the change in method of excavation and the deletion of one basement level. The reduced depth of excavation will lessen the potential impacts associated with the excavation of the site having regard to dewatering, structural stability of neighbouring properties and buildings located upon them, as well as reducing the risk to the health of nearby significant trees located at the rear of properties that back onto the subject site.

Council's Landscape officer has provided the following comments relating to the increased rear setback, *"increasing the setback of the eastern wall from the eastern boundary will be of benefit to these neighbouring trees, as this will minimize both the potential for root damage, and will also reduce the amount of canopy pruning that is required to provide a clearance from the piling rig during construction; and as these amendments can be supported"*.

8. Section 79C Assessment:

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, as amended.

| Section 79C 'Matters for Consideration' | Comments |
|--|--|
| Section 79C(1)(a)(i) – Provisions of any environmental planning instrument | The relevant provisions of RLEP 2012 would be satisfied subject to the imposition of appropriate condition as recommended. |
| Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument | An amendment to SEPP 65 is currently on exhibition. Whilst the amendments are neither imminent nor certain, the proposal subject to the imposition of appropriate conditions as recommended, would be consistent with the principles of SEPP 65. |
| Section 79C(1)(a)(iii) – Provisions of any development control plan | The relevant provisions of RDCP 2013 would be satisfied subject to the imposition of appropriate conditions as recommended |
| Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement | NA |
| Section 79C(1)(a)(iv) – Provisions of the regulations | The relevant provisions of the Environmental Planning and Assessment Regulation 2000 have been satisfied. |

| Section 79C 'Matters for Consideration' | Comments |
|---|--|
| Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | The environmental, social and economic impacts of the proposed development have been addressed within the body of this report |
| Section 79C(1)(c) – The suitability of the site for the development | The site is located within an established Business centre with convenient access to variety of amenities and public transport services. The site has sufficient area to accommodate the proposed land use and physical structures. |
| Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation | Submissions that were received in response to the public notification and advertising have been addressed in the body of this report. |
| Section 79C(1)(e) – The public interest | The proposal would not result in any unacceptable environmental, social or economic impacts on the locality, subject to the recommended conditions. The development is therefore considered to be in the public interest. |

9. Relationship to City Plan

The relationship with the City Plan is as follows:

- Outcome: A vibrant and diverse community, leadership in sustainability, excellence in urban design and development, integrated transport and land use.
- Direction: Improved design and sustainability across all development, integrating transport and pedestrian links between town centres and key locations.

10. Conclusion

The proposed modifications relating to the height are merely seeking to comply with the determination made under Condition 3a of the S96A application. The proposed roof form is generally considered appropriate from the Anzac parade frontage; however the plant screening requires some further efforts which would integrate it with the roof form of the development.

The loss of the supermarket and replacement with 8 additional apartments (over upper level 3) with access to communal area at a lower level over the new ground level car parking will result in less bulk at the rear of the development and would generally reduce the amenity impacts on the neighbouring properties. give rise to unacceptable amenity impacts. The shortfall in visitor parking and shared use between resident and retail components is considered a reasonable outcome in so far their peak periods would vary and it resolves proper separation between the resident parking and the retail component. The proposed change to the method of excavation, loss of the lower basement level and increase rear setback of the basement will mean less intrusive excavation and potential for damage to neighbouring properties and are recommended for approval.

Having regard to the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979, as amended, the proposed modifications are considered to result in a development that remains substantially the same as the development for which the consent was originally granted.

Approval of the modification (subject to conditions) will not result in any significant environmental impacts and will not detract from the integrity of the development nor its relationship with adjoining development.

Recommendation

That the Joint Regional Planning Panel, as the consent authority, grants consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No. DA/320/2013 by modification of the approved development by replacing the supermarket at ground floor level with 4 larger retail tenancies, ground level parking, reduction of 180sqm in approved gross floor area, changes to basement parking configuration including modification to access ramp and circulation, 8 new 2 bedroom residential units at mezzanine level (Level 3) mostly behind retail tenancies, changes to loading dock configuration, reduction in total number of car parking from 283 to 200, and increase the overall building height to RL53.00 at 84-108 Anzac Parade, Kensington, in the following manner:

A. Amend Condition No. 1 to read:

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

| Plan | Rev | Drawn by | Dated | Date received |
|--------|-----|------------------------------------|---------------|---------------|
| DA101 | E | Bureau of Urban Architecture | 14 March 2014 | 14 March 2014 |
| DA102 | | | | |
| DA102A | | | | |
| DA103 | | | | |
| DA104 | | | | |
| DA105 | | | | |
| DA106 | | | | |
| DA107 | C | | | |
| DA108 | E | | | |
| DA109 | | | | |
| DA113 | | | | |
| DA114 | | | | |
| DA115 | | | | |

As amended by the Section 96'A' plans as detailed below only in so far as they relate to the modifications highlighted on the Section 96A plans.

| Plan | Rev | Drawn by | Dated | Date received |
|-------|-----|-------------------|--------------------|-----------------|
| DA101 | F | MKD Architects | 28 October 2014 | 30 October 2014 |
| DA102 | | | | |

| | | | | |
|-----------------------------------|---|-------------------|--------------------|---------------------|
| DA103 | | | | |
| DA104 | | | | |
| DA105 | | | | |
| DA106 | | | | |
| DA107 | | | | |
| DA108 | | | | |
| DA109 | | | | |
| DA110 | | | | |
| DA300 | | | | |
| DA301 | | | | |
| Sk01- Residential breezeway | A | MKD Architects | 7 November 2014 | 12 November 2014 |

As amended by the Section 96'A' plans as detailed below only in so far as they relate to the modifications highlighted on the Section 96A plans.

| Plan | Rev | Drawn by | Dated | Date received |
|------|-----|-------------------|------------|------------------|
| 101 | E | MKD Architects | 14/12/2014 | 18 December 2014 |
| 102 | E | | 14/12/2014 | 18 December 2014 |
| 103 | E | | 14/12/2014 | 18 December 2014 |
| 104 | E | | 14/12/2014 | 18 December 2014 |
| 105 | F | | 23/03/2015 | 23 March 2015 |
| 106 | E | | 14/12/2014 | 18 December 2014 |
| 107 | E | | 16/12/2014 | 18 December 2014 |
| 109 | E | | 14/12/2014 | 18 December 2014 |
| 110 | E | | 14/12/2014 | 18 December 2014 |
| 300 | E | | 14/12/2014 | 18 December 2014 |
| 301 | E | | 14/12/2014 | 18 December 2014 |

except as may be amended by the following conditions and as may be shown in red on the attached plans:

B. Retain the following conditions:

Amendment of Plans & Documentation

- 3(a) *The proposed roof over the northern section of the building (between gridlines 1 & 9) shall be lowered to a maximum RL of 52.82 and shall be redesigned to better integrate with the plant areas to the eastern side of the roof. Details must be submitted to Council's Manager Development Assessment for approval prior to a construction certificate being issued for the proposed development.*
- (b) *The plant areas above apartment 914 and in the mezzanine level shall be deleted from the plans. Any additional plant that is relocated to the roof level must be integrated with the roof form pursuant to condition 3(a) and shall be submitted to Council's Manager Development Assessment for approval prior to a construction certificate being issued for the proposed development.*

- (c) *The amount of operable glazing to the “slots” shall be increased to be consistent with the plans dated 14 March 2014. Details must be submitted to Council’s Manager Development Assessment for approval prior to a construction certificate being issued for the proposed development*

Amend Condition 3e:

- 3e. The residential garbage rooms shall be sized to contain a total of 22 x 660 Litre (or 60 x 240 litre) bins for garbage and 60 x 240 litre bins for recycling with adequate provisions for access to all bins. Note: Condition 56 requires an amended waste management plan to be submitted to an approved by Council’s Director of City Planning.

Add the following conditions:

- 3h. Details of the treatment of the eastern boundary wall/fence shall be submitted to Council’s Manager Development Assessment for approval. The eastern elevation of the eastern boundary wall (fence) shall be finished to a high standard of workmanship.
- 3i. The operable glazing to the “slots” alongside Level 3 units shall be highlight windows to provide sufficient privacy to these units. Details must be submitted to Council’s Manager Development Assessment for approval prior to a construction certificate being issued for the proposed development.
- 3j. The eastern elevation of the ground level parking shall incorporate louvre openings as shown on the sketch plan received by Council on 18 March 2015. An amended Acoustic report is required to be submitted to Council identifying the potential noise sources generated by the ground level parking area inclusive of the louvered eastern elevation. The report shall determine if noise emission goals for this part of the development (inclusive of the whole of the development) will meet Council acoustic requirements so that nearby developments are not adversely affected.
- 3f. Mechanical plant and equipment associated with the basement parking must not be located between the ground level eastern elevation and the eastern rear boundary.

Delete the following conditions:

- **Condition 28.**
- **Condition 44.**
- **Condition 103.**
- **Condition 115.**

Amend Condition 23:

External Colours, Materials & Finishes

23. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

A consolidated set of details of the proposed colours, materials and textures, including that of screening, colour backed glass to the ground floor, 1:50 sections of the Anzac Parade frontage, roof and plant, rear landscaped areas (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning & Assessment Act 1979 **prior to a construction certificate being issued** for the relevant building works.

Amend Condition 32:

Protection of neighbour's trees

32. In order to ensure retention of those 10 trees located in the rear yards of the adjoining private properties to the east, comprising from south to north, a *Corymbia maculata* (Spotted Gum) in 25 Elsmere Street, then starting in the southwest corner of 9-19 Ellesmere Street, two *Eucalyptus microcorys* (Tallowoods), then a row of three *Eucalyptus botryoides* (Bangalays), another large *Eucalyptus microcorys* (Tallowood), an even larger *Eucalyptus saligna* (Blue Gum), a *Eucalyptus microcorys* (Tallowood) then a smaller *Callistemon viminalis* (Weeping Bottlebrush) near the northwest corner of 9-19 Elsmere Street in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show the retention of these neighbouring trees, with the position and diameter of both their trunks and canopies to be clearly and accurately shown in relation to all levels of the proposed development.
 - b. Tree numbers must be assigned to each of these individual trees, and are to be included on all plans and correspondence.
 - c. A consulting Arborist, who holds a minimum of AQF Level V in Arboriculture, and is also a registered member of a nationally recognized organization/association, must be appointed for the duration of works to inspect, monitor, provide recommendations and written reports/certification relating to protection of these trees and compliance with conditions of consent.
 - d. A separate, practicing Arborist, who holds a minimum of AQF Level III in Arboriculture, and is also a registered member of a nationally recognized organization/association, must also be appointed for the duration of works to physically perform any canopy or root pruning works that is approved via the conditions or joint site inspections with Council.
 - e. All relevant contact details for both must be provided to Council's Landscape Development Officer (9399-0613), with reports or tree works only to be performed by either of the appointed Arborists, with any changes to either personnel to require the notification of Council in writing.

- f. The consulting Arborist must submit to, and have approved by, Council's Landscape Development Officer, a list of critical stages where joint site inspections will be required, with the adopted schedule to be complied with during the course of works, and must include at minimum, the following hold points:
 - i. Prior to removal/demolition of existing concrete surfacing and structures along the eastern site boundary;
 - ii. Prior to commencement of any works associated with construction of the eastern wall of the basement;
 - iii. Prior to any root or canopy pruning;
 - iv. Relevant stages during construction of the eastern wall of the basement, as defined by the Basement Construction condition earlier in this report.
- g. As is shown on the Level 1 & 2 plan by MKD Architects, dwg 101, revision E, dated 14.12.14, measurements must be clearly shown on all plans confirming that a minimum distance of at least 3000mm will be maintained from the eastern wall of the basement to the eastern site boundary at the southern end of the site, and will gradually taper out to a distance of at least 4500mm at the northern end of the site.
- h. The PCA must ensure that the basement is constructed in accordance with these prescribed setbacks.
- i. The consulting Arborist must be present on-site during the initial demolition of surfacing and structures along the eastern site boundary, within their TPZ's, with all site staff to comply with any instructions issued relating to root and crown protection.
- j. Where roots with a diameter of **75mm** or more are encountered, which are in direct conflict with the approved works, the Arborist must note the date, location (tree number) and size.
- k. Council's Landscape Development Officer (9399-0613) must be contacted, prior to proceeding with any further works, and giving at least 2 working days notice, to inspect the affected area, with the applicant to comply with any instructions issued.
- l. Where permission is granted for their pruning, they can be cut cleanly by hand, only by the practicing site Arborist, and using only hand held tools, with the affected area to be backfilled with clean site soil, or; their cut ends wrapped/covered in hessian which is to be kept moist during the course of works.
- m. All initial excavations for footings for the low wall shown along the eastern site boundary must be performed under the direct supervision of either site Arborist, with the same procedure described for the basement above in relation to roots to also apply to this wall.
- n. Any roots encountered with a diameter of less than **75mm** that are in

direct conflict with the approved works and need to be pruned may be cut cleanly by the practicing site Arborist.

- o. Following demolition of existing structures/surfacing along the eastern site boundary, 1.8m high chainwire fencing must be erected adjacent their trunks (extent to be as per their individual TPZ's, to be confirmed by the consulting Arborist), to which, safety tape/para-webbing/shade cloth or similar shall be permanently attached.
- p. Where trunk or branch protection is required, this must comprise geotextile, underfelt or layers of Hessian, which shall be wrapped around the affected areas, to which, lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around the circumference of their trunks or branches, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- q. These measures must be installed prior to the commencement of construction works and shall remain in place until all works are completed (or until they need to be pruned), to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION, DO NOT REMOVE/ENTER".
- r. In order to prevent soil/sediment being washed over their root systems, erosion control measures shall be provided at ground level along the eastern boundary, for the extent of their TPZ's.
- s. Where ground protection is required along the eastern boundary, so as to prevent soil compaction and root damage, it shall comprise strapped together rumble boards, plywood or similar, with mulch to be provided beneath, and must remain in place for the duration of works, until such time as the approved landscaping is being installed. Refer point 4.5.3 & Figure 4 of AS 4970 – 2009: Protection of trees on development sites.
- t. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
- u. The PCA must ensure compliance with all of these requirements on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

Amend Condition 42:

- 43. The internal access driveway must be designed and constructed to match the alignment levels at the property boundary (as specified by Council) and the driveway must be designed and constructed in accordance with AS2890.1:2004 and the following amendments/requirements:
 - A crest at minimum RL 28.08 AHD is to be provided on the driveway for flood protection of the basement.

Amend Condition 46:

46. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$4250 calculated at \$50.00 (inclusive of GST) per metre of Anzac Parade site frontage. This amount is to be paid prior to a construction certificate being issued for the development

Amend condition 52:

53. As the site is affected by groundwater or fluctuating water table a report must be submitted to and approved by the Certifying Authority, with the Construction Certificate, detailing the proposed methods of excavation and management of groundwater. The report is to be prepared by a suitably qualified and experienced Geotechnical and/or Hydro-geological Engineer and shall :

- Include details of compliance with Council's conditions of consent and any Water Licence from Department of Planning / Department of Water & Energy).
- Include details of any proposed connection and or disposal of any groundwater or construction site stormwater to Council's drainage system.
- Include details of the zone of influence of any possible settlement.
- Include details of any consultation and arrangements made with owners of any potentially affected nearby premises (i.e. in relation to access, monitoring and rectification of possible damage to other premises)
- Include details of groundwater quality and proposed disposal of any potentially contaminated groundwater in accordance with relevant requirements and approvals of the Department of Environment & Climate Change, Council and the Protection of the Environment Operations Act 1997, in an environmentally sensitive manner.
- The location of all pumping equipment in relation to the property boundaries.
- The proposed method of noise attenuation for all pumping equipment, so as not to be more than 5dB (A) greater than the A – weighted L90 background sound pressure level between the hours of 7am to 10pm within any residential premises and not to be audible at all between the hours of 10pm and 7am within any residential dwelling.

A copy of the reports, certification and details of compliance with the conditions of consent must be provided to the Principal Certifying Authority and a copy must be forwarded to the Council if Council is not the PCA.

Amend Condition 60:

Landscaping

60. The following additional details must be added to the Landscape Plans by Site Image, job SS13-2668: Ground Level, dwg 102, issue E; and Level 9 & 10 Planters, dwg's 103-104, issue C, dated 14.11.14., which must be submitted to, and be approved by, the Certifying Authority/PCA, **prior to the issue of a construction certificate:**
- a. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in order to describe the proposed works.
 - b. Sectional elevations through the site showing proposed groundlines, building elevations, and mature height of the proposed screen planting.
 - c. All planter boxes and garden beds constructed on slab/podium must have a minimum soil depth of 600mm with details confirming compliance to be provided.
 - d. Species selection for all raised planters must be restricted to hardy, wind tolerant species which are not reliant on high quantities of moisture and fertilizer for survival.
 - e. To ensure satisfactory maintenance of landscaping within those planters that are not open to natural rainfall, an automatic drip irrigation system must be installed, with details to be provided showing that the system will be connected to the sites rainwater tanks, with back-up connection to the mains supply, in accordance with all current Sydney Water requirements.
 - f. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping.
 - g. Any substation required shall be screened from view. The proposed location, elevation and screening method shall be shown on all detailed landscape drawings and specifications, and must also comply with any Ausgrid requirements for access or similar.

Amend Condition 118:

118. The applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced professional engineer, confirming that;
- The walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s. Certification is to be provided to the certifying authority and Council if Council is not the certifying authority for each level of the basement.
 - Any required sub-soil drainage systems have been provided in accordance with the conditions of this consent.

Amend Condition 120:

120. Prior to issuing any type of Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry (must be a registered member of AILDM or AILA) must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Ground Level Landscape Plan by Site Image, dwg 102, issue C, dated 31/01/14, and relevant conditions of consent.