

AUBURN COUNCIL

*
To the Ordinary Meeting of Council

Director's Report
Planning and Environment
Department

1 6-14 Park Road, AUBURN NSW 2144

DA-150/2014/C GF:**

SUMMARY

Applicant	Zhinar Architect
Owner	Apartments On Park Pty Limited
Application No.	DA-150/2014/C
Description of Land	Lot 614 DP 1187933, Lot 9 Sec 4 DP 982836, Lot 1 DP 1041051, Lot 10 Sec 4 DP 982836, Lot 11 Sec 4 DP 982836, Lot 12 Sec 4 DP 982836, Lot 13 Sec 4 DP 982836, 6-14 Park Road, AUBURN NSW 2144
Proposed Development	Section 96 (2) modification application to convert the previously approved undercover communal space of kid's playground area and gym to commercial space (a condition of consent requires that some of this area is retained for resident use), and combine previously approved 3 commercial units to 1 unit.
Site Area	4714.04m ²
Zoning	Zone B4 - Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Issues	Floor Space Ratio, Communal Open Space, Residential Amenity

Recommendation

Pursuant to the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979 (as amended) that approval be granted to modify Development Consent No. DA-154/2014 on land at 6 – 14 Park Road, Auburn subject to the condition amendments in the attached conditions schedule.

History

On 23 May 2013, approval was granted to DA16/2013 for “*demolition of existing structures and construction of 8 storey mixed-use strata building including 98 residential units over ground level commercial premises with 3 levels of basement car parking*”. This approval has since been physically commenced by demolition and excavation works.

On 24 April 2014 approval was granted to a Section 96(2) application DA16/2013/A to “*modify basement layout (B1-B3) and reduce floor height of ground floor*”.

On 19 September 2014 approval was granted to development application DA-150/2014 for “*alterations and additions to approved 8 storey mixed use development including construction of 4 additional residential levels*”.

On 21 May 2015 approval was granted to a Section 96(2) application DA-150/2014/A for “*alterations and additions to the approved residential flat building including a reduction in the street setback of levels 8 to 11, subdividing a top floor apartment into two separate apartments, alteration to the balconies of apartments facing north east across Levels 5 to 11, addition of 3 car parking spaces to the development and alterations to building materials and finishes.*”

On 19 August 2015 approval was granted to a Section 96(1A) application DA-150/2014/B for “*Conversion of the 5 bedroom penthouse apartment, Unit 9 on Level 11 to 4 X 2 bedroom units to create Units 9,10, 11 and 12 (total units increase from 181 to 184); Reduction in trafficable area of Level 11 terrace area located east of former Unit 9; Modify approved metal roof to concrete slab roof; and changes to materials and finishes as referenced on the submitted revised schedule.*”

The recent approvals to the site allowed for an area that was under the building to be partly enclosed and used for residential purposes. Within this area was a kids’ playground that had an area of 235m² and a gym with an area of 225m². Both of these areas were to be used by residents. These areas were only partly enclosed and did not count towards floor space.

Site and Locality Description

The subject site is identified as Lot 9 DP 982836, Lot 10 DP 982836, Lot 11 DP 982833, Lot 12 DP 982836 and Lot 13 DP 982836 and is known as 6-14 Park Road, AUBURN. The site is located on the eastern side of Park Road, between intersections with Queen Street to the north and Mary Street to the south. The site is generally rectangular with a stepped northeastern corner and a site area of approximately 2,965.73sqm. The site has a street frontage of approximately 63.07m to Park Road and a stepped northern boundary with a total length of approximately 50.27m, a stepped eastern boundary of approximately 60.92m and a southern boundary of approximately 50.3m.

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

The site is located within the high density residential and commercial area of Auburn, approximately 100m from the Auburn commercial centre. The site comprised of 5 separate residential properties identified as 6, 8, 10, 12 and 14 Park Road, Auburn. Each property contained an older style detached single storey dwelling which is positioned towards the street frontage of each property. The eastern (rear) portion of each lot contains large open space areas with a scattering of vegetation. Access to the site is via Park Road. The site is currently under construction with the approved mixed use building and is nearing completion.

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

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

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

Description of Proposed Development

Council has received on the 13 November 2015 an application under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:

- Conversion of the previously approved undercover communal residential area (kids' playground and gym) to commercial use (note a condition of consent requires that most of this area is retained for communal residential uses).
- The previously approved 3 commercial spaces are proposed to be combined to create 1 large commercial space.

Referrals

Internal Referrals

The development application was referred to relevant internal Council departments for comment. No objections have been raised to the proposed development subject to the imposition of conditions on any development consent.

External Referrals

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

Assessment

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

(a) it is satisfied that the proposed modification is of minor environmental impact, and

The proposed modifications are considered minor in nature. They do not seek to alter the nature of the original development consent approval. They will not give rise to any adverse environmental impacts.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent

was originally granted and before that consent as originally granted was modified (if at all), and

The development consent granted approval for construction of a new 12 storey mixed use building. The proposed modifications do not seek to alter the nature of the approval.

The amendments within the development are considered minor alterations and additions, and the external envelope of the building is not affected.

The proposed modifications are not to such an extent that they could be construed as being a substantially different development to that which for consent was originally granted. The overall building height, building envelope and number of units will not alter.

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

(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

This Section 96(2) was application was notified (see below), as outlined in the Auburn Development Control Plan (DCP) (Section 3.3.3 and Section 3.4.2).

The proposed modifications are minor in nature and will result in a development that is substantially the same as previously approved.

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

In accordance with Council's Notification of Development Proposals Development Control Plan, the modification(s) was publicly exhibited for a period of 21 days between 8 December 2015 and 29 December 2015. The notification generated one submission in respect of the proposal (the submission was on behalf of the Trinity College, which is opposite the site). The issues raised in the public submission is summarised and commented on as follows:

- Increase in floor space results in a non-compliant FSR.
- The loss of communal space will result in poorer amenity for residents. The remaining communal space is poorly proportioned.
- The parking/loading facilities may not be able to cater for the intended commercial use, because the commercial use is unknown.
- No detailed elevation has been provided showing the new commercial entry to Park Road, which has altered because previously 3 commercial units were proposed and now 1 unit is proposed.

Comment: The matter of FSR is dealt with below. Essentially given that the works will improve amenity and have no material impact to the approved building envelope or to neighbours of the site, no objection is held in relation to the FSR non-compliance.

Concern is held in relation to the applicant's request to lose all of the communal residential space in lieu of the proposed commercial space. Accordingly a condition of consent is attached requiring that an area of approximately 100m² is retained as a resident's gym within part of the enclosed area. The children's playground is relocated to the southern open space area, which is considered to be more appropriate for a playground as it is open to the air and being on the southern side of the building is relatively shaded.

Council's Engineer has provided a condition requiring that 4 loading docks are provided for the commercial use. Previously 2 loading docks were provided. The increase in loading docks is required due to the increase in size of the commercial space at the site.

No detailed elevation is provided of the ground floor commercial entry, however a condition is attached requiring the detailing to be comparable to that previously approved.

Other Considerations

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

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

Only relevant matters of consideration have been addressed below.

State Environmental Planning Policies

State Environmental Planning Policy Number 65 - Design Quality of Residential Apartment Development.

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

Residential Flat Design Code

Requirement	Yes	No	N/A	Comment
3D Communal and public open space				
Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The previous approved scheme had in the region of 600m² of useable (not including undercover or poorly proportioned areas) communal residential outdoor space.</p> <p>Due to this shortfall in open space area, an area underneath a portion of the site was permitted to be partially enclosed (thereby not considered floor space), and used for communal residential purposes being a gym and a kids' playground.</p> <p>The proposal seeks to remove the gym and kids' playground and utilize this space for commercial purposes and also fully enclose this area (thereby, it is included as floor space).</p> <p>The reduction of the communal facilities will result in poorer amenity for the residents and is not fully supported. A condition of consent will allow the space to be enclosed but will ensure that an area of approximately 100m² be retained for communal purposes (residents gym).</p> <p>The previously approved undercover children's playground is relocated to the southern open space area which being to the southern side of the building is shaded during most of the day.</p>

Requirement	Yes	No	N/A	Comment
Design criteria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>25% of the site area is 741m².</p> <p>The non-compliance with this control (approximately 600m² of useable open space is provided) is made up for by the provision of a resident's gym by way of condition of consent.</p> <p>The main communal outdoor area to the north-east of the site, will receive reasonable solar access.</p>
Design guidance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Communal open space should be consolidated into a well designed, easily identified and usable area</p> <p>Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions</p> <p>Communal open space should be co-located with deep soil areas</p> <p>Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies</p> <p>Where communal open space cannot be provided at ground level, it should be provided on a podium or roof</p> <p>Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space
Objective 3D-2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A range of activities can occur.
Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>• seating for individuals or groups</p> <p>• barbecue areas</p> <p>• play equipment or play areas</p> <p>• swimming pools, gyms, tennis courts or common rooms</p> <p>Different age groups can be catered for.</p> <p>Passive and active recreation is provided.</p>
Objective 3D-3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clear sightlines are provided between the different uses.

State Environmental Planning Policy No. 55 – Remediation of Land

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

Regional Environmental Planning Policies

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

Auburn Local Environmental Plan (LEP) 2010

The relevant objectives and provisions of Auburn LEP 2010 have been considered in the following assessment table:

Clause	Yes	No	N/A	Comment
4.4 Floor space ratio				
(1) The objectives of this clause are as follows:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
a) To establish a maximum floor space ratio to enable appropriate development density to be achieved, and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed modifications will increase the floor space ratio from 5:1 to 5.18:1, which equates to an increase in GFA of 547.28m ² .
b) To ensure that development intensity reflects its locality.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Whilst the proposal seeks to use this additional GFA solely as commercial space, a condition of consent will retain approximately 100m ² of this space as the previously approved residents gym. In effect an additional commercial area of 447.28m ² would also be permitted by the proposed condition of consent.
(2A) Despite subclause (2), the maximum floor space ratio for development for the purpose of multi dwelling housing on land other than land within the Former Lidcombe Hospital Site, as shown edged black on the Floor Space Ratio Map, is as follows:				No objection is raised with respect to the additional GFA and resultant non-compliance with FSR because the additional floor space will enclose a partially enclosed area already approved. There is no material impact to the external envelope of the building. The building envelope will remain as previously approved. The enclosure of the previously approved partially enclosed areas will also improve useability and amenity of these spaces.
(a) for sites less than 1,300 square metres—0.75:1,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) for sites that are 1,300 square metres or greater but less than 1,800 square metres—0.80:1,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) for sites that are 1,800 square metres or greater—0.85:1.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(2B) Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Parramatta Road Precinct, as shown edged orange on the Floor Space Ratio Map, is as follows:				For these reasons the proposed FSR non-compliance is considered acceptable.
(a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) 3:1 for office premises and hotel or motel accommodation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(2C) Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Floor Space Ratio Map, is as follows:				
(a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) 2:1 for office premises and hotel or motel accommodation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

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

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

There are no relevant considerations with respect to this DCP.

DCP 2010 Residential Flat Buildings

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

Requirement	Yes	No	N/A	Comments
2.0 Built Form				
Objectives				
a. To ensure that all development contributes to the improvement of the character of the locality in which it is located.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Development is as per the last approvals DA-150/2014 and DA 150/2014/A and B in this regard.
b. To ensure that development is sensitive to the landscape setting and environmental conditions of the locality.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed development is consistent with the built form objectives as it results in an articulated, balanced development, which improves the existing streetscape, provides communal areas, is consistent with the form and scale of like developments in the near vicinity and achieves the required energy efficiency ratings.
c. To ensure that the appearance of development is of high visual quality and enhances and addresses the street.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
d. To ensure that the proposed development protects the amenity of adjoining and adjacent properties.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
e. To ensure that the form, scale and height of the proposed development responds appropriately to site characteristics and the local character.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
f. To ensure that development relates well to surrounding developments including heritage items, open space and other land uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
g. To ensure that development maximises sustainable living.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
h. To maximize views, solar and daylight access.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
i. To provide an acceptable interface between different character areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
j. To minimize the impacts of buildings overshadowing open spaces and improve solar access to the street	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
k. To contribute to the streetscape and from a clear delineation between the public and private domain.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.6 Communal open space				
Performance criteria				
P1 The site layout provides communal open spaces which:				
• contribute to the character of the development;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposal as conditioned will see the previously approved 'outdoor' gym and kids playground be enclosed. The conversion of the 'outdoor' gym to an enclosed gym will result in improved amenity for residents.
• provide for a range of uses and activities;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
• allows cost-effective maintenance; and;				
• contributes to stormwater management.				
Development controls				
D1 Communal open space shall be useable, and where possible have a northern aspect and contain a reasonable proportion of unbuilt upon (landscaped) area and paved recreation area.				The previously approved uncovered outdoor areas are retained and are well proportioned. The communal open space to the northern side of the site receives good solar access.
D2 The communal open space area shall have minimum dimensions of 10m.				Only the northern communal open space has dimensions of 10m. Accordingly the provision of the enclosed communal spaces will improve resident's amenity. The southern outdoor area provides an appropriate location for the children's playground.

5.0 Privacy and Security				
Objectives	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
a. To ensure the siting and design of buildings provide visual and acoustic privacy for residents and neighbours in their dwellings and private open spaces.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Development is as per the last approval DA150/2014 and DA 150/2014/A in this regard.
b. To provide personal and property security for residents and visitors and enhance perceptions of community safety.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The indoor and outdoor communal areas are well connected visually to promote safety.

Parking and Loading DCP

Requirement	Yes	No	N/A	Comment
2.0 Off-Street Parking Requirements				
Objectives				
a. To ensure that an acceptable level of parking is provided on-site to minimise adverse impacts on surrounding streets.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Development is as per the last approvals in this regard. An appropriate amount of parking is provided for the proposed residential use.
b. To provide for the reasonable parking needs of business and industry to support their viability, but discourage unnecessary or excessive parking.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Performance Criteria				
P1 New development provides adequate off-street parking to service the likely parking demand of that development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed modifications will minimally alter the parking provisions listed below with respect to the additional commercial space, which would result in the requirement of 6 additional car spaces. In effect a total of 232 spaces would now be required. The development already has 256 spaces and therefore complies with this requirement.
P2 New development does not introduce unnecessary or excessive off-street parking.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
P3 Parking provided for development which is not defined in this Part on sound and detailed parking assessment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Development Controls				
D1 All new development shall provide off-street parking in accordance with the parking requirement tables of the respective developments in this Part.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	32 x studio/1bed units (1 space per unit) = 32 130 x 2 br units (min1.2-max 3.0 space per unit) = 126-378 22 x 3 br units (min1.5-max3.0 spaces per unit) = 33-66
D2 That in circumstances where a land use is not defined by this plan, the application shall be accompanied by a detailed parking assessment prepared by a suitably qualified professional which includes:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	101-250 units, min 12-max 55 visitor spaces = 12-55 Total residential/visitor parking required 215-547
*A detailed parking survey of similar establishments located in areas that demonstrate similar traffic and parking demand characteristics;				Commercial: 1 per 60 sqm = 763.63 / 60 = 13
*Other transport facilities included in the development;				1 loading bay per 4,000 sqm = 1 loading bay required.
*Anticipated traffic generation directional distribution and nature of impacts expected;				Total = 215 + 14 + 1 = 230 spaces required.
*An assessment as to whether the precinct is experiencing traffic and on-street parking congestion and the implications that development will have on existing situation;				The subject proposal proposes 256 total car parking spaces including 1 loading bay, 10 commercial spaces, 15 visitor spaces and 18 adaptable residential disabled spaces.
*An assessment of existing public transport networks that service the site, particularly in the off-peak, night and weekend periods and initiatives to encourage its usage;				Landuse is defined as residential/commercial use.
*Possible demand for car parking space from adjoining localities;				
*Occasional need for overflow car parking; and				
*Requirements of people with a limited mobility,				

sensory impairment.					
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Section 94 Contributions Plan

The development does require the payment of contributions in accordance with Council's Section 94 Contributions Plans. In this regard, given that the commercial floor area has increased, the cost of the commercial/retail component of the development has been revised accordingly. An appropriate condition is attached to reflect the new fee for "employment generating development".

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

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

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

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

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

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

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

Advertised (newspaper) Mail Sign Not Required

In accordance with Council's Notification of Development Proposals Development Control Plan, the modification(s) was publicly exhibited for a period of 21 days between 8 December 2015 and 29 December 2015. The notification generated one submission in respect of the proposal (the submission was on behalf of the Trinity College, which is opposite the site). The issues raised in the public submission is summarised and commented on as follows:

- Increase in floor space results in a non-compliant FSR.
- The loss of communal space will result in poorer amenity for residents. The remaining communal space is poorly proportioned.
- The parking/loading facilities may not be able to cater for the intended commercial use, because the commercial use is unknown.
- No detailed elevation has been provided showing the new commercial entry to Park Road, which has altered because previously 3 commercial units were proposed and now 1 unit is proposed.

Comment: The matter of FSR is dealt with below. Essentially given that the works will improve amenity and have no material impact to the approved building envelope or to neighbours of the site, no objection is held in relation to the FSR non-compliance.

Concern is held in relation to the applicant's request to lose communal residential space in lieu of the proposed commercial space. Accordingly a condition of consent is attached requiring that an area of 100m² is retained as a resident's gym.

Council's Engineer has provided a condition requiring that 4 loading docks are provided for the commercial use. Previously 2 loading docks were provided. The increase in loading docks is required due to the increase in size of the commercial space at the site.

No detailed elevation is provided of the ground floor commercial entry, however a condition is attached requiring the detailing to be comparable to that previously approved.

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

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

Operational Plan / Delivery Program

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

Conclusion

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