

Assessment Report and Recommendation

SUMMARY

Applicant	Lidcombe 2 Pty Ltd
Owner	Mr S Constandinou and Mrs M Constandinou
Application No.	DA-423/2016
Description of Land	Lot 1 Sec 2 DP 846, Lot 2 Sec 2 DP 846, Lot 3 Sec 2 DP 846, Lot 4 Sec 2 DP 846, 18-24 Railway Street, LIDCOMBE
Proposed Development	Demolition of existing structures, construction of a part 10 and part 11 storey mixed use development with 147 apartments and 3 levels basement car parking including a Voluntary Planning Agreement for the dedication of land to Council to widen an adjoining laneway
Site Area	2284.00m ²
Zoning	Zone B4 - Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Issues	<ul style="list-style-type: none"> - Height - Floor space ratio - Voluntary Planning Agreement - Submissions

1. Recommendation

That Development Application No. DA-423/2016 for Demolition of existing structures, construction of a part 10 and part 11 storey mixed use development with 147 apartments and 3 levels of basement car parking including a Voluntary Planning Agreement for the dedication of land to Council to widen an adjoining laneway at 18-24 Railway Street, Lidcombe, be approved subject to the conditions of consent as described in the schedule.

2. Background

PL-37/2016

A pre- application meeting was held on the 29 July 2016 between the applicant and Council Officers to discuss the development proposal. In summary, the development proposal was considered to be satisfactory subject to demonstrating compliance with relevant planning controls. In addition, the applicant was also advised that the design should consider the preference of laneway widening and dedication to allow for access, parking and servicing requirements to the site so as to achieve a desired planning outcome that is consistent with Council's planning controls in relation to section 15.0 – Local Centres.

3. Detailed Description of the Development

Council is in receipt of a development application for the demolition of existing structures and construction of a part 10 and 11 storey mixed use development with 147 apartments, 7 commercial/retail tennacnies at ground level and 3 levels of basement car parking.

The application also includes a Voluntary Planning Agreement for the dedication of land to Council to widen an adjoining laneway as well as a monetary contribution offer which has been assessed by an external planning consultant. This is further discussed in the report under section 6 – Planning Agreements.

The application has the following components:

- Demolition of all structures across all four sites.
- Construction of a part 10 and part 11 storey mixed use development with a maximum building height of 38.87m and a maximum floor space ratio of 5.28:1.
(Note: The development exceeds the height limit by 6.87m and GFA of 657m². A clause 4.6 variation to the development standards to FSR and height have been provided to support the variance and is discussed in further detail under section 7(g) of the report below.)
- 3 levels of basement parking plus additional at lower ground level containing 172 car spaces inclusive of disabled, commercial and visitor spaces along with associated lift/stair access and storage space.
- Lower and upper ground level commercial units with a combined GFA of 616m² and waste rooms for commercial and residential including associated loading/unloading areas, plant rooms, toilets and OSD rooms.
- 147 residential apartment units at upper ground level to level 11 comprising of 55 x 1 BR units, 90 x 2 BR units and 2 x 3 BR units.
- Site infrastructure works including earthworks, stormwater drainage and ancillary landscaping works.
- Dedicate 1.5m wide portion of the land along the southern boundary across all four allotments for the purposes of widening the existing laneway.

4. Site & Locality Description

The proposed redevelopment of the subject site comprises of four (4) allotments and is legally described as Lot 1-4, Sec 2 in DP 846 and is known as 18-24 Railway Street, LIDCOMBE.

The site is zoned B4 mixed use development and is situated on the corner of Railway and Mark Street.

The land is regular in shape with a combined frontage width of 65.065m to Railway Street and 42,825m to Mark Street, creating a total combined land area of 2322.2m². The land has a moderate slope with a fall across the site of approximately 3m towards the rear south western end of the site.

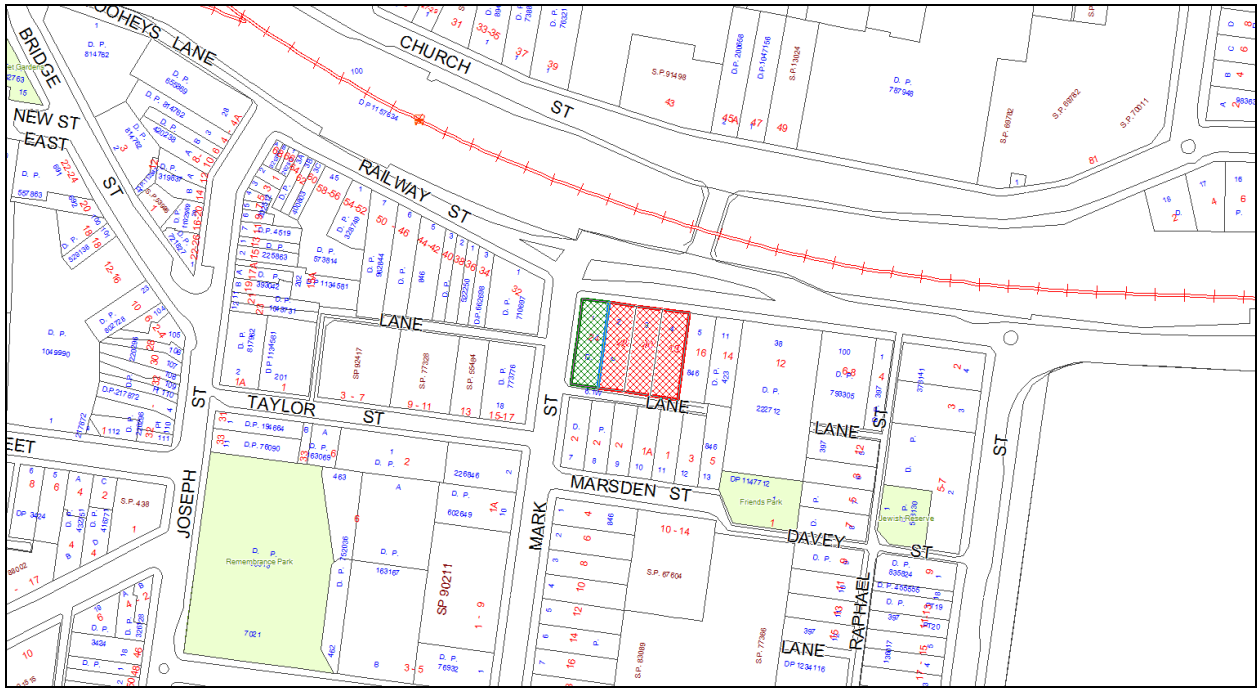
The subject site is located within the 'Lidcombe Town Centre' in one of the key sites being Precinct 7 – Marsden Street as identified in section 15.0 of the Local Centres chapter of the Auburn Development Control Plan (ADCP) 2010.

All four allotments are currently occupied by a service station/mechanic workshop and 1-2 storey concrete factory buildings. There are no significant trees identified on site to be retained or are required to be retained.

Surrounding developments in the immediate vicinity is currently characterised by a mix commercial/retail land uses and high density residential and mixed use developments of various size and scale. It is evident that once the area completes transition, the area will be characterised predominantly by commercial and mixed use developments given the context and current zoning of the locality.

Adjoining developments consist of a two storey factory building to the east of the subject site, to the west consists of a 3 storey motor inn to be redeveloped into a 10 Storey Residential Flat Building, to the south are 2 storey factory buildings and several remaining 1 storey dwelling houses. Further north of the site is a railway track.

Locality plan of the subject site:



Subject site



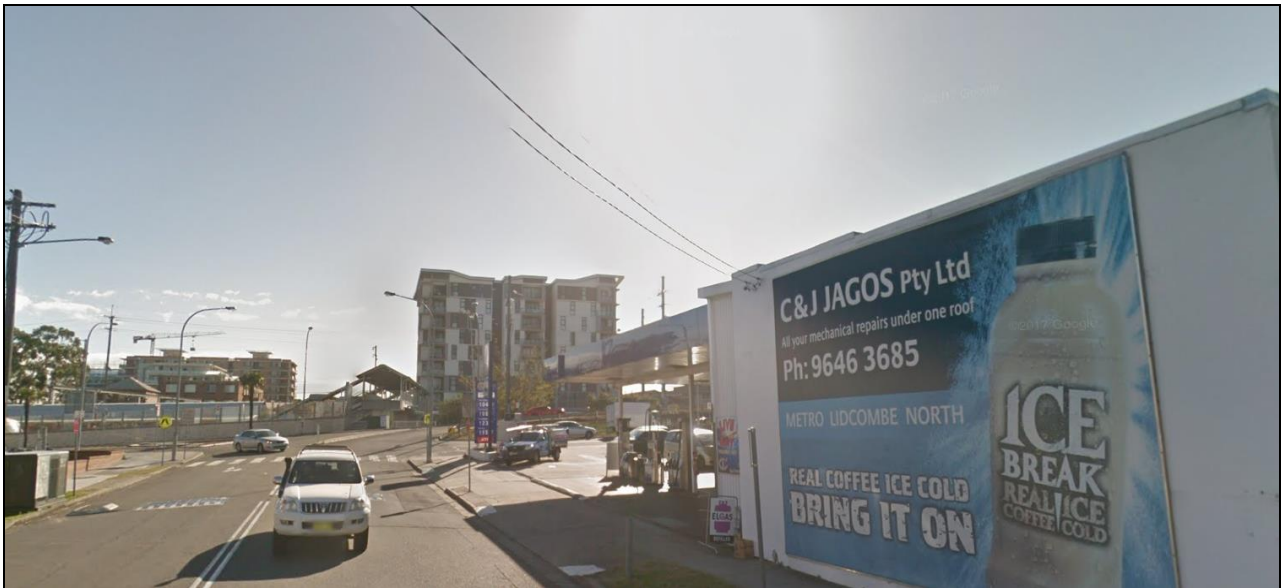
Aerial view



View of subject site looking east from Mark Street



View of subject site from Railway Street



View of subject site looking northeast



View of subject site from Railway Street



View of subject site looking west



View of laneway from Mark Street.

5. Referrals

(a) Internal Referrals

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

- Engineering

Council's Engineer has reviewed the application and is satisfied for the development proposal to proceed subject to the imposition of conditions on any development consent. It is noted that the initial concerns regarding stormwater drainage, traffic, waste, parking and loading have been resolved during the assessment of the application or can be resolved via conditions given the provision of adequate car parking and vehicle access to the site. Furthermore, adequate means of stormwater drainage and waste collection have been proposed for the site.

- Health

Council's Environmental Health Officer has reviewed the application and no major issues were raised that could not be resolved via conditions. Therefore, no objections to the proposal were raised by Council's Health Officer subject to the imposition of conditions on any development consent. It is noted that a RAP was submitted with the application that indicates that the site can be made suitable to accommodate the proposed development.

- Landscape

Council's Landscape Architect has reviewed the application and has raised no objections to the proposed landscape concept plan subject to recommended conditions of consent incorporating provision of new street trees along Merrylands Road frontage.

(b) External Referrals

The development application was required to be referred to the following external bodies or approval agencies for comment:

- Sydney Trains

Correspondence received from Sydney Trains on the 5 January 2017 advised that the proposed development is satisfactory subject to conditions recommended to be imposed as part of any consent being issued.

- Roads and Maritime Services

Correspondence received from RMS on the 24 November 2016 raised no objection to the application indicating that the proposed development will not have a significant impact on the classified road network.

- NSW Police

Correspondence received from NSW Police on the 3 November 2016 recommended standard conditions for crime prevention to be imposed as part of any consent issued.

6. Planning Agreements – provisions of section 93F (EP&A Act s79C(1)(iia))

Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) is proposed in conjunction with this application for Council's consideration.

The proposed VPA is an agreement formed between the applicant – Lidcombe 2 Pty Ltd and Cumberland Council. The proposed VPA generally involves:

- Construction/widening of the laneway (by the developer)
- Dedication of the laneway to Council
- Monetary contribution of \$250,000 payable to Council towards the implementation of the Draft Auburn and Lidcombe Town Centre Strategy.

The VPA seeks in consideration of providing the above public benefits, an additional development yield relative in floor space of 492m² or (0.21%) and additional height of 6.87m (21%) above the maximum FSR (5:1) and Height (32m) permitted under the current statutory planning controls.

Further, it should be noted that, without taking into account the above additional floor space of 492m² generated by the VPA, it is identified that the Gross Floor Area for the proposed development already

exceeds the maximum GFA capped at 11,611m² (5.0:1) by 165m², that is, 11,776m² GFA proposed less the 11,611m² GFA allowed).

Overall, it is identified that the GFA of the proposed development; inclusive of the additional yield sought under the VPA, is 12,268m² (5.28:1) which is made up of 11,776m² (5.07:1) plus 492m² (0.21:1).

A summary of the development is provided in the table below.

ALEP 2010 controls	Proposed	Variation
Max. FSR 5:1 (i.e. GFA of 11,611m ²)	5.28:1 (i.e. made up of 11,776m ² + 492m ² = 12,268m ²)	28% (i.e. made up of 5.07:1 + 0.21:1 = 5.28:1. 5.28:1 less 5.0:1 = 0.28)
Max. Building Height 32m	38.87m	6.87m

The proposed VPA was considered at Council's meeting held on the 7th February 2018 and the resolution of the meeting endorsed the VPA with the proposed additional floor space and building height increase.

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

(a) State Environmental Planning Policy No. 55 – Remediation of Land

The requirement at clause 7 of SEPP No. 55 has been considered in the assessment of the development application.

A Remedial Action Plan prepared by Ei Australia, report reference E23006 AB_revision 0, dated 29 September 2016 has been submitted to accompany the development application. The RAP concludes that the site can be made suitable to accommodate the proposed development subject to the recommendations for remediation works as detailed in the report.

Council's Environment and Health department have reviewed the above report and is satisfied that the site is suitable to accommodate the proposed development and appropriate conditions have been recommended to be imposed as part of any consent issued. Council Officers are therefore satisfied that the development application can proceed in this instance as the application is considered to be satisfactory with respect to clause 7 of SEPP 55.

(b) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP 65 applies to the development as the building is 3 storeys or more, and contains more than 4 dwellings. A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect and submitted. The statement addresses each of the 9 principles and an assessment of this is made below. Council's assessing officer's comments in relation to the submission is outlined below.

SEPP 65 sets 9 design quality principles. The development has adequately addressed the 9 design quality principles in the following way:

ADG design quality principle	Response
1. Context	<p>The proposal reflects the desired character of the existing precinct which lies in an area undergoing transition.</p> <p>The proposal is considered to satisfy the objectives of the LEP in terms of height, as well as being a permissible land use. The context</p>

	of the building is appropriate for its location given the future desired character defined by LEP 2010.
2. Built form and scale	<p>The design generally achieves an appropriate built form for the site and the building's purpose, in terms of building alignments, proportions, type and the manipulation of building elements to ensure reasonable spatial separation is established between existing neighbouring residential buildings.</p> <p>The scale of the building in itself is considered suitable within the future desired character of its locality.</p>
3. Density	<p>The proposal has a density that generally corresponds with the future desired character of the area, in terms of floor space yield, number of units and potential number of new residents.</p> <p>The proposed density is considered to respond to the availability of infrastructure, public transport, community facilities and environmental quality.</p>
4. Sustainability, resource, energy & water efficiency	A BASIX Certificate has been submitted and the building meets the required energy and water efficiency targets.
5. Landscape	A landscape plan was submitted with the proposal. The landscaping options are considered to be adequate. The proposed landscaping at ground level podium will provide suitable visual amenity for the future building's occupants and suitable landscape setting for the streetscape is also proposed.
6. Amenity	Generally, the proposal as amended is considered to be satisfactory in this regard, optimising internal amenity through appropriate room dimensions and shapes, access to sunlight, natural ventilation; visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas are consistent with the ADG requirements.
7. Safety & security	The proposal is considered to be satisfactory in terms of future residential occupants overlooking public and communal spaces while maintaining internal privacy. The building architecturally addresses the street and activates the frontages.
8. Social dimensions/housing affordability	This principle essentially relates to design responding to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community. It is considered that the proposal satisfies these requirements, providing additional housing choice within the area in close proximity to facilities.
9. Aesthetics	The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials and colours. The proposed building is considered to respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

Integral to SEPP 65 is the Apartment Design Guide (ADG), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development.

The provisions and design quality principles of the SEPP and ADG have been considered in the assessment of the application. In general, the proposed development is considered to perform satisfactorily having regard to the SEPP and design principles as well as the ADG.

A detailed and comprehensive assessment of the development against the ADG is available on Council file and a summary of the proposed development's compliance with the ADG is assessed and the non-compliances highlighted and discussed in the table below.

APARTMENT DESIGN GUIDE SUMMARY

PARAMETER	CONTROL	PROPOSAL	COMPLIANCE
PART 2 Building envelopes			
Separation - Building separation is measured from the outer face of building envelopes which includes balconies			
<i>Note: Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites.</i>			
Separation	<u>Up to 4 storeys</u> (approximately 12m): <ul style="list-style-type: none"> • 12m between habitable rooms/balconies; • 9m between habitable and non-habitable rooms; and • 6m between non-habitable rooms 	Nil setback provided on Eastern boundary. Development proposed is located on a corner block with street frontages comprising of Railway and Mark Street to the Northern and Western boundary and a laneway to the Southern boundary. A nil setback with blank party wall is provided on the Eastern boundary which is considered acceptable given the B4 mixed use zoning and Lidcombe Town Centre commercial context of the site.	Yes. The development proposal complies with this requirement. The proposed building is built to the boundary on the street frontages in the form of street perimeter buildings anticipated by the planning controls for Lidcombe Town Centre in accordance with section 15 of the Local Centres – Marsden Street, precinct 7 “key sites” which encourages active street frontages with a zero boundary setback to achieve the desired future character of the area.
	<u>5 to 8 storeys</u> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies; • 12m between habitable and non-habitable rooms; and • 9m between non-habitable rooms 	A 1.5m setback is provided from the Southern boundary of the site to accommodate the new laneway widening. This will contribute to a greater building separation for when the adjoining site is redeveloped in the near future.	
	<u>9+ storeys</u> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies; • 18m between habitable and non-habitable rooms; and • 12m between non-habitable rooms 	At level 8 (9 th storey), the development is stepped in from the Southern boundary.	
	At the boundary between changes in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	N/A	N/A
PART 3 Siting the development			
Communal open space			
<ul style="list-style-type: none"> • COS should have a minimum dimension of 3m. • Where COS cannot be provided at ground level, it should be provided on a podium or roof. 			
Communal open space	Communal open space has a minimum area equal to 25% of the site.	Proposed common open space = 285m ² (grd flr rear courtyard) + 294m ² (roof top terrace) = 579m ² (24.9%)	No. Marginal non-compliance of 1.55m ² is considered negligible and therefore

	Minimum = 580.55m ²		acceptable.
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Communal open space at ground level rear courtyard overshadowed as a result of the proposed development being configured to address the site's northern and western street frontages with massing emphasis provided to the street corner.	Yes, Communal open space at level 9 roof terrace receives full unimpeded solar amenity which contributes to 50% of the communal open space provided on site as a whole, therefore achieving this requirement.
Deep Soil	650m ² – 1,500m ² - minimum of 7%, 3m in width ~ Min. 162.55m ² required	Total deep soil provided = 93m ² (4%)	No, The non-compliance is considered acceptable given the B4 mixed use commercial nature of the site as the need to provide basement parking and commercial uses at ground floor makes this requirement onerous to achieve in a town centre area.
Visual privacy <ul style="list-style-type: none"> • Separation between windows and balconies is provided to ensure visual privacy is achieved. • Adjoining a different zone with a less density, add 3.0m. • Retail, office spaces and commercial balconies use habitable room separation. • No separation is required between blank walls. 			
Visual privacy	0-4 storeys: 3-6m 5-8 storeys: 4.5-9m 9+ storeys: 6-12m	Visual separation between sites and within the site complies.	Yes. The development proposal generally complies with this requirement. All windows/balconies of respective units are designed to either face the street frontage or rear courtyard. Windows are appropriately offset to minimise direct views and overlooking between units.
	At the boundary between changes in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	N/A	N/A
Parking and Bicycle storage Note: The car parking needs for a development must be provided off street.			
Parking and bicycle storage	For development in the following locations: The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the	Based on the ADG, the development requires a minimum of 158 off street parking spaces whilst according to Council's parking rates, a minimum of 178 to a maximum of 283 off street parking spaces are required to be provided for the development.	Yes. The proposal provides a total of 175 car parking spaces including visitor, commercial and disability spaces at basement levels. This is satisfactory. The proposal complies with this requirement.

	<div>relevant council, whichever is less.</div> <div>Metro Sub-regional centres for RFB:</div> <table><tr><th>Rate</th><th>Units</th><th>Total</th></tr><tr><td>0.6/1B</td><td>55</td><td>33</td></tr><tr><td>0.9/2B</td><td>90</td><td>81</td></tr><tr><td>1.4/3B</td><td>2</td><td>2.8</td></tr><tr><td>1/5 V</td><td>147</td><td>29.4</td></tr></table> <div>Required: 147 rounded up + 10.3 spaces for commercial * = <u>158</u> spaces.</div> <div>ADCP 2010 parking (special local centres rate):</div> <table><tr><th>Rate</th><th>Units</th><th>Total</th></tr><tr><td colspan="3">*1/60m2 commercial = 619m²/60 = 10.3</td></tr><tr><td>1/1B</td><td>55</td><td>55</td></tr><tr><td>1.2-3/2B</td><td>90</td><td>108-165</td></tr><tr><td>1.5-4/3B</td><td>2</td><td>3-8</td></tr><tr><td>12-55 V</td><td>147 (btw 101-250 units)</td><td>12-55</td></tr></table> <div>Required: min. 178 to max. 283</div>	Rate	Units	Total	0.6/1B	55	33	0.9/2B	90	81	1.4/3B	2	2.8	1/5 V	147	29.4	Rate	Units	Total	*1/60m2 commercial = 619m²/60 = 10.3			1/1B	55	55	1.2-3/2B	90	108-165	1.5-4/3B	2	3-8	12-55 V	147 (btw 101-250 units)	12-55		
Rate	Units	Total																																		
0.6/1B	55	33																																		
0.9/2B	90	81																																		
1.4/3B	2	2.8																																		
1/5 V	147	29.4																																		
Rate	Units	Total																																		
*1/60m2 commercial = 619m²/60 = 10.3																																				
1/1B	55	55																																		
1.2-3/2B	90	108-165																																		
1.5-4/3B	2	3-8																																		
12-55 V	147 (btw 101-250 units)	12-55																																		
PART 4 Designing the building																																				
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area.	The additional solar analysis plan provided demonstrates that 121 out of 147 units will receive minimum 2-3 hours of direct sunlight at mid-winter, representing 82% of units.	Yes																																	
	A maximum of 15% of apartments in a building receiving no direct sunlight between 9 am and 3 pm at mid-winter.	23 out of 147 units will not receive any direct sunlight between 9am and 3pm at mid-winter representing 15.6%.	No. Every effort has been made in the design of the development to maximise solar amenity to the residential units as much as possible which is demonstrated in the additional solar analysis plans provided. The marginal non-compliance is considered satisfactory. The development complies with all other aspects of residential amenity requirements under the ADG and is still considered to																																	

			provide a satisfactory level of residential amenity.
Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	88 units (60%) units are naturally ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Max. 15m	Yes
Ceiling Heights Note: Measured from finished floor level to finished ceiling level	Habitable rooms min. 2.7m Non-habitable min. 2.4m	Min. 2.7m floor to ceiling heights provided.	Yes
Apartment size and layout Note: The minimum internal areas include one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.			
Apartment size and layout	Studio – 35m ²	N/A	N/A
	1 bedroom – 50m ²	Min. 52m ²	Yes
	2 bedroom – 70m ²	Min. 75m ²	Yes
	3 bedroom – 90m ²	108m ²	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	All habitable rooms have minimum one opening on the external walls.	Yes
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry)	The kitchens are located as a separate unit attached with the living area.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Maximum habitable room depth does not exceed 8m.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Minimum width excluding wardrobe: Master bedroom – 10m ² Other rooms – 9m ²	Yes
	Bedrooms have a minimum dimension of 3m.	Minimum dimension of bedroom is 3m.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1	1 Bedroom units – min. 3.6m 2 and 3 Bedroom units – Min. 4m	Yes Yes

	bedroom apartments. - 4m for 2 and 3 bedroom apartments.		
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Min. 4m wide	Yes
Private open Space and balconies Note: Storage areas on balconies is additional to the minimum balcony size.			
Private open space and balconies	1 Bedroom = 8m ² X 2m	Min. 8m ² and 2.5m depth	Yes
	2 Bedroom = 10m ² X 2m	Min. 10m ² and 2.5m depth	Yes
	3 Bedroom = 12m ² X 2.4m	Min. 20m ² and 2.5m depth	Yes
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	1 Bedroom units – 21m ² 2 Bedroom units – 23 to 33m ²	Yes
Storage Note: Storage is accessible from either circulation or living areas. Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.			
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> • Studio 4m² • 1 bedroom 6m² • 2 bedroom 8m² • 3 bedroom 10m² 	Storage is being provided to all units and in basement levels.	Yes, complies. Appropriate conditions will be imposed to ensure sufficient provision of storage to comply with ADG requirements.
	At least 50% of the required storage is to be located within the apartment. Left over space such as under stairs is used for storage.	50% storage also provided in basement level. Appropriate conditions can be imposed to ensure compliance with this requirement for all units.	Yes
Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	9 apartments are accessed off core 1 for each level which are serviced by 2 lifts and 2 fire stairs in effect providing the capacity of 2 cores. Core 2 accommodates 6 apartments per level serviced by 2 fire stairs and 1 lift.	Yes
Universal Design Note: Universal design is different to adaptable housing which is governed by <i>Australian Standard AS4299-1995 Adaptable Housing</i> and is specifically designed to allow for the future adaptation of a dwelling to accommodate the occupant's needs.			

Universal design	20% of total apartments incorporating the Liveable Housing Guideline's silver level universal design features.	Appropriate conditions can be imposed to ensure compliance with this requirement.	Yes
	Adaptable housing should be provided in accordance with the relevant Council policy (i.e. a minimum of 5 required as per control 9.2, D2 of ADCP 2010).	15 adaptable units are nominated to be provided. Adaptable layout plan provided for the nominated units are considered to be satisfactory.	Yes

(c) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

As the development relates to a new residential development, a BASIX Certificate has been submitted to accompany the development application. The plans and details submitted with the development application which satisfy the relevant BASIX commitments are required to be endorsed as the development application plans. Conditions can be imposed on the development consent to ensure that the development will be in accordance with all specified BASIX commitments.

(d) State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 pursuant to clauses 20 and 21 of the SEPP and schedule 4A of the Environmental Planning and Assessment Act 1979, indicates that where the proposed development is in excess of a Capital Investment Value (CIV) of \$20 million and exceeds the CIV threshold for Council to determine the application, the development will need to be referred to the Panel for determination. A cost estimate is provided with the application.

(e) State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application as follows:

- *Clause 85 – Adjacent to rail corridors*

The application is subject to clause 85 due to concerns that the development which involves the use of a crane may impact on the air space above the railway track.

Appropriate referral advice has been sought accordingly and specific conditions have been provided as previously discussed above in the referrals section (5) of the report.

- *Clause 87 – Impact of rail noise or vibration on non-rail development*

The requirement of Section 3.5.1 of the interim guidelines for 'Development near Rail Corridors and Busy Roads' have been considered in the assessment of the application.

The guide provides a level of assessment required when noise sensitive developments are located in the vicinity of existing rail lines where Figure 3.1 of the guide specifies indicative acoustic assessment zones where sensitive land uses are likely to be adversely impacted, i.e. zones A and B.

The proposed development is located approximately 40m from the railway track and is therefore is within the 80 metre distance identified as zone A where rail noise is considered to be the most adverse.

A satisfactory acoustic and vibration report prepared by Acoustic Logic has been submitted to accompany the application and referral advice provided by Council's Environmental Health section has raised no objections in general subject to implementation of the recommendations to mitigate noise impacts as outlined in the report as well as specific conditions of consent.

In this instance, it is considered that the development will perform adequately and noise generated by the nearby rail operational track will have no significant impact on the development subject to the implementation of the recommended acoustic treatments required.

- *Clause 101 – Frontage to classified road*

The application is subject to clause 101 of the SEPP as the site has a frontage to a classified road being Railway Street as identified in the Schedule of Classified Roads and Unclassified Regional Roads by prepared by RMS.

Appropriate referral advice has been sought accordingly and no objections raised as previously discussed above in the referrals section (5) of the report.

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

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

(g) Auburn Local Environmental Plan (LEP) 2010

The provision of the Auburn Local Environmental Plan (ALEP 2010) is applicable to the development proposal.

Zone objectives:

"The objectives of the B4 Mixed use zone include:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage high density residential development.*
- *To encourage appropriate businesses that contribute to economic growth.*
- *To achieve an accessible, attractive and safe public domain."*

The proposed development is considered to be generally consistent with the objectives of the ALEP 2010 and the objectives of the B4 Mixed use development zone applying to the land. The proposed development is located within the Lidcombe Town Centre and is considered to be appropriate and compatible with the changing urban context of the site and locality as envisioned by the relevant planning controls. The proposed development will also provide for the housing needs of the community close to major transport nodes.

The relevant matters to be considered under Auburn Local Environmental Plan 2010 for the proposed development are outlined below.

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.1 Minimum subdivision lot size	Yes	There is no minimum lot size applicable to the site. Refer to DCP controls.
4.3 Height of Buildings Height Map shows that the maximum height of new developments for the subject site is 32 metres.	NO	The development exceeds the maximum height of buildings permitted across the site by 6.87m; inclusive of the lift overrun as demonstrated in the amended

		elevational plans submitted.
		Refer to clause 4.6 discussion below.
4.4 Floor Space Ratio Floor Ratio Map shows that the maximum FSR of new developments for the subject site is 5:1 (GFA of 11,611m ²)	NO	Proposed – 12,268m ² ~ 5.289:1. Refer to clause 4.6 discussion below.
4.6 Exceptions to development standards		Refer to detailed discussion below.
5.1 and 5.1A Development on land intended to be acquired for public purposes Is any portion of the land identified for acquisition for local road widening on the Land Reservation Acquisition Map?	N/A	The site is not identified on this map.
5.6 Architectural roof features	N/A	An architectural roof feature is not proposed.
5.9 Preservation of trees	Yes	No significant trees identified on site. The subject proposal is considered satisfactory.
5.10 Heritage Conservation	Yes	The subject site is not identified as a heritage item or within a heritage conservation area in accordance with the relevant heritage maps
6.1 Acid sulfate soils Is an Acid Sulfate Soils Management Plan Required?	Yes	The site is identified as containing Class 5 Acid Sulfate Soil. In accordance with the PLEP table, an Acid Sulfate Soils Management plan is not required to be prepared.
6.2 Earthworks Are the earthworks associated with the development appropriate?	Yes	Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory subject to conditions. The application is also accompanied by specialist geotechnical reports and appropriate conditions relating to ground anchors/underpinning and a dilapidation report will be imposed to ensure compliance.
6.3 Flood planning Is the site flood prone?	N/A	The site is not identified as being flood prone.
6.4 Affected by a Foreshore Building Line	N/A	Not relevant to the site.
6.5 Essential services Are essential services being provided to the site?	Yes	Appropriate conditions to be imposed to ensure compliance.
6.11 Development of certain land at 1A and 1B Queen Street, Auburn	N/A	Not relevant to site.

- Exceptions to Development Standards within LEP 2011

Clause 4.6 – Variation to Floor Space Ratio (FSR) and Building Height

The maximum FSR of 5:1 and maximum height of 32m applies across the site under the ALEP 2010. The development proposes a total GFA of 12,268m² and an overall building height of 38.87m which exceeds the numerical standards by 657m² and 6.87m respectively.

It is noted that the majority of the non-compliance stems from the additional development yield sought in consideration of a proposed VPA that accompanies the development application. As previously discussed, the VPA proposes to provide a public benefit in the form of a monetary contribution offer of \$250,000 payable to Council to be allocated towards the provision for landscaping works along Taylor

Street as envisaged in the Draft Auburn and Lidcombe Town Centre Strategy. Additionally, the VPA also includes road works comprising of dedication and construction of a 1.5m portion of the site to widen the laneway. It should also be noted that no section 94 contribution offsets are sought in relation to the additional monetary cash contribution offered.

The applicant has submitted a clause 4.6 variation to justify the contravention of floor space and building height below having regard to the relevant case law that provides a general guideline for consideration when assessing an exception to vary a development standard.

1. ***Is the planning control a development standard?***

"The planning controls in clauses 4.3 and 4.4 relating to maximum floor space ratio and building height are development standards under the definition within the EP&A Act 1979 that defines development standards specifically as including height, as follows (EP&A Act, Part 1 Section 4. Definitions).

Development standards means provisions of an environmental planning instrument or the regulations in relation to carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, ...

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,"

Comment: Council concurs with the above statement provided by the applicant.

2. ***What is the underlying object or purpose of the standard?***

"The proposed variance to the FSR and height controls is consistent with the objectives of the development standards as the proposed development represents a high quality urban form that will be consistent with the desired future character of the area as reflected in the height and densities within the planning framework.

They mostly result from site characteristics and street corner context as well as the need to relocate permitted and additional massing to allow for the widening of the rear lane and provide suitable basement access to future adjoining developments in accordance with the planning provisions.

The additional height and FSR are composed into a suitable building element to provide appropriate emphasis to the corner of Railway and Mark Streets and in keeping with its location in the Lidcombe Centre.

In addition, the variance requested is minor in nature and has a limited effect on the achievement of appropriate transition in built form and land use intensity."

Comment: The purpose of the development standards are to limit the FSR and height for a site to prevent overdevelopment and maintain the established desired future character, built form and density for the site respective of the zone. Notwithstanding, Council concurs with the applicant's view that the proposed exceedance in height and FSR is not unreasonable in the circumstances of the case, given the site characteristics of a corner street context in an urban town centre setting, and the proposed development holding architectural and planning merit.

3. ***Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?***

"The aims of clause 4.6 are:

- a) To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

When the development is tested against the underlying objectives of the standard, compliance would be

inconsistent with the aims of the clause because the proposed FSR and height is in response to the characteristics of the site and its contextual location as well as the need to secure a public benefit from the widening of the rear lane.

Accordingly, non-compliance is appropriate, acceptable and consistent with the characteristics of the site and its highly accessible location as well as the expectation of a planning framework for Lidcombe centre in general and the precinct in particular.

The minor exceedances proposed will not result in a major adverse impact having regard to the additional resultant shadowing shown on DA401 in the appendices.

The plans demonstrate how the extra shadowing from additional height on the corner element will fall mostly onto the building roof from midday through the afternoon. Therefore, it will have no additional impact from shadows on the existing residences or future development on Marsden Street. In the morning hours, the shadow towards Taylor Street is long as a result of the topography (but falling short of the Lidcombe Bowling Club open space) and should have a limited effect because of this. Any additional shadowing would be particularly compensated by the shift of the southern most building edge northerly to allow for the creation of the lane.

The proposed development is therefore a case where flexibility in the application of the development standards is justified in order to address a key planning implementation issue of the adequacy of the rear lane width for the locality while meeting the planning objectives of the controls."

Comment: Having regard to the applicant's justification above and the aims of clause 4.6 which is to allow for some flexibility, Council is generally satisfied with the justification provided in that:

- The exceedances proposed beyond what would normally be permitted would not result in any further major impact particularly in relation to overshadowing as demonstrated in the additional shadow diagram provided,
- It would not unreasonably contravene the objectives of the FSR and height clauses and the aims of ALEP 2010 as intended.
- The exceedances proposed apply only to a portion of the site with additional massing configured to the northern street frontage (Railway Street) to provide emphasis to the street corner.
- Given the site characteristics of a corner street context in an urban town centre setting, the proposed development is not considered to be incompatible in the area.

Therefore, the variation sought is considered acceptable based on the merit of the application.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

"Strict compliance with clauses 4.3 and 4.4 of the ALEP 2010 is considered unreasonable and unnecessary in the circumstances of the case as it would impede on achieving the public benefit of enabling the widening of the rear lane for safe access to adjoining properties while the exceedances are minor in nature with limited adverse impacts. The non-compliance relates largely to the corner element of the building with the remainder of the building being generally below the building height limit."

Comment: Council's view is that the justification provided is satisfactory and having considered the application on its merit, is considered acceptable in this regard.

5. Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the objection well founded?

"The request is considered to be well founded for the following reasons:

- *The development is appropriate in this location and provides for an appropriate response to its corner location and planning provisions that encourage its emphasis.*
- *Strict compliance with floor space area and height controls in the circumstance would result in an unresolved precinct access issue and a consequent diminished urban form outcome.*
- *Strict compliance would also discourage the use of the roof space for a communal garden enjoying year round solar access.*
- *The proposed development is consistent with the underlying objectives of the development standards whereby the scale and form of the building is consistent with the intended redevelopment*

potential of the land as well as all other urban form development controls and represents a high quality urban outcome.

- *The scale of the proposal, notwithstanding the non-compliance, is consistent with the desired future character of the locality.*
- *The proposed variations do not add significantly to the overall impacts from building height particular from the lift core as it is centrally located and not readily visible and is incorporated into the roof feature associated with the roof top garden.*
- *Consequently, the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general."*

Comment: Council agrees with the view that the majority of the exceedance in building height and FSR proposed only applies to a portion of the site where additional massing is provided to the northern street frontage to emphasize the street corner element.

The additional overshadowing impact on the adjoining development in relation to the development exceeding the building height by an additional 6.8m is considered to be acceptable due to the orientation of the site and the shadow diagrams provided demonstrating that the proposed additional height/massing, which will cast a shadow on the Taylor Street development would be limited to the morning hours from 9am to 11am and by midday through to afternoon, the shadow will shift and fall mostly onto the building roof.

In this regard, Council's view is that the justification provided is satisfactory and having considered the application on its merit, is considered acceptable in this regard.

8. 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.

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

(a) Auburn Development Control Plan 2010

The relevant design requirements and objectives of the Auburn Development Control Plan 2010 have been considered in the assessment of the development application. The proposal is considered to perform satisfactorily with regard to the ADCP 2010 with some minor non-compliances noted primarily relating to desired building setbacks associated with the proposed mixed use development. Suitable justification has been provided and as such the variations are considered acceptable. A summary of compliance is provided in the table below.

Part: Local Centres		
DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
<i>Local Centres</i>		
2.0 Built form	Yes	Proposed building form and massing is consistent with similar developments in the area and that envisaged by the planning controls in the Lidcombe town centre.
2.1 Number of storeys	Yes	Proposal is consistent with the finished floor and ceiling levels
2.2 Articulation and design 2.3 Materials	Yes	Design of proposal is satisfactory and incorporates various architectural features and elements with contrasting materials and finishes for articulation. The development also addresses both street frontages.
2.4 Roof design	Yes	Proposed roof form is satisfactory

2.5 Balconies	Yes	Satisfactory as per ADG requirements.
2.6 Interface with schools, places of public worship and public precincts	N/A	Subject site is not located adjacent to any schools, place of worship or public precincts.
<ul style="list-style-type: none"> - Building design to incorporate appropriate transition in scale and character - Building design presents an appropriate detailed façade and landscaping - Potential overlooking of playing areas of schools to be minimised through sitting, orientation or screening 		
3.0 Streetscape and urban form	Yes	Proposed building façade and active shopfronts at ground level is considered to be satisfactory and will improve the overall streetscape and character of the area as well as encourage pedestrian activity and an active street front consistent with the key sites planning controls for Lidcombe.
3.2 Setbacks Objective: <i>New buildings to be consistent with setback of adjoining buildings.</i> Control <ul style="list-style-type: none"> - <u>Adopt front setbacks as shown in Figure 2</u> (refer to section 14.2 setbacks for Auburn Town Centre) and <u>8</u> (refer to section 15.2 setbacks for Lidcombe Town Centre). 	Yes	The setbacks in figure 8 of the Section 15.2 of the plan require that a nil setback be provided. The proposed development is consistent with this requirement.
4.0 Mixed use developments	Yes	Proposal incorporates ground level commercial/retail element to activate the street frontage consistent with the controls.
4.1 Building design		
4.2 Active street frontages	Yes	Separate defined entries for residential and commercial provided.
4.3 Awnings	Yes	Proposed awning is satisfactory to provide continuous weather protection.
Awning design to match building facades, be complimentary to adjoining buildings and maintain continuity		A minimum clearance of 3m provided from pavement level to under awning.
4.4 Arcades	N/A	N/A
4.5 Amenity	Yes	Refer to RFB section
5.0 Privacy and security	Yes	Building setbacks are proposed from the property boundaries to provide a generally complying and appropriate building/visual separation distance to mitigate privacy and overlooking impacts as discussed previously under ADG table.
5.1 Lighting	Yes	No objections are raised with respect to lighting design.
5.2 Shutters and grills		
5.3 Noise		<p>Appropriate conditions to be imposed regarding no roller shutters on shopfronts unless in accord with roller shutters policy.</p> <p>The subject site is also located within 40 metres from an operational railway track. The relevant clause 87 under SEPP Infrastructure relating to rail noise impacts</p>

		<p>have been considered in conjunction with the relevant guidelines 'Development near Rail Corridors and busy roads' as previously discussed above.</p> <p>A satisfactory acoustic and vibration report prepared by Acoustic Logic has been submitted to accompany the application and referral advice provided by Council's Environmental Health section has raised no objections in general subject to implementation of the recommendations to mitigate noise impacts as outlined in the report as well as specific conditions of consent.</p> <p>In this instance, it is considered that the development will perform adequately and noise generated by the nearby rail operational track will have no significant impact on the development subject to the implementation of the recommended acoustic treatments required.</p>
5.4 Wind mitigation Required for developments over 35m and for developments of 48m – wind tunnel testing required.	Yes	<p>The proposed development has a maximum height of up to 38.87 metres in total inclusive of the lift overruns. A wind assessment report prepared by CPP Wind Engineering & Air Quality Consultants, dated Sept 2016 has been submitted to accompany the application. The report is satisfactory and concludes that the wind impacts associated with the development are acceptable for the site and the intended use of the space at ground pedestrian level (street and courtyard) and at the upper floor roof terrace subject to implementing recommended mitigation measures as described in the report.</p>
6.0 Access and parking 6.1 Access, loading and car parking requirements	Yes	<p>Proposed access is via the laneway which is considered satisfactory.</p> <p>The development will provide the required number of parking to accommodate the number of units and retail tenancies proposed inclusive of disabled, visitors and commercial parking spaces.</p>
7.0 Landscaping 7.1 Street trees	Yes	<p>Satisfactory landscape plan provided and incorporated into the building design. Appropriate conditions to be imposed to ensure appropriate soil depth is provided for the planter boxes proposed at podium and roof level communal open space.</p> <p>Provision of appropriate street trees to soften the impact and appearance of the built environment and its surrounds are proposed along the Railway and Mark street frontages.</p>
8.0 Energy efficiency and water conservation	Yes	Satisfactory BASIX Certificate provided.
8.5 Ventilation	Yes	Unit layouts are appropriately orientated to the north, north west and west to maximise solar amenity and ventilation as much as possible to comply with

		numerical standards set by ADG for a high quality residential amenity development.
8.6 Solar amenity	Yes	As discussed above and also under ADG compliance table section. Development receives satisfactory levels of solar amenity. Appropriate shadow diagrams and internal solar access plans provided to demonstrate compliance.
9.0 Ancillary site facilities	Yes	The development provides satisfactory loading and unloading facilities as well as waste collection and storage facilities that are separate for residential and commercial.
10.0 Waste, access and amenity	Yes	As above.
11.0 Public domain	Yes	Awnings incorporated into building design and complements development to provide continuous weather protection. Proposed paving to Council's specifications notated on landscape plan.
12.0 Subdivision	N/A	N/A
13.0 Residential interface	N/A	N/A. Development does not immediately adjoin residential zone boundaries. Located within B4 zoning context.
15.0 Lidcombe Town Centre Figure 6	Yes	The subject site is located within the Lidcombe Town Centre and this section applies to the development.
15.2 Setbacks Minimum: n/a – build to boundary	Yes	A nil/zero setback is proposed to the property boundary consistent with figure 7 of the plan.
15.3 Active frontages	Yes	A nil/zero setback is proposed to the property boundary consistent with figure 8 of the plan.
15.4 Laneways	Yes	A 1.5m setback is proposed from the southern boundary of the site to accommodate for the lane widening.
15.5 Key sites	Yes	The site is located within the key sites of the Lidcombe Town Centre known as precinct 7 – Marsden Street.
15.12 – Site 7, Marsden Street	Yes	The proposed development satisfies the objectives of Precinct 7.
Objectives a) To ensure architectural design recognises: <ul style="list-style-type: none"> The strategic significance of the site within the Lidcombe Town Centre; and The visual prominence of the site from public areas including Lidcombe train station and Railway Street / Church Street Railway Bridge. b) To provide an appropriate transition to the industrial area to the east of the site. c) To improve pedestrian access and circulation within the town centre, by upgrading and widening Davey and Raphael Street to improve their amenity and safety. d) To ensure development is sensitive in scale and character to all public open space in the precinct, including Friends Park and the Jewish Reserve. e) To enhance the public domain, and increase accessibility and safety to public open space.		
Development Controls		
D1 Development shall be designed to address Railway, Mark, James,	Yes	Development addresses Railway and Mark Street frontages to provide emphasis to

Marsden, Davey and Raphael Streets.	the corner building element.															
D2-D5 relates to developments along Davey and Raphael Streets and is not relevant to the subject site.	Development is consistent with the requirements of D6-D8.															
<div>D6 New buildings to the north of the central open spaces shall be designed to minimise the loss of solar access to the open spaces.</div> <div>D7 Outdoor dining and active uses shall be encouraged facing onto the proposed park on the corner of Railway and Mark Streets, to provide casual surveillance of the park and improve safety.</div> <div>D8 Development adjacent to the existing and proposed public open spaces shall be designed to provide overlooking and casual surveillance of the park spaces to improve safety.</div>																
Residential Flat Buildings																
<p>The proposed development is considered to perform satisfactory with respect to the Residential Flat Buildings section of the ADCP 2010. Whilst some non-compliance are noted specifically with regard to the required building setbacks and separation distances, a variation is considered acceptable as a result of the prevailing requirements established by the ADG and SEPP 65.</p> <p>The development also relates to a mixed use component with commercial/retail at ground level and residential above, as such the desired landscaping controls with respect to deep soil areas and landscaped communal open spaces are more difficult to achieve in a commercial/urban context. Notwithstanding, the development provides for a satisfactory level of residential amenity in terms of solar access and ventilation, apartment size, width and layouts and satisfactory private open space dimensions to accommodate the demand. The development proposed is therefore acceptable in this instance.</p> <p>A detailed assessment of the proposal against the Residential Flat Buildings part of the ADCP 2010 is available on Council’s file.</p>																
Parking and loading																
<p>The parking and loading section of the DCP has been considered in the assessment and is consistent with the prevailing parking rates established by the RMS sub-metro parking controls which requires a minimum of 158 spaces. The development provides a total of 175 spaces and complies as previously discussed above.</p> <p>Metro Sub-regional centres for RFB:</p> <table><tr><th>Rate</th><th>Units</th><th>Total</th></tr><tr><td>0.6/ 1B</td><td>55</td><td>33</td></tr><tr><td>0.9/ 2B</td><td>90</td><td>81</td></tr><tr><td>1.4/ 3B</td><td>2</td><td>2.8</td></tr><tr><td>1/5 V</td><td>147</td><td>29.4</td></tr></table> <p>Required: 147 rounded up + 10.3 spaces for commercial * = 158 spaces.</p>		Rate	Units	Total	0.6/ 1B	55	33	0.9/ 2B	90	81	1.4/ 3B	2	2.8	1/5 V	147	29.4
Rate	Units	Total														
0.6/ 1B	55	33														
0.9/ 2B	90	81														
1.4/ 3B	2	2.8														
1/5 V	147	29.4														
Stormwater drainage																
<p>The development is considered to perform satisfactorily against the stormwater drainage section of the DCP. Council’s development engineer has raised no objections with regard to the stormwater drainage concept proposed for the site and is satisfied for the development to proceed subject to recommended conditions of consent.</p>																

(b) Section 94 Contributions Plan

Section 94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) the dedication of land free of cost, or*
 - (b) the payment of a monetary contribution, or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

The development would require the payment of contributions in accordance with Council Section 94 Contributions Plans. It is recommended that conditions be imposed on any consent requiring the payment of these contributions prior to the issue of any construction certificate for the development.

The Section 94 Contributions are calculated based upon the following criteria:-

Residential:

- 55 x studio or 1 bedroom apartments
- 90 x 2 bedroom apartments
- 2 x 3 bedroom apartments

Total: **147 units**

Commercial:

- 1m² @ \$1815.00 (Rawlinsons Australian Construction Handbook)

Total proposed: 619m² of commercial GFA = \$1,123,485 @ 1% for developments over \$200,000 = \$11,234.85

The s94 contribution amount is **\$ 706,758.92 for the residential component + \$ 11,234.85 for the commercial component = \$ 717,993.70. The specified amounts are subjected to the CPI adjustments.** Appropriate s94 conditions will be included as part of any consent issued.

10. 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.

11. 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.

12. 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 development. Accordingly, the site can be said to be suitable to accommodate the proposal. The proposed development has been assessed in

regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

13 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 proposal was publicly exhibited for a minimum period of 28 days between 1 November 2016 and 29 November 2016 as prescribed under the Environmental Planning and Assessment Act 1979 for notification requirements relating to Planning Agreements. A public meeting was also held during the initial notification period on the 15 November 2016.

Further, due to significant amendments relating to a revised Planning Agreement and architectural drawings, the application was subsequently re-notified again between 10 October 2017 and 9 November 2017.

Council received one (1) submission as a result of public exhibition of the development proposal during the initial notification period. No submissions were received as a result of the subsequent re-notification.

The issues raised in the submission are summarised and discussed below:

Issue: The respondent from the Taylor Street development has raised concerns with regard to the overshadowing implications on their development and has requested for additional shadow studies to be provided by the applicant to better understand the adverse impacts.

Comments: Based on the additional shadow plans submitted, Council staff is satisfied that the extent of shadow generated by the proposed development will fall mostly on the Taylor Street building from 9am to 11am which would normally allow for the minimum solar access to be achieved in the remaining hours. However it is noted that any further overshadowing impacts would be generated by the development in front/north of the site, that impacts the Taylor Street development.

14. 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 development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

15. 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”.

16. Conclusion

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

The proposed development is appropriately located within a locality zoned for high-density mixed use redevelopment in accordance with the planning framework for Lidcombe, however some variations (as detailed above) in relation to State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development and Auburn Local Environmental Plan 2010 are sought.

Having regard to the assessment of the proposal from a merit perspective, Council may be satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of Council's planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.