



13-19 Mary Street, AUBURN

DA-52/2017

## SUMMARY

<b>Applicant</b>	Zhinar Architects Pty Ltd
<b>Owner</b>	Group A8 Pty Ltd
<b>Application No.</b>	DA-52/2017
<b>Description of Land</b>	Lot 24, DP 108401, Lot 23, DP982836, Lot 22, DP 112042 and Lot 21, DP 1084024.13-19 Mary Street, AUBURN
<b>Proposed Development</b>	Demolition of existing dwelling houses and construction of 12 storey mixed use development comprising 105 residential units, 2 commercial tenancies over 4 levels of basement parking
<b>Site Area</b>	1,782.5m <sup>2</sup> .
<b>Zoning</b>	Zone B4 - Mixed Use
<b>Disclosure of political donations and gifts</b>	Nil disclosure
<b>Issues</b>	Minor non-compliances with SEPP 65 and Auburn DCP 2010. Minor non-compliance with height control Auburn LEP 2010 however 4.6 variation addresses this.

## 1. Recommendation

***That Development Application No. DA-52/2017 for Demolition of existing dwelling houses and construction of 12 storey mixed use development comprising 105 residential units, 2 commercial tenancies over 4 levels of basement parking at 13-19 Mary Street, AUBURN, be approved via deferred commencement subject to the conditions of consent as described in the attached schedule.***

## 2. History

- 28 September 2016  
A pre-lodgement meeting to discuss the proposed development was held with Cumberland Council on 28 September 2016.
- 24 October 2016  
As a result of the pre-lodgement meeting, advice dated 24 October 2016 was provided by the Council highlighting a number of matters discussed during this meeting.
- 10 February 2017  
Development application DA-52/2017 is lodged with the Council for determination.

The development application involved the following components:

- Demolition of existing dwellings and associated building structures on 13-19 Mary Street;
- Construction of a twelve (12) storey building with a maximum building height of 38m and a maximum Floor Space Ratio of 4.99:1.
- The building would house three commercial tenancies and 99 apartments in the following configuration:

- Ground floor level comprised of 3 commercial tenancies with a combined GFA of 247m<sup>2</sup>. A waste room, storage room, substation and switch room are also proposed on the ground floor along with 19 car spaces (8 of which are visitor spaces)
- Floors one to eleven comprised a mix of residential units with a GFA of 8,610.14m<sup>2</sup> and included 99 apartments in the following configuration:
  - 12 X 1 bedroom Units;
  - 65 X 2 bedroom units; and
  - 22 X 3 bedroom units.
- Provision of a four-level basement carparking comprising 163 spaces across those 4 levels plus an additional 19 car spaces at ground level. A total of 182 car spaces were proposed overall.
- Provision of communal open space on Level 1 podium comprising 481.10m<sup>2</sup>.
- Key support infrastructure including electrical, stormwater, hard and soft landscaping.

Following lodgement of the application, it was referred to an independent planning consultant and various officers in Council for assessment. The following is a summary of any issues raised that required action prior to further assessment:

## **Internal Referrals**

### Development Engineer

#### Easement

- Stormwater from the entire site shall be discharged by gravity system. As site slopes away from the street and low level footpath at the site frontage, downstream easement shall be obtained. In this regard. Documents showing downstream easement shall be submitted with the development application. Proposed development will not be considered without downstream easement.

#### Overland flow

- Site is affected by overland flow of water. In this regard, an overland flow impact report shall be prepared by a suitably qualified hydraulic engineer in order to establish the top water level during 1 in 100 year ARI storm event and to ensure that the development will not have any adverse impact on the flood level or adjoining properties.

#### Stormwater

- Stormwater shall be discharged by gravity system to Sydney Water pipe via downstream easement subject to Sydney Water approval.
- Stormwater runoff from the driveway area shall be collected and discharged by gravity system.
- Allowances shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property. In this regard, overland flow path shall be provided.

#### Traffic/parking

- Park Road/ Mary Street and Harrow Road/Mary Street intersection analysis shall be provided as part of the traffic impact report.
- Driveway shall be minimum 2.0m from the eastern boundary in order to provide sight distance to pedestrian in accordance with Australian standard AS2890.1 requirements.
- Minimum 4.5m head room shall be provided for the medium rigid delivery vehicles.
- Access to the commercial areas from the loading area shall be provided within the site.

- Minimum 7.0m wide driveway shall be provided in the area where trucks use the access driveway with cars.

## Waste

- Length of the waste loading bay shall be minimum 10.0m. To be confirmed that waste loading area is sufficient height for waste collection vehicles.
- Commercial loading area shall be designed to provide the access to at least a medium rigid vehicle. In this regard minimum 4.5m headroom shall be provided within the loading area and along the travel path from the driveway entrance.
- The plans do not appear to indicate a loading area for the commercial units, however, there is a waste loading area on ground floor. Consideration should be given to where loading and unloading of deliveries for the commercial units will take place given the existing traffic issues in Mary Street.

## Environmental Health

### Acoustic report

- Section 5.2.1 of the report appears to be incomplete as it provides that the noise emission from all Mechanical services to the closest residential receivers (but does not include any further information).
- The conclusion of the report provides that controls of noise from common areas has been detailed in section 6.3. However, the report does not contain a section 6.3.
- It is recommended that the applicant provide an updated Acoustic report to address the above anomalies.

### Contamination assessment

- It is recommended that the applicant provides a detailed contamination assessment that demonstrates that the site is suitable or provide an RAP that demonstrates that the site will be made suitable and include proposed validation measures to be implemented.

## Landscape Works

### Trees to be removed outside property boundary

- Council can not approve the removal of trees on adjoining properties. Evidence of the owner consent to remove trees is required. If no owners consent is granted, all trees shall be protected in accordance with AS 4970-2009 "Protection of Trees on Development Sites".

### Landscape Plan

- Concern is given to the lack of landscape treatment at ground level and lack of new tree planting to mitigate the effects of loss of trees on site.
- Concern is raised for the proposed podium terrace garden for the following reasons;
  - The proposed terrace landscaping will be overshadowed by the adjoining building on northern side of garden;
  - Drainage pits are proposed at the main entrance into the landscaped terrace;
  - Further information is required regarding the height of raised garden beds on the roof top. Cross sections shall be provided to clearly illustrate (i) the roof garden design intent and (ii) the

drainage patterns across the site and (ii) the depth of soil in gardens beds.

## **External Referrals**

State Environmental Planning Policy “Infrastructure” 2007 has been reviewed. It is determined that the development is not large enough to warrant any external referral to the Roads and Maritime Services for review and the development does not fall under Schedule 3 of the Policy.

## **Preliminary Planning Assessment**

In addition to the issues raised by Councils officers internally, the preliminary assessment by the consultant planner resulted in the following main issues being raised:

1. The original proposal had predominantly blank walls and nil side setbacks from ground to level 11. Although the applicant pointed out examples of buildings in the Auburn Town Centre that had been granted nil side setbacks, these lots had different orientations which did not lead to as significant overshadowing of the street and were not leaving residue lots as small as those to the east and west of this building. It was considered that a full height ADG side boundary building separation non-compliance was not supported. The applicant was advised that development above the 4<sup>th</sup> storey should comply with setbacks that reflect 50 % of the building separation distance required as per the ADG.
2. The statistics provided for internal solar access were questioned.
3. The amenity of the proposed podium level communal open space was queried for solar access.
4. Non provision of laneway at rear as depicted in Council’s DCP. Council confirmed that they were not pursuing the lane and other consents had been granted without the laneway requirement.
5. Statement of Heritage Impact did not reference which plans are being assessed.

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## **3. Site and Locality Description**

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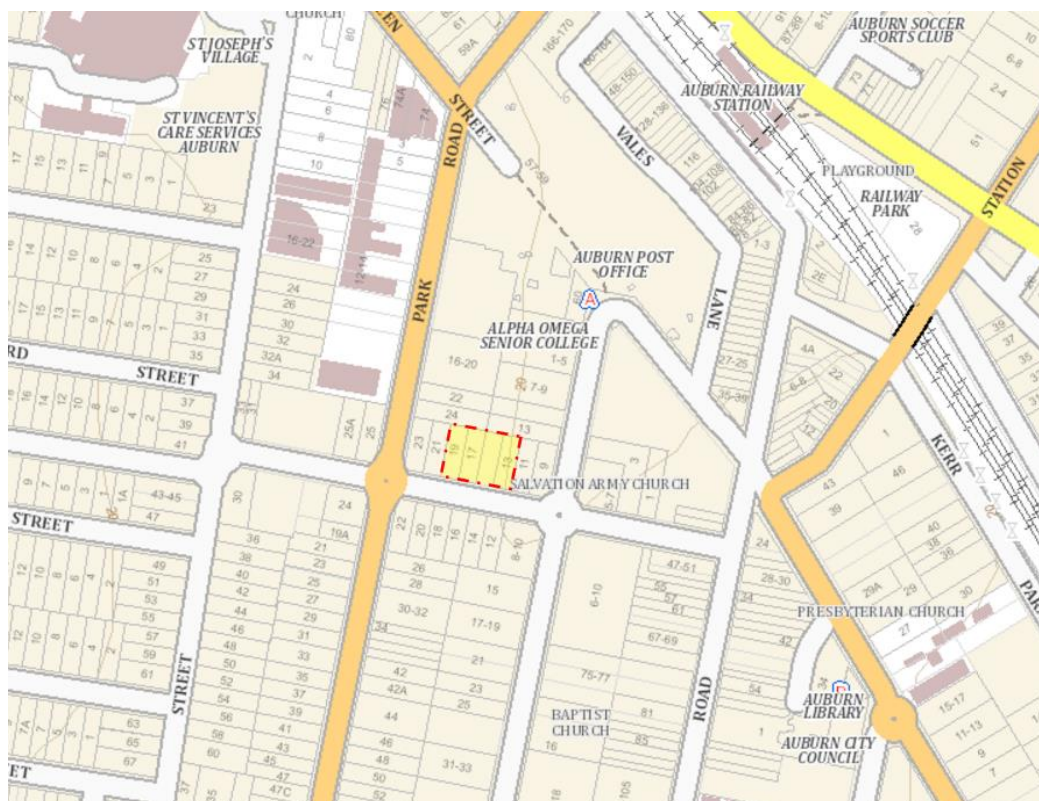
The site comprises of 4 separate residential properties commonly known as 13, 15 17, & 19 Mary Street, Auburn and are legally described as Lot 24, DP 108401, Lot 23, DP982836, Lot 22, DP 112042 and Lot 21, DP 1084024.

The site is located within the Auburn Town Centre and is within the B4 Mixed Use zone. Each property contains an older style detached dwelling (No.13 & 15 contain two storey dwellings and No.17 & 18 contain single storey dwellings). There are 4 existing trees within the development site area and these comprise of Fir, Melaluka, Camelia and Fern.

The combined site has a frontage of 48.7m to Mary Street to the south. Park Road is located to the west. Access to the site is from Mary Street. The site is rectangular in shape and has a total area of 1,782.5m<sup>2</sup>. Auburn train station is located 500m from the site and bus stops are located along Mary Street, Park Road and Harrow Road. In addition, Trinity College is 100m from the site along with Auburn Public school which is 400m from the site. A range of public open spaces are also in close proximity with Auburn Memorial park 550m and Mona Park 935m from the site.

To the north of the site is a range of low/medium density residential dwellings/developments. To the south lies existing low scale residential development which is also zoned B4. To the east of the site, a range of existing commercial and business developments (including Auburn Public School, Auburn Library and Civic Centre, Aldi, Auburn Baptist Church) exist. To the west lies a variety of mixed use developments undergoing construction and to the south west low density detached housing.

The site is identified on the map below:



#### 4. Description of Proposed Development

Development application DA-52/2017 proposes the demolition of existing structures and the construction of a 12-storey and 4 basement level mixed use development at 13-19 Mary Street, Auburn.

The DA proposes the construction of a mixed-use development comprising ground floor commercial and upper floor residential units and associated site works. The development will feature earthworks, basement car parking, construction of a twelve (12) storey mixed use development and ancillary landscaping, drainage and associated site works.

The development application has the following components:

- Demolition of existing dwellings and associated building structures on 13-19 Mary Street
- Construction of a twelve (12) storey building with a maximum building height of 40.8m and a maximum Floor Space Ratio of 4.87:1
- The building proposed includes two commercial tenancies and 105 apartments in the following configuration:

##### Basement

- Basement Level 4 will comprise of 47 car spaces along with lift/stair access, service room and storage space.
- Basement Level 3 will comprise of 45 car spaces along with lift/stair access, service room and storage space.
- Basement Level 2 will comprise of 43 car spaces (including 1 disabled access space) along with lift/stair access, service room and storage space.
- Basement Level 1 will comprise of 41 car spaces (including 2 disabled access spaces) along with lift/stair access and storage space.

## Ground Floor

- Ground floor level will comprise of 2 commercial tenancies with a combined GFA of 252.83m<sup>2</sup>.
- 2 foyers each with 2 lift shafts, residential and commercial waste areas, a storage room, substation, switch room and waste loading bay are also proposed on the ground floor along with 17 car spaces (12 of which are visitor spaces including 1 disabled access space and 5 are commercial spaces).
- 20 Bicycle spaces and 1 motorcycle spaces are proposed on the ground floor.

## Floors One to Eleven

- Floors one to eleven comprise a mix of residential units and includes 105 apartments in the following configuration:
  - 41 X 1 bedroom units;
  - 52 X 2 bedroom units; and
  - 12 X 3 bedroom units.

Other important features include:

- Provision of a four-level basement car parking comprising 176 spaces across those 4 levels plus an additional 17 car spaces at ground level. A total of 193 car spaces are therefore proposed.
- Provision of communal open space on Level 1 podium comprising 424.47m<sup>2</sup> and a rooftop terrace comprising 377.37 m<sup>2</sup>. In total 801.84m<sup>2</sup> of communal open space is provided.
- Key support infrastructure including electrical, stormwater, hard and soft landscaping and additional parking facilities for visitors.
- Proposed materials include painted render finishes in various white / grey tones, colorond windows and louvres and glass balustrade. Composite Timber “innowood” is proposed to sections of the ground level commercial façade, the underside of slab soffits (balcony ceilings) and specified box frames to the building. (Refer to Photomontage)

## **5. Referrals**

The following are the internal referrals undertaken by Council following the lodgement of the amended application.

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

#### Development Engineer

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. It has been recommended that detailed stormwater plans and on street drainage plans be prepared in accordance with Councils requirements as part of a deferred commencement condition.

#### Environmental Health

The development application was referred to Councils Environmental Health Unit for comment. No objections have been raised to the proposed development subject to the imposition of conditions on any development consent.

#### Landscape Works

The development application was referred to Councils Landscape officer for comment. No objections have been raised to the proposed development subject to the imposition of conditions on any development consent.

## **(b) External Referrals**

### Roads and Maritime

State Environmental Planning Policy "Infrastructure" 2007 has been reviewed. It is determined that the development is not large enough to warrant any external referral to the Roads and Maritime Services for review and the development does not fall under Schedule 3 of the Policy.

### NSW Police

The development application was referred to the NSW Police Service in accordance with the Policy on Crime Prevention Through Environmental Design (CPTED) for a crime risk assessment. In the letter dated 22 June 2016, no objections have been raised by NSW Police to the proposed development subject to the imposition of conditions on any development consent in respect of security and crime prevention.

### Ausgrid

The subject development incorporates basement excavation in proximity (within 2m) to an existing electricity distribution pole and development is to occur within 5m of an overhead electricity powerline. In accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007, the consent authority is to give written notice to the electricity supply authority and to take into consideration any comments received. As of date, Council has not received correspondence from Ausgrid on the above matter. In this regard, it is recommended that standard conditions be imposed on the development in accordance with previous advice received by Ausgrid on similar matters.

Council has been previously advised that where Council considers that the site of the development is suitable and the development comprises or involves a type listed in Table 1, then Ausgrid requires the following development consent conditions to be imposed to ensure the safety and compatibility of both the development and Ausgrid's assets.

**Table 1: Development types and relevant consent conditions**

<b>SEPP (Infrastructure) 2007 clause</b>	<b>Development type</b>	<b>Consent condition</b>
45(a)	Penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower.	A, B
45(b)(i)	Development carried out within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).	A, E, D
45(b)(ii)	Development carried out immediately adjacent to an electricity substation.	A, C*, D, F
45(b)(iii)	Development within 5m of an exposed overhead electricity power line.	A, D
45(c)(i)	Installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level.	A
45(c)(ii)	Installation of a swimming pool any part of which is within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool.	A



45(d)	Development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.	A
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\* For development adjacent to a substation, Ausgrid requests that council seek a noise assessment report from the applicant prior to the Development Application being determined. The assessment must address, in relation to the adjacent substation, the requirements of the amenity or intrusive criteria in section 2.4 of the *NSW Industrial Noise Policy* (EPA, 2000) <http://epa.nsw.gov.au/noise/industrial.htm>. Where a noise assessment has not been provided by the applicant, Ausgrid request that condition C be imposed on any consent that is granted.

**Condition A:** The applicant must be aware that there are safety clearances from the substation in relation to fire and blast segregation requirements as detailed in the Ausgrid Network Standards publications, NS141 and NS113 which are available on the Ausgrid website and the relevant link is given below.  
<http://www.ausgrid.com.au/Common/Industry/Network-documentation/Network-standards.aspx>.

**Condition B:** The applicant must check the location of underground cables by using *Dial Before You Dig* [www.ausgrid.com.au/Common/Safety/Safety-around-our-network/Dial-Before-You-Dig.aspx](http://www.ausgrid.com.au/Common/Safety/Safety-around-our-network/Dial-Before-You-Dig.aspx) and comply with the requirements of *NS156: Working Near or Around Underground Cables* (Ausgrid, 2010) [www.ausgrid.com.au/Common/Our-network/Standards-and-Guidelines/Network-standards.aspx](http://www.ausgrid.com.au/Common/Our-network/Standards-and-Guidelines/Network-standards.aspx).

**Condition C:** Prior to the issue of a Construction Certificate (or an Occupation Certificate where a Construction Certificate is not required), the applicant must provide to council and Ausgrid a noise assessment report. The report must address, in relation to the adjacent substation, the requirements of the amenity or intrusive criteria in section 2.4 of the *NSW Industrial Noise Policy* (EPA, 2000)<sup>1</sup>.

**Condition D:** The development must comply with both the Reference Levels and the precautionary requirements of the *Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz* (ARPANSA, 2006) [http://www.arpansa.gov.au/pubs/rps/dr\\_elfstd.pdf](http://www.arpansa.gov.au/pubs/rps/dr_elfstd.pdf).

**Condition E:** The development must comply with *Tree Safety Management Plan* (Ausgrid, 2007) [www.ausgrid.com.au/Common/Community/Community-services/Bushfire-prevention.aspx](http://www.ausgrid.com.au/Common/Community/Community-services/Bushfire-prevention.aspx).

**Condition F:** The development must be carried out in accordance with *ENA EG1-2006: Substation Earthing Guide* (Energy Networks Association, 2006).

Planners Comment: It is recommended that conditions associated with **A and B** be imposed on the development to ensure compliance with Clause 45 of the SEPP.

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

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

The requirement at Clause 7 of SEPP 55 has been considered in the following table to ensure the site is suitable or can be made suitable to accommodate the proposed development:

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



Matter for Consideration	Yes/No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Details of contamination investigations carried out at the site:</p> <p>A Detailed Site Investigation report, dated October 2017 and prepared by STS GeoEnvironmenatl P/L been submitted. It is noted that the report concludes the following;</p> <p><i>Remediation of the asbestos impacted soil will be necessary to make the site suitable for the proposed mixed commercial and high-density residential redevelopment. However, given that the entire site is proposed to be bulk excavated for a basement car parking area remediation would be achieved simply by redeveloping the site in accordance with the proposed plans, although any soil material which is removed from the site during redevelopment must be disposed of off-site in accordance with regulatory requirements.</i></p> <p>Council's Environmental Health Officer has reviewed the reports and determined that the site is suitable to support such a development given that the report provides that the site is suitable for the proposed use.</p> <p>The consent authority can be satisfied that the provisions of Clause 7 of SEPP 55 have been considered and that the site will be suitable for development, subject to the recommendations of the submitted report.</p>	
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**(b) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)**

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 and 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.

**(c) 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, 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 DA and therefore the development will need to be referred to the Panel for determination. The Cost estimate is attached at Appendix J.

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

The provisions and design quality principles of Schedule 1 of SEPP 65 and Apartment Design Guide (ADG) have been considered in the assessment of the development application. In general, the proposed development is considered to perform satisfactorily having regard to the SEPP 65 design principles as well as the provisions under the ADG.

The table provided at the end of this report under **Appendix A** is a summary of compliance to demonstrate the overall design of the development proposal's consistency with the relevant planning controls that are applicable to the site with respect to SEPP 65 and ADG. However, an abstract of non-compliance is listed below:

<b>Part 3E1 - Deep soil zones</b>														
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: <table border="1"> <thead> <tr> <th>Site Area</th><th>Dimensions</th><th>Deep Soil</th></tr> </thead> <tbody> <tr> <td>&gt; 1,500m<sup>2</sup></td><td>6m</td><td>7%</td></tr> </tbody> </table>		Site Area	Dimensions	Deep Soil	> 1,500m <sup>2</sup>	6m	7%	<p>Given the location of the site within the Auburn Town Centre, a deep soil zone is not proposed within the development.</p> <p>The criteria specified cannot be achieved with the proposed design. Nil deep soil areas have been consistently not required in the town centre and the proposal therefore is considered satisfactory.</p>						
Site Area	Dimensions	Deep Soil												
> 1,500m <sup>2</sup>	6m	7%												
<b>Part 3F - Visual privacy</b>														
3F-1 Design criteria Minimum separation distances from buildings to the side and rear boundaries between windows and balconies are provided to as follows: <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms &amp; balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9 + storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>		Building height	Habitable rooms & balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9 + storeys)	12m	6m	<p>The proposal does not provide the required building separation from the northern rear boundary and side boundaries.</p> <p><b>Rear Boundary:</b>            The development proposes nil setbacks from the northern rear boundary on its ground floor. A blank wall is proposed at ground level. The subject site is located within B4 Mixed Use zone of the Auburn Town Centre, nil setback with minimal amenity impact on the adjoining property is deemed acceptable.</p> <p>On the subsequent upper levels (being Levels 1-11), the development proposes a 10m rear setback. This setback is only non compliant for levels 9 – 11 and is considered acceptable in its context for the following reasons.</p> <p>The adjoining site at the rear (No.24 Park Road) has a Development Consent issued for a zero setback on its southern boundary with blank walls proposed. The 10m rear setback proposed by the subject DA will not create or endure any overlooking, privacy, overshadowing or noise issues. Given the lack of impacts, the rear setback proposed is deemed acceptable in this instance.</p> <p><b>Side Boundary:</b>            The development proposes a nil ground floor side setback on both the eastern and western boundaries. This is maintained up to Level 4. Blank walls are proposed from the Ground Floor up to Level 5. This is considered satisfactory to present a street wall appearance to the town centre.</p> <p>On both its western and eastern boundary, a predominantly 6m side setback (articulated to 7 m for one portion) is proposed from Levels 5 -11.</p> <p>From Levels 5 -11 high sill windows (1.54 m) on the eastern and western elevations provide solar access to a range of rooms on that elevation inclusive of bedrooms, study, kitchen and dining. These windows assist with light and ventilation.</p> <p>Although from level 5 – 11 the proposal does not meet the full separation requirement of the ADG, this is considered reasonable given the following:</p> <ul style="list-style-type: none"> <li>• All apartments main living areas are orientated towards balconies at the front or back of the site.</li> <li>• High sill windows and some articulation to the side facades of the building improves ventilation and the visual appearance of the building.</li> <li>• Privacy/overlooking issues are avoided through a</li> </ul>
Building height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9 + storeys)	12m	6m												

	<p>high sill at 1.54m above floor level.</p> <ul style="list-style-type: none"> <li>• The proposed floor plate width allows the building to be serviced by two lift cores and two lobbies which maintains more privacy and security for residents.</li> <li>• Full compliance would have resulted in a wedding cake effect to the building.</li> </ul>
<b>Part 4A - Solar and daylight access</b>	
<p><b>4A-1 Design Criteria</b></p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p><b>17.14% of apartments will receive no direct sunlight between 9am and 3pm at mid-winter.</b></p> <p>The previous submitted proposal claimed only 11% of apartments receiving nil sunlight, however, that figure was questioned.</p> <p>17% is considered reasonable given the long south facing axis of the site and its high density town centre location.</p> <p>The amended proposal improves solar access at street level during mid winter which is considered positive for all living or visiting the precinct.</p>
<b>4B-3 Design Criteria</b>	
<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p><b>The maximum overall depth of a cross-over or cross-through unit exceeds 18m (approximately 20m) for centrally located cross over units on levels 2 - 11 when measured from glass line to glass line. This is considered acceptable as service / utility rooms are located central to the unit and these units have three aspects.</b></p>

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

The site is located within the area within the Sydney Harbour Catchment and SREP (Sydney Harbour Catchment) 2005 is applicable to the development application. The development application raises no issues as consistency with the requirements and objectives of the *Auburn Development Control Plan 2010*.

**(f) Auburn Local Environmental Plan 2010 (ALEP)**

The provision of the ALEP 2010 is applicable to the development proposal. The application seeks Council's approval to construct a new 12 storey mixed use development over 4 levels of basement car parking and includes ancillary landscaping, drainage and associated site works. The site is located within the Auburn Town Centre. Whilst a more comprehensive assessment of the ALEP 2010 compliance table is attached to the end of this report in **Appendix B**, a summary of major controls is discussed as below:

Part 2 – Land Use Table

The subject site is identified within the B4 Mixed Use zone within the Auburn Town Centre. The proposed mixed use building achieves compliance with the core statutory requirements of the ALEP 2010 and the objectives of the B4 Mixed Use zone.

Part 4, Clause 4.3 – Height of Buildings

The relevant Height of Buildings Map of the ALEP 2010 indicates a maximum 38m building height applies to the site.

As shown on the architectural plans (as amended), the proposal seeks approval to construct a new 12 storey mixed use building over 4 levels of basement car park with a maximum height of 40.8m at its highest point including the lift overruns and rooftop terrace features /

shelters/ privacy screens when measured from the natural ground level. This represents a 2.8 m non-compliance with the height control.

A sufficient 4.6 variation has been submitted with this application justifying and addressing the minor non-compliance with the height control. The non-compliance is considered reasonable as the elements that protrude beyond the height plane are only offering amenity to residents and the lift over runs are internal to the floor plate so would not be visible from street level.

#### Part 4, Clause 4.4 – Floor Space Ratio

A floor space ratio of 5:1 applies to the subject site in accordance with the Floor Space Ratio Map of the ALEP 2010.

A floor space ratio of 4.87:1 is proposed for the development to accommodate the proposed 12 storey mixed use building for 2 commercial tenancies and 105 residential units over 4 levels of basement car parking. In total 8.692.64m<sup>2</sup> of GFA is provided.

It is noted that all basement storage, parking spaces, manoeuvring area, loading/unloading area and plant room on the ground floor are excluded from the calculation in accordance with the ALEP 2010 definition.

Accordingly, the proposal complies with the floor space ratio requirement.

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

There are no draft planning instruments that will apply to the development application.

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

##### **(a) Auburn Development Control Plan 2010 (ADCP)**

The relevant objectives and requirements of the ADCP 2010 have been considered in the assessment of the development application. In general, the proposed development is considered to perform satisfactorily having regard to the ADCP 2010.

The table provided at the end of this report under **Appendix C** is a comprehensive summary of compliance to demonstrate the overall design of the development proposal's consistency with the relevant planning controls that are applicable to the site with respect to the ADCP 2010. However, a summary of the proposal against relevant sections of the DCP and specifically non-compliances are listed below:

##### **i) Local Centres**

Figure 4 of the Auburn Town Centre DCP section shows a proposed laneway behind the site. Council have confirmed that consent was issued to adjacent 24 Park Road without provision for the laneway. Council is no longer pursuing the laneway dedication.

The other relevant requirements and objectives of the Local Centres part of the ADCP 2010 have been considered in the assessment and are considered satisfactory.

##### **ii) Parking and Loading**

The relevant requirements and objectives of the Parking and Loading part of the ADCP 2010 have been considered in the assessment and are considered satisfactory.

Given that the development is located within a B4 mixed use zone and is within 1,000 metres of a railway station in the Auburn Town Centre, the specific provisions for car park numbers of 5.1.5 of this part applies.

The proposal provides for 193 spaces which are between the minimum requirement of 134 and maximum of 277 which is considered appropriate.

iii) Residential Flat Buildings

<b>2.0 Built Form</b>	
<p>2.2 Site coverage</p> <p>Development controls</p> <p><b>D1</b> The built upon area shall not exceed 50% of the total site area.</p>	<p>The built upon area exceeds 50% of the total site area. The building occupies 100% of the site on the ground floor level.</p> <p>100% site cover is permitted in the town centres to achieve appropriate street walls to support the local centre enclosed street scape and active street frontages.</p> <p>It is not feasible to achieve compliance with the stated provision due to the zoning, location of the site within the Auburn Town Centre, achievement of close to 5:1 FSR within the height range.</p>
<p>2.3 Building envelope</p> <p><b>D2</b> The maximum building footprint dimensions, inclusive of balconies and building articulation but excluding architectural features, is 24m x 45m for sites up to 3,000m<sup>2</sup></p>	<p>The ground floor level is considered to be appropriately designed notwithstanding its dimensions. The proposed development has a maximum building footprint of 36.551m x 48.77m which occupies an area of 1,782m<sup>2</sup>.</p> <p>The larger floor plate is supported by two separate lift cores and entrance / lobbies internally.</p> <p>The performance of the building in terms of internal amenity and contribution to the streetscape and pedestrian environment is considered satisfactory.</p>
<p>2.4 Setbacks</p> <p>Development controls</p> <p>2.4.1 Front setback</p> <p><b>D1</b> The minimum front setback shall be between 4 to 6m.</p> <p>2.4.2 Side setback</p> <p><b>D1</b> In all residential zones, buildings shall have a side setback of at least 3 metres.</p> <p>2.4.3 Rear setback</p> <p><b>D1</b> Rear setbacks shall be a minimum of 10m from the property boundary</p>	<p>The subject site is located within the B4- Mixed Use zone.</p> <p>The proposal has the following setbacks:</p> <p><b>Front setback</b> Ground Floor to Level 11 – nil setback</p> <p>Whilst proposal does not satisfy the numerical setback requirements for Residential Flat Building's DCP 2010, given that the site is located in the Auburn Town Centre where built to boundary front setbacks are permitted, the proposed nil front setback is considered appropriate.</p> <p><b>Side setbacks</b> Ground Floor to Level 4 – nil setback Level 5 to Level 11 – 6m minimum Ground level to Level 4 proposes nil setbacks. However given the sites orientation, location within Auburn Town Centre and that the building's side elevations propose blank walls for these levels, strict compliance with this control is considered unnecessary since no adverse significant impacts to visual or acoustic amenity are expected.</p> <p>Levels 5-11 do not strictly comply with the side setback control as the setback is between 6 and 7 metres. This facade includes operable high sill windows to habitable rooms.</p> <p>The current design of the apartments is such that their main living areas are orientated to the front or rear boundary and advantage of solar access, ventilation outweighs any issues with reduced separation as neighbouring sites develop.</p> <p>It should be noted that the original proposal had predominantly blank walls and nil side setbacks from</p>

	<p>ground to level 11. Although the applicant pointed out examples of buildings in the Auburn Town Centre that had been granted nil side setbacks, these lots had different orientations that did not have such an adverse shadow impact to the public streets and were not leaving residue lots as small as those to the east and west of this building.</p> <p>Rear setback</p> <p>Basement 4 to Ground Floor - nil setback Level 1 to Level 11 - 10m setback Ground level proposes nil rear setback. However this steps back to 10m for the upper levels of the building.</p> <p>The proposed nil rear setback for ground level is considered reasonable. The 10 metre rear setback to the remainder of the building was considered satisfactory as it predominantly faced the site with nil boundary setback / blank wall approved at 24 Park Road.</p>
<p>2.5 Building depth</p> <p>Development controls</p> <p><b>D1</b> The maximum depth of a residential flat building shall be 24m (inclusive of balconies and building articulation but excluding architectural features).</p>	<p>The building proposes a maximum depth of 36.551m. Whilst this is a noteworthy variation, the additional depth occurs only on the ground level with the upper levels stepping back a further 10m from the rear boundary.</p> <p>This is therefore considered reasonable. It does not result in any adverse bulk to the building having regard to the FSR controls that apply to the site.</p> <p>The building performs satisfactorily for solar access and ventilation requirements.</p> <p>Therefore, a variation is supported in this regard as it is not considered to adversely affect the residential amenity of the units.</p>
<b>3.0 Open space and landscaping</b>	
<p><b>3.3 Deep soil zone</b></p> <p>Development controls</p> <p><b>D1</b> A minimum of 30% of the site area shall be a deep soil zone.</p> <p><b>D2</b> The majority of the deep soil zone shall be provided as a consolidated area at the rear of the building.</p> <p><b>D3</b> Deep soil zones shall have minimum dimensions of 5m.</p> <p><b>D4</b> Deep soil zones shall not include any impervious (hard) surfaces such as paving or concrete.</p>	<p>The basement occupies the entire site prohibiting the provision of any deep soil zone. The design is considered acceptable in this instance as the development site is located within the Auburn Town Centre.</p> <p>The area is a relatively dense urban area which restricts the provision of deep soil zones. Suitable stormwater management measures are proposed and soft landscaping accommodating shrubs and small trees form an integral part of the podium communal open space area on Level 1 and the rooftop terrace.</p>
<b>4.0 Access and car parking</b>	
<p><b>4.2 Basements</b></p> <p><b>D1</b> Where possible, basement walls shall be located directly under building walls.</p> <p><b>D2</b> A dilapidation report shall be prepared for all development that is adjacent to sites which build to the boundary.</p> <p><b>D3</b> Basement walls not located on the side boundary shall have minimum setback of 1.2m from the side boundary to allow planting.</p> <p><b>D4</b> Basement walls visible above ground level shall be appropriately finished (such as face brickwork and/or render) and appear as part of the building.</p>	<p>Basement walls are located directly under building walls as shown on the floor plans.</p> <p>A dilapidation report will be prepared and submitted with the Construction Certificate application.</p> <p>Any basement walls visible above ground will be finished to ensure an attractive entry is achieved.</p>

iv) Access and Mobility

The relevant requirements and objectives of the Access and Mobility part of the ADCP 2010 have been considered in the assessment of the development application. The proposal satisfies the requirements of the ADCP 2010 in general as equitable access is provided to the development from the street/basement levels and suitable accessible facilities are provided within the building. Further, relevant conditions for the development to comply with Australian Standard AS1428 and the *Building Code of Australia* regarding disabled access can be included in any consent if the application is recommended for approval. In this regard the application is considered to be consistent with the objectives and relevant requirements of the ADCP 2010.

v) Stormwater Drainage

The development application was referred to Council's Development Engineer and the comments received raised concerns with regard to stormwater drainage, parking and vehicle access and waste disposal.

Council's Engineer advice indicated that minor concerns regarding parking configuration and stormwater drainage remained outstanding. However, it was further advised that Council staff may support the proposal, subject to the inclusion of appropriate conditions in any consent.

vi) Waste

The relevant requirements and objectives of the Waste part of the ADCP 2010 have been considered in the assessment of the development application. Suitable arrangements of waste management have been proposed as part of this development application and appropriate conditions can be imposed. Council's Development engineer raised the following concerns with regards to waste.

- Length of the waste loading bay shall be minimum 10.0m.
- Commercial loading area shall be designed to provide the access to at least a medium rigid vehicle. In this regard minimum 4.5m headroom shall be provided within the loading area and along the travel path from the driveway entrance.

**(b) Auburn Development Contributions Plan 2010**

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 will be based upon the following criteria:-

Residential:

- 41 x studio or 1 bedroom apartments
- 52 x 2 bedroom apartments
- 12 x 3 bedroom apartments

Total: **105 units**

Total Payable: **\$509,970.10** as per pathways

Commercial

Commercial Construction Cost: \$258,835 as per Capital Investment Value Report prepared by Construction Consultants and dated 13 October 2017



Calculation: 1% of \$258,835

Total Payable: **\$2,588.28** as per pathways

As from 24 October 2017, the contribution amount (Residential plus commercial) is **\$512,558.38**. The specified amounts are subjected to the CPI.

## **9. Disclosure of Political Donations and Gifts**

The NSW Government introduced The *Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW)*. This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans.

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

## **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 is located within a flood planning area. There are no 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))**

### **(a) Public Notification**

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

In accordance with Council's Notification of Development Proposals part of the Auburn Development Control Plan 2010, the initial proposal was publicly exhibited for a period of fourteen (14) days between 28 March 2017 and 11 April 2017. No submissions were received.

The application was subsequently amended since the original design, however, in accordance with part 3.4.1 of the Introduction part of the ADCP 2010, *if it is considered that the likely environmental impact is insignificant, the development application will not be re-advertised or re-notified, or the notification period may be reduced. This is at the discretion of Council.*

It is noted that the design changes, although incorporating minor increases in height to accommodate rooftop communal space, reduced the overall bulk and scale of the building which is considered to be a better planning outcome and the likely environmental impact of the change is considered insignificant.

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

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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.

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#### **15. Operational Plan / Delivery Program**

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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”.

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#### **16. Conclusion**

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The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and this report has been prepared for the information of the Joint Regional Planning Panel.

The proposed development is appropriately located within the B4 – Mixed Use zone under the relevant provisions of *Auburn Local Environmental Plan 2010*. The proposal is generally consistent with all statutory and non-statutory controls applying to the development. Minor non-compliances with Council’s controls have been discussed in the body of this report. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

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*, and the development is recommended to the Joint Regional Planning Panel for deferred commencement approval.

Appendices Attached