

## CUMBERLAND COUNCIL

18-22 Mary Street, Auburn

DA-32/2017

### SUMMARY

<b>Application lodged</b>	02-February-2017
<b>Applicant</b>	Urban Link Pty Ltd
<b>Owner</b>	Lanzaid Mary Commercial P/L
<b>Application No.</b>	DA-32/2017
<b>Description of Land</b>	Lot 1 DP 194169, Lot 1 DP 742938 and Lot 40 Sec 7 DP 982836, 18 – 22 Mary Street, AUBURN NSW 2114
<b>Proposed Development</b>	Demolition of existing structures and the construction of a 12 storey mixed use apartment building containing a three storey basement car park and a ground floor comprising three commercial / retail tenancies
<b>Site Area</b>	1392.00m <sup>2</sup>
<b>Zoning</b>	Zone B4 – Mixed Use
<b>Disclosure of political donations and gifts</b>	Nil disclosure
<b>Heritage</b>	Not applicable

### 1. Recommendation

***That Development Application No. DA-322017 for Demolition of existing structures and the construction of a 12 storey mixed use apartment building containing a three storey basement car park at 18-22 Mary Street, AUBURN, be deferred commencement approved subject to the conditions of consent as described in the schedule***

### 2. History

- 2 February 2017  
Development application DA-32/2017 is lodged with the Council for determination.
- May 2017  
The development application is notified between 2 May 2017 and 16 May 2017. A total of one (1) submission was received.

### 3. Site and Locality Description

The site comprises 3 separate residential properties commonly known as 18, 20 & 22 Mary Street, Auburn and are legally described as Lot 1 DP 194169, Lot 1 DP 742938 and Lot 40 Sec 7 DP 982836.

The site is located within the Auburn Town Centre and is within the B4 Mixed Use zone. Each property contains an older style detached single storey dwelling (currently being used as medical premises). There are 8 existing trees within the development site area and these comprise of Cocos Palm, Queensland Box Brush, Jacaranda and Chinese Elm. The development site is located on the southern side of Mary Street, Auburn and sits on the south-eastern corner of Mary Street and Park Road intersection.

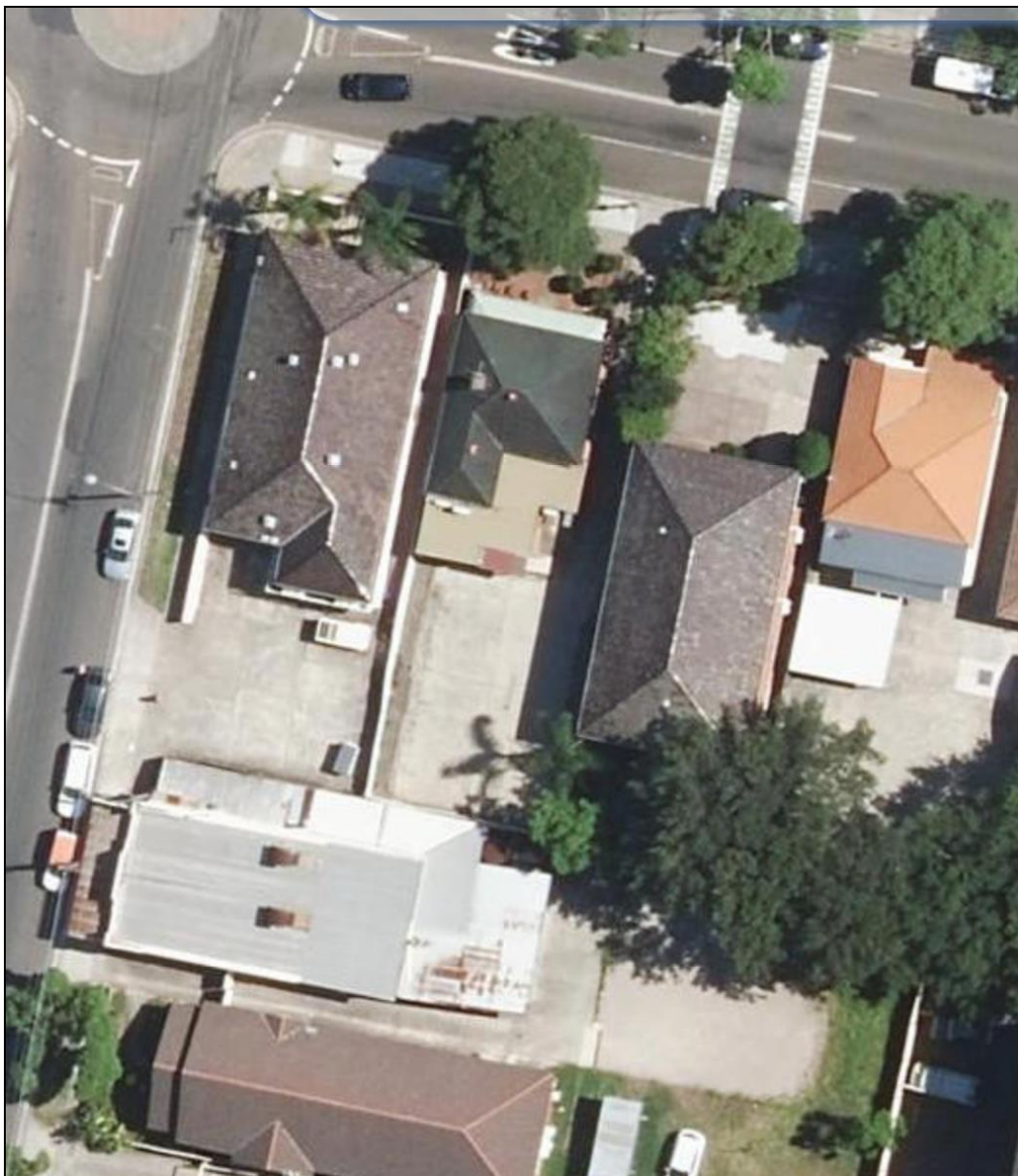
The combined sites have a frontage of 38.4m to Mary Street to the north and a frontage of 37.05m to Park Road to the west. Access to the site is from both Mary Street and Park Road. The site is generally rectangular in shape and has a total area of 1,393.50m<sup>2</sup>.

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 along Mary Street are a range of low density residential dwellings which will be redeveloped into additional mixed use developments in the short and medium term. To the south lies existing medium to low scale residential development which sits in an R4 High Density Residential Zone. 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 and to the west lies a variety of low density residential dwellings in an R2 low density residential zone.

The site is identified on the map below:





#### **4. Description of Proposed Development**

Development application DA-32/2017 proposes the demolition of existing structures and the construction of a 12 storey mixed use apartment building containing a three storey basement car park and a ground floor comprising three commercial / retail tenancies at 18-22 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 18-22 Mary Street and removal of removal of 6 existing trees on 18-22 Mary Street;
- Construction of a twelve (12) storey building with a maximum building height of 39.3m and a maximum Floor Space Ratio of 4.99:1
- Basement Level 3 will comprise of 41 car spaces, 1 motorcycle space and 5 bicycle spaces along with lift/stair access and storage space.

- Basement Level 2 will comprise of 36 car spaces (including 9 disabled access spaces) 1 motorcycle space and 6 bicycle spaces along with lift/stair access and storage space.
- Basement Level 1 will comprise of 28 car spaces (including 2 disabled access spaces) 4 motorcycle spaces, 9 bicycle spaces along with lift/stair access and storage space.
- Ground floor level will comprise of 3 commercial tenancies with a combined GFA of 552.42m<sup>2</sup>. Waste rooms (for commercial & residential waste) and a truck turntable are proposed on the ground floor along with the residential lobby to service the apartment units proposed in the upper levels.
- Floors one to eleven comprise a mix of residential units with a GFA of 6,412.11m<sup>2</sup> and includes 86 apartments in the following configuration:
  - 33 X 1 bedroom units;
  - 49 X 2 bedroom units (14 of those 2 bedroom units also have a study); and
  - 4 X 3 bedroom units (1 of those 3 bedroom units also has a study)
- Provision of communal open space on Level 1 and Level 11 podium comprising a total area of 472m<sup>2</sup>.
- Key support infrastructure including electrical, stormwater, hard and soft landscaping and additional parking facilities for visitors.

Approval for the internal fit-out and use components of the commercial tenancies uses will be sought under separate Complying Development Certificates/Development Applications (where relevant) which will be lodged following approval of the base building under this proposal and when tenants are known.

## **5. Referrals**

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

#### Development Engineer

The development application was referred to Council's Development Engineer for comments who has raised the following issues relating to the proposal:

- 1) Proposed driveway interferes with the existing street tree.
- 2) Prior to finalise the application following matter shall be addressed:

Overland flow:

- a) Overland flow report shall use the 3.5m<sup>3</sup>/s flow in the flood modelling.

Stormwater:

- b) Stormwater from the entire site shall be discharged by gravity system.
- c) Stormwater outlet shall not extend beyond 1.0m of the adjoining street frontage. In this regard stormwater outlet shall be redesigned. Detail stormwater outlet section showing cover under the footpath shall be submitted. Minimum 50mm cover shall be provided under the footpath.
- d) OSD section shall show the basement headroom under discharge control pit basement.

Traffic/parking:

- e) Park Road/ Mary Street and Harrow Road/Mary Street intersection analysis shall be provided as part of the traffic impact report.
- f) Proposed driveway interferes with the existing speed hump and associated signs.
- g) Curved ramp design shall comply with Australian standard AS2890.1. In this regard internal and external curve radii shall be marked on the plan.

- h) Detail longitudinal section of the access ramp along the both internal and external curves shall be submitted.
- i) A 2.5m splay shall be provided at the Park Road and Mary Street corner.
- j) Width of access ramps shall be minimum 6.1m. Ramp width shall be annotated on the plan.
- k) Minimum 2.2m headroom clearance shall be provided for the car park. Head room shall be measured perpendicular to the wheelbase as shown on the Figure 5.3 of AS 2890.1. Head room details shall be marked on the plan. In this regard, detail longitudinal sections of the access ramp to a scale of 1:20 shall be submitted.
- l) Parking space layout and ramp gradients shall comply with Australian standard AS2890.1 and AS2890.6.
- m) Minimum 7.0m wide driveway shall be provided in the area where trucks use the access driveway with cars.

Waste:

- n) Turn table arrangement is not acceptable. Adequate space shall be provided within the site to manoeuvre and to enter and exit the site in a forward direction.
- o) 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.

Upon review of the information and subsequent amended plans, Council's engineer advised that the proposed development is satisfactory due to the provision of adequate car parking and vehicle access to the site. Stormwater drainage is satisfactory or capable of being satisfactory subject to deferred commencement conditions being required to be satisfied prior to operational consent be issued to ensure compliance. Council's engineer has no objections for the application to proceed in this instance.

#### Environmental Health

The development application was referred to Council's Environmental Health Officer for comments and the advice provided recommended specific conditions to be placed on any development consent issued for this application.

Council is satisfied that the proposed development can proceed subject to appropriate conditions being imposed for the remediation and validation works to be carried out on the site in accordance with the recommendations of the Remedial Action Plan submitted to ensure compliance.

#### Heritage

The proposed development is located in the vicinity (directly opposite the road) to a local heritage item of significance known as Lea's Temperance Hall (item no. 117) at 24 Mary Street. The application has been appropriately supported with a Heritage Impact Statement which concludes that the impacts are minimal.

A referral was sent to a heritage advisor for comment and the advice provided raised no objections with respect to the development proposal indicating that *"the context of the precinct has been irreversibly changed from the B4 zoning and subsequent redevelopments in the vicinity and in this case the heritage adviser concurs with the conclusion of the heritage consultant in that the items in vicinity will continue to be appreciated without interference from the development and therefore approval is recommended for the application."*

#### Landscape comments

The development application was referred to Council's Senior Landscape Architect for comment who has raised the following issues:

#### *Street Trees*

To retain the following street tree located on Mary Street;

T3      *Lophostemon confertus*      Brush Box

This tree shall be protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.

*New Street tree planting;*

To plant two new street trees on Mary Street;

*Lophostemon confertus*, minimum pot size 100L. New street trees shall be located on either side (east and west) of existing street tree (T3), at 8m offset and adjacent to kerb. New street trees shall be planted in accordance with the Auburn Street Tree masterplan.

No new street trees shall be planted along Park Road.

*Existing Trees on site*

*Approval is given for the removal of the following existing trees on site as identified on the Landscape Plan Drawing no. LS01 issue C dated 21 January 2017 and Redgum Aboricultural Assessment report dated 18 January 2017.*

T1.	<i>Syagrus romanzoffianum</i>	Coco Palm
T2.	<i>Syagrus romanzoffianum</i>	Coco Palm
T4.	<i>Lophostemon confertus</i>	Brush Box
T5.	<i>Syagrus romanzoffianum</i>	Coco Palm
T6.	<i>Jacaranda mimosifolia</i>	Jacaranda

*Approval is not given for the removal of the following tree:*

T7      *Ulmus parvifolia*      Chinese Elm

**Reason: Council has no legal control over tree plantings on private property, with the exception being on properties for which there is a development application. Council cannot inspect a tree for removal without an application under the Tree Preservation Order. The application must be lodged by the owner of the property on which the tree is growing, or by an authorised agent of the owner.**

Approval is given for the protection of the following tree located on an adjoining property;

T8      *Ulmus parvifolia*      Chinese Elm

*All trees on adjoining properties are to be protected in accordance with AS 4970-2009 Protection of Trees on Development Sites for the duration of the works.*

*Landscape Works*

The proposed layout of landscape design elements and plant selection are satisfactory to Council.

To provide further landscape details including:

- planter box details for construction including final heights of boxes, drainage and waterproofing
- proposed soil types; and
- proposed maintenance and irrigation systems for planter boxes.
- details of street tree planting.

The landscape plan shall also confirm footpath treatment along Park Road. Council require turf be reinstated along nature strip.

Appropriate conditions will be imposed in this regard to ensure that appropriate consent is obtained to remove the tree in question, otherwise all trees shall be retained and protected in accordance with the relevant Australian Standards.

## (b) 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.

### NSW Police

The development application was referred to the NSW Police Crime Prevention Officer for advice on the design of the complex. The Crime Prevention Officer responded on the 21.11.17 and indicated no objections subject to conditions related to the provisions of suitable signage, lighting, CCTV, landscape design preventing concealment and the like. It is intended that the matters be addressed by the inclusion of appropriate conditions on any development consent that may be issued.

## **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:

<b>Matter for Consideration</b>	<b>Yes/No</b>
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is 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
Details of contamination investigations carried out at the site:  A Detailed Site Investigation report prepared by Benviron Group dated January 2017 was submitted with the application. The report did not reveal any potential matters of concern with regard to contamination and concludes that the site is suitable for its intended use.  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.	
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	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



Matter for Consideration	Yes/No
development or can be made suitable to accommodate the proposed development?	

**(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**

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. A Cost estimate is provided with the application.

**(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:

Part 3E1 - Deep soil zones		
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements:		No deep soil zones are proposed as part of this DA. Given the site is located within the Auburn town centre and communal open space (of 33.9%) is proposed, the requirement to provide deep soil zones is not deemed practical in this instance without significantly compromising the development potential of the site
Site Area	Dimensions	
> 1,500m <sup>2</sup>	6m	
	Deep Soil	
	7%	
Part 3F - Visual privacy		
3F-1 Design criteria Minimum separation distances from buildings to the side and rear boundaries between windows and balconies are provided to as follows:		In relation to building separation, the development maintains the minimum separation distance requirement for all levels prescribed by the ADG with the exception of Level 5 on the site's southern boundary. Level 5 proposes a 6m setback on its southern boundary, whereas the ADG requires a 9m setback at this level.
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
		The adjoining land to the south is zoned R4 High Density Residential and has a maximum building height of 18m and an FSR of 1:7:1. On this basis, the subject DA only requires the prescribed separation up to Level 5 which sits at 18m. As the adjoining land to the south maintains an 18m height limitation, the additional upper levels (being levels 6-11) will therefore not have any privacy issues as no development will sit adjacent to it at those levels.
		The variation on Level 5 is deemed reasonable in this instance having regard to the overall development proposed and the negligible impacts associated with it. Level 5 southern elevation proposes non-habitable rooms for the majority of its length and 1 balcony which is the only area deemed to be



	<p>habitable that encroaches on the 9m requirement. All other areas along the southern boundary are fully compliant.</p> <p>Compliance with the 9m setback in this instance is considered unreasonable given the impact it would have on the built form on the upper levels. As the variation relates only to a small portion of that elevation, it is deemed acceptable. Further given the orientation of the site, its position within Auburn Town Centre, and the minimal amenity impact on adjoining properties, the non-compliance is considered acceptable.</p>
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**(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*. The subject site is located approximately 915m from the closest watercourse, being Haslams Creek to the east of the site. All stormwater will be managed and treated on site before it is discharged into Council's existing drainage system. Stormwater plans provided by SGS Consulting Engineers detail this. Given the site is not visible from any part of the Sydney Harbour Waterways or foreshore, the proposal is considered to be consistent with the requirements and objectives of the SREP.

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

The provisions of the ALEP 2010 is applicable to the development proposal. The application primarily seeks Council's approval to construct a new 12 storey mixed use development over 3 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, the proposal seeks to vary the 38m height control applicable to the site by a maximum of 1.39m. The proposed building height for the development is 39.3m. It is noted that this exceedance occurs for only a small portion of the building and is primarily related to non-habitable spaces, the lift overrun and pergola over Level 11 terrace area.

A Cause 4.6 Variation has been submitted with this application justifying this slight non-compliance with the height standard.

The areas of exceedance are only visible from the southern and western elevations and are deemed negligible. The area of exceedance on the southern elevation pertains to a minor portion of the roof line which sits 152mm above the 38m height limitation. Similarly, on the western elevation, the visible portion of exceedance relates to the lift overrun which sits 1.39m above the 38m height limitation.

**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 4.99:1 is proposed for the development to accommodate the proposed 12 storey mixed use building for 3 commercial/retail tenancies and 86 residential units over 3 levels of basement car parking. 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.

#### Part 4, Clause 4.6 – Exceptions to Development Standards

A Cause 4.6 Variation has been submitted with this application justifying this slight non-compliance with the height standard.

### **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. The summary of the assessment is identified in the content of the report below whilst a comprehensive assessment table against all relevant ADCP 2010 controls is attached to the end of this report in **Appendix C**.

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

<b>3.0 Streetscape and Urban form</b>	
<b>3.2 Setbacks</b>	
<b>D1</b> New development or additions to existing development shall adopt front setbacks, as shown in Figure 2 (refer to section 14.2 Setbacks for Auburn Town Centre)	Building setbacks within the Auburn Town Centre as per Figure 2 (section 14.2) for subject site is built to boundary, i.e. zero setbacks. The development proposes a zero boundary on its northern, eastern, and western side. A minimum 3m setback is proposed on its southern boundary which sits adjacent to an R4 residential zone.

#### **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 of 5.1.5 of this part applies. The parking requirements are specified below:

**Table 6A – Summary of car parking requirements for Local Centres**

<b>Component of Building</b>	<b>Min. Car parking spaces required</b>	<b>Max. car parking spaces required</b>
<b>No. of Bedrooms</b>		
Studio/1 bedroom	1.0 parking space	1.0 parking space
2 bedrooms	1.2 parking spaces	3.0 parking spaces
3 bedrooms	1.5 parking spaces	4.0 parking spaces
4 or more bedrooms	2.0 parking spaces	6.0 parking spaces
<b>Visitor car parking area</b>		

0 - 50 units	4.0 parking spaces	10.0 parking spaces
51- 100 units	8.0 parking spaces	25.0 parking spaces
101 - 250 units	12.0 parking spaces	55.0 parking spaces
251 or more units	16.0 parking spaces	65.0 parking spaces
<b>Commercial/Retail</b>		
Square metre of net leasable Commercial/retail area	1 parking space per 60 square metres	4 car parking spaces per 40 square metres

The calculation of the required parking for the development based on 86 residential units and 3 commercial tenancies is demonstrated below:

Residential	Number of units	Min. No. of Parking	Max. No. of Parking
<b>Studio</b>	0	0	0
<b>1 bed</b>	33	33	33
<b>2 bed</b>	49	59	147
<b>3 bed</b>	4	6	16
<b>Visitor</b>	-	8	25
<b>Total</b>	<b>86 units</b>	<b>Min. 106 parking spaces</b>	<b>Max. 221 parking spaces</b>

Commercial / Retail	Area of units	Min. No. of Parking	Max. No. of Parking
<b>Total</b>	<b>552.42sqm</b>	<b>Min. 9 parking spaces</b>	<b>Max. 54 parking spaces</b>

Based on Table 6A – the development requires 115 car spaces as a minimum and 275 spaces as a maximum.

The proposed 3 level basement car park has been designed to accommodate a total of 105 vehicles (including 11 disabled parking spaces). As such it not compliant with the parking rates set out under the Parking and Loading part of the ADCP 2010.

However the 105 car spaces proposed is compliant with the ADG code which supersedes the DCP car parking rate requirements. Given the developments proximity to Auburn train station, bus stops and town centre, the 105 car spaces proposed is deemed to readily accommodate the needs of future residents. The development is therefore considered acceptable with regard to the Parking and Loading section of the ADCP 2010.

### iii) Residential Flat Buildings

<b>2.0 Built Form</b>	
<b>2.1 Site Area</b>  A residential flat building development shall have a minimum site area of 1,000m <sup>2</sup> and a street frontage of 20 metres in the B4 Zone or 26 metres in the R4 Zone.	The development proposes to amalgamate the subject sites, being 18-22 Mary Street, Auburn. The amalgamated lot will contain a total site area of 1,393.50m <sup>2</sup> with a frontage of 38.4m to Mary Street and 37.05m to Park Road.
<b>2.2 Site coverage</b>  Development controls <b>D1</b> The built upon area shall not exceed 50% of the total site area.	The built upon area exceeds 50% of the total site area. However Section 3.2 of the Local Centres section of the ADCP 2010 supersedes this control. Non-built upon areas accommodate communal open spaces and landscaped edges.  It is not feasible to achieve compliance with the stated provision due to the zoning, location of the site within the Auburn Town Centre, footpath dedication and the applicable planning controls that allows a high floor space ratio. It is considered appropriate to permit a variation to the stated provision in this instance.
<b>2.3 Building envelope</b>  <b>D2</b> The maximum building footprint dimensions, inclusive of balconies and building articulation but excluding	The ground floor level is considered to be appropriately designed notwithstanding its dimensions.  The proposed development has a maximum building footprint

architectural features, is 24m x 45m for sites up to 3,000m <sup>2</sup>	of 38.10m x 36.57m which occupies an area of 6408.98m <sup>2</sup> .  Therefore, the proposed development is considered acceptable given that it is constrained by its location and zoning.
<b>2.4 Setbacks</b>  Development controls <b>2.4.1 Front setback</b> <b>D1</b> The minimum front setback shall be between 4 to 6m.  <b>2.4.2 Side setback</b> <b>D1</b> In all residential zones, buildings shall have a side setback of at least 3 metres.  <b>2.4.3 Rear setback</b> <b>D1</b> Rear setbacks shall be a minimum of 10m from the property boundary  All building facades shall be articulated by bay windows, verandahs, balconies and/or blade walls. Such articulation elements may be forward of the required building line up to 1m.	The development proposes a zero boundary on its northern, eastern, and western side. A minimum 3m setback is proposed on its southern boundary which sits adjacent to an R4 residential zone.  The building setback within the Auburn Town Centre as per Figure 2 (Section 14.2) for subject site is built to boundary, i.e. zero setback and therefore supersedes this control.  The proposed façade provides articulation treatment in the form of balconies, ground floor awnings, blade walls and projecting architectural elements.
<b>2.5 Building depth</b>  Development controls <b>D1</b> The maximum depth of a residential flat building shall be 24m (inclusive of balconies and building articulation but excluding architectural features).	The proposal is considered to deliver an appropriate level of amenity to the residents of the building.  The building proposes a variable maximum depth of:  27.6 – 30.5 m (From Mary Street) 23.1 – 38.1m (From Park Road) due to the building's stepping configuration.  This variation is considered acceptable as the design takes full advantage of uninterrupted solar access at both street frontages and steps the building to increase amenity internal to the site and preserve neighbouring amenity.
<b>3.0 Open space and landscaping</b>	
<b>3.3 Deep soil zone</b>  Development controls <b>D1</b> A minimum of 30% of the site area shall be a deep soil zone.  <b>D2</b> The majority of the deep soil zone shall be provided as a consolidated area at the rear of the building.  <b>D3</b> Deep soil zones shall have minimum dimensions of 5m.  <b>D4</b> Deep soil zones shall not include any impervious (hard) surfaces such as paving or concrete.	No deep soil zones are proposed as part of this DA. 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 and communal open space (of 33.9%) is proposed, the requirement to provide deep soil zones is not deemed necessary in this instance. 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 communal open space area provided on Level 1 and Level 11.
<b>4.0 Access and car parking</b>	
<b>4.2 Basements</b>  <b>D1</b> Where possible, basement walls shall be located directly under building walls. <b>D2</b> A dilapidation report shall be prepared for all development that is adjacent to sites which build to the boundary. <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. <b>D4</b> Basement walls visible above ground	Basement walls are located directly under building walls as shown on the floor plans.  A dilapidation report will be prepared and submitted with the Construction Certificate application.  Basement walls visible from Mary Street will be finished to ensure an attractive entry is achieved.

level shall be appropriately finished (such as face brickwork and/or render) and appear as part of the building.	
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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. Council may be satisfied that 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 comments received raised concerns with regard to stormwater drainage, parking and vehicle access and waste disposal.

Whilst 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 deferred commencement conditions to ensure compliance prior to operational consent being issued.

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. Council's Development engineer raised the following concerns with regard to waste.

- Turn table arrangement is not acceptable. Adequate space shall be provided within the site to manoeuvre and to enter and exit the site in a forward direction.
- 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.

It is considered that suitable arrangements of waste management have been proposed as part of this development application and the inconsistencies indicated above can be complied with via appropriate deferred commencement conditions.

**(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:

- 33 x studio or 1 bedroom apartments
- 49 x 2 bedroom apartments
- 4 x 3 bedroom apartments

Total: **86 units**

Commercial:

- 1m<sup>2</sup> @ \$1815.00 (Rawlinsons Australian Construction Handbook)

Total proposed: 535sqm of commercial GFA = \$971,025 @ 1% for developments over \$200,000 = \$9710.25

The s94 contribution amount is **\$ 420,195.21 for the residential component + \$ 9,710.25 for the commercial component = \$ 429,905.39**. 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. A Flood Report prepared by SCG Consulting Engineers satisfactorily addresses this. 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 Development Control Plan, the initial proposal was publicly exhibited for (14) days between 28 March to 11 April 2017. Subsequently, due to an administrative error the proposal was publicly exhibited for an extended period of another (14) days between 2 May 2017 to 16 May 2017. As a result of the public notification process, Council received two (2) submissions made against the proposed development. The issues raised in the submissions are summarised and discussed below:

*Issue 1: Overdevelopment changing the character of the area with unattractive buildings and overcrowding.*

Comment: The redevelopment of the 18-22 Mary Street is situated within the Auburn Town Centre precinct in an area undergoing transition where the current urban form is being replaced with residential towers and mixed used developments all of which are consistent with the land use zoning controls, scale and character of the changing urban context.

The proposed development continues the changes that are occurring within the town centre. The development has been assessed on its individual merit and is considered to perform satisfactory with respect to the SEPP 65 principles, ADG and the relevant ALEP 2010 provisions limiting height and floor space. The development is considered to be design responsive and provides for acceptable levels of amenity for future residents and minimises adverse impacts on the amenity of neighbouring properties.

*Issue 2: Increased traffic generation and congestion, wind tunnels, loss of trees and open space.*

Comment: The application has been accompanied with a Traffic Report prepared by Vagra Traffic Planning P/L dated 24 January 2017. Council's engineer have reviewed the traffic report provided and is satisfied that the development can proceed based on the conclusion of the report identifying that *"the projected level of traffic activity as a consequence of the development proposal is minimal, consistent with the redevelopment objectives of the area and will not have any unacceptable traffic implications in terms of road network capacity."*

In addition, the development provides for adequate car parking in accordance with the RMS – Guide to Traffic Generating Development and Council's parking rates. In this regard, the proposal is considered to be satisfactory with respect to traffic flow.

The application has also been supported with a Wind Mitigation Effects report prepared by ANA Civil P/L dated 20 February 2017. The report concludes that investigation and calculated annual gust speed at critical sections of the proposed development complies with the relevant AS1170.2 Wind Actions with respect to gust wind speeds in walkways, open spaces and public and private courtyards.

In relation to the concerns raised regarding less trees, open space, diminished history and overcrowding of classrooms, the development provides sufficient landscaped open space for residents at podium and roof level, in addition to ground level private courtyards and balconies for private open space consistent with the numerical requirements under the ADG. Trees are being retained and protected, transplanted or replaced where possible with one street tree proposed for removal to facilitate basement access via Mary Street. The landscape plan provided is considered satisfactory and a condition will be imposed requiring the planting of two (2) new street trees along Mary Street as per comments provided by Council's landscape architect.

As previously discussed, the current urban form is under transition and being replaced with residential towers and mixed use developments typically expected in a town centre area and as such the development is consistent with the changing urban form and likely future character. The development site is not identified as containing any heritage value nominated for preservation or conservation; however it is noted that the development is located adjacent to a local item of heritage significance directly opposite the subject site where an appropriate Heritage Impact Statement has been prepared to accompany the application. Comments provided



by the Council's Heritage advisor indicated that the proposal was considered acceptable.

*Issue 3: Height and bulk impacting on Sydney heritage and streetscape of the listed buildings.*

**Comment:** As discussed above, the development is not dissimilar to other developments approved in an area undergoing transition in a changing urban context. The development is considered appropriate in terms of bulk and scale. The development is considered to provide appropriate articulation of the building which is considered to complement the heritage item located opposite the site.

*Issue 4: Inadequate infrastructure and significant redevelopment removing city's history and creating potential slums.*

**Comment:** The development is located in the Auburn Town Centre precinct in walking distance to various shopping facilities and public transport services typical of a town centre area.

*Issue 5: 5m plus high podium wall on southern boundary resulting in significant overshadowing, contravening SEPP 65, ADG provisions and ADCP 2010.*

*Development overpowers and will visually impact on amenity of future residents due to unarticulated blank cement rendered wall.*

*5m plus wall difficult to maintain due to no provision for access for repair, painting and the like.*

*Statement of Environmental Effects submitted inadequately considers the setbacks on southern boundary. Appendix E indicates a 3m setback on the southern wall but fails to recognise the podium level that is 5m plus high has a zero setback which effectively means there is no setback for this part of the building that has a height equivalent to 2-3 levels.*

**Comment:** The development's proposed building envelope is considered acceptable given the B4 mixed use zoning of the site and the changing urban form and character of the area. Further it is considered that nil setbacks are sometimes typically common in urban built environment context. Further, it should be noted that the ADG allows for no building separation to be necessary where building types incorporate blank party walls which typically occurs along the main street or at podium levels within centres. Despite this, Council acknowledges the concern raised with regard to the visual impact of the unarticulated blank wall and recommends appropriate conditions to be imposed to ensure that the development provides articulation or treatment to provide some architectural relief until such time the redevelopment of the adjoining site undertakes redevelopment of a similar size and scale.

*Issue 6: Overshadowing*

*Shadow plans show proposed development will cause significant overshadowing of any future redevelopment of 26-28 Park Road that is adjacent to this boundary. The first 2-3 levels of any residential redevelopment will be wholly within shadow from 9am to 3pm in mid-June. This will significantly affect and reduce the enjoyment, liveability and amenity of future residents. It may also impact on the desirability of these dwellings to future residents and make them difficult to sell thus having an unacceptable economic impact to the existing owners and to future owners.*

**Comment:** The development sits on an adjacent northern boundary and as such, overshadowing to the south adjoining properties is unavoidable. It is noted however

that the properties to the south will be redeveloped in the future given the zoning, sufficient land area and frontage width available to accommodate a building of a similar size and scale. As previously discussed, the area is zoned for redevelopment of high density developments and is likely to continue for some time until the area completes transition.

*Issue 7: Detrimental impact on the economic and orderly development of 26-28 Park Road*

*5m plus high wall on the boundary adjacent to Park Road properties is likely to detrimentally impact on the ability of the owners to redevelop their property in full compliance with Council's DCP and SEPP 65 controls.*

*The Impact of the wall and permanent overshadowing will impact on the redevelopment of the Park Road site as the achievable density and apartment layout will be impacted by its location on the boundary and that its height restricts access to sunlight requiring any future redevelopment to bear the burden of these requirements rather than share them cross boundary.*

Comment: As previously discussed above, it is anticipated that the Park Road properties to the south will be redeveloped in the future with a building of a similar size and scale as there is sufficient land area and frontage width. Given the orientation of the Park Road properties which is located directly south of the proposed development site, overshadowing is sometimes unavoidable and compliance with solar amenity difficult to achieve.

*Issue 8: Adequacy of cl. 4.6 submission.*

The cl. 4.6 submission requesting a variation to the height controls must fail and Council cannot approve the application in its present form having regard to a recent Land and Environment Court decision in the case of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* where Commissioner Pearson found that for a cl. 4.6 request to be upheld, sufficient environmental planning grounds unique to the site must be shown in the request to contravene the development standard. Therefore, this has not been demonstrated in this case.

Comment: The development provides for a communal open space at roof level which is designed to benefit the residents of the building. The minor exceedance in height occurs for only a small portion of the building and is primarily related to non-habitable spaces being the lift overrun and pergola over level 11 terrace areas. It is also noted that the areas of exceedance are only visible from the southern and western elevations and are deemed negligible. The area of exceedance on the southern elevation pertains to a minor portion of the roof line which sits 152mm above the 38m height limitation. Similarly, on the western elevation, the visible portion of exceedance relates to the lift overrun which sits 1.39m above the 38m height limitation. The minor departure is considered acceptable in this instance to allow residents access to the proposed communal open space at roof level.

#### **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* and this report has been prepared for the information of the Sydney West Central 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 Sydney West Central Planning Panel for deferred commencement approval subject to conditions listed in the attached schedule.