

## SYDNEY WEST CENTRAL PLANNING PANEL

<b>Panel Reference Number</b>	2017SWC096
<b>DA Number</b>	DA 307/2017
<b>Local Government Area</b>	Cumberland Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a mixed-use development comprising 2 residential towers, 3 levels of retail / commercial uses, 3 levels of basement parking including alterations and additions to the Village Tavern on the corner of Queen Street and Harrow Road and associated stormwater and landscape works
<b>Street Address</b>	41 Auburn Road, Auburn
<b>Applicant/Owner</b>	ABC Planning (Anthony Betros) / Auburn Shopping Village Pty Ltd
<b>Number of Submissions</b>	Four (4)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Capital Investment Value \$64,400,000 (>\$20 million)
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (BASIX) 2004</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• Auburn Local Environmental Plan (LEP) 2010</li> <li>• Auburn Development Control Plan (DCP) 2010</li> </ul>
<b>Recommendation</b>	Refusal
<b>Report by</b>	William Attard, Senior Planner – Cumberland Council
<b>Meeting date</b>	14 December 2017



Figure 1 – Perspective from Auburn Road (Source: Beca 2017)



Figure 2 – Perspective from Queen Street (Source: Beca 2017)





Figure 3 – Perspective from Harrow Road (Source: Beca 2017)



Figure 4 – Perspective from Mary Street (Source: Beca 2017)

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## ATTACHMENTS

Attachment 1 – Development Application Plans

Attachment 2 – Applicant's Clause 4.6 Request

Attachment 3 – Draft Notice of Determination

Attachment 4 – Assessment of Compliance with SEPP 64

Attachment 5 – Assessment of Compliance with SEPP 65 Apartment Design Guide

Attachment 6 – Assessment of Compliance with Auburn LEP 2010

Attachment 7 – Assessment of Compliance with Auburn DCP 2010

Attachment 8 – Public Submissions

## 1 Executive Summary

- 1.1 Council is in receipt of a Development Application from ABC Planning (Anthony Betros) for a development involving a mixed use development with 2 residential towers above commercial / retail at 41 Auburn Road, Auburn. The Development Application seeks approval for the demolition of existing structures and construction of a mixed-use development comprising 2 residential towers, 3 levels of retail / commercial uses, 3 levels of basement parking including alterations and additions to the Village Tavern on the corner of Queen Street and Harrow Road and associated stormwater and landscape works. The Development Application Plans are provided as **Attachment 1** to this report.
- 1.2 The site is affected by Local Overland Stormwater Flows and an existing Right of Drainage, 1.525 metres wide along the southern boundary with 1, 3, & 5 – 7 Mary Street, Auburn.
- 1.3 The Development Application was notified for a period of 14 days from 8 August 2017 to 27 August 2017 as per the Auburn DCP 2010, during which time a total of 4 submissions were received.
- 1.4 The site is zoned B4 – Mixed Use Zone pursuant to the Auburn Local Environmental Plan (LEP) 2010. *Shop top housing, commercial premises, and food and drink premises*, are permissible with development consent.
- 1.5 The proposal is inconsistent with the objectives of State Environmental Planning Policy No. 65 (SEPP 65), and the objectives and numerical design criteria of the Apartment Design Guide (ADG) related to the public domain interface, communal open space, visual privacy, car parking, solar and daylight access, natural ventilation, ceiling heights, apartment size and layout, private open space and balconies, common circulation and spaces, acoustic privacy and noise and pollution.
- 1.6 The development is inconsistent with the development standards contained within Auburn Local Environmental Plan 2010 related to height of buildings, and flood planning.
- 1.7 The development is inconsistent with the objectives and development standards contained within the Auburn Development Control Plan 2010 related to building envelope, head height of windows, solar amenity, lot amalgamation, built form, articulation and design, roofs, balconies, awnings, privacy and security, wind mitigation, public domain, laneways, key site – five ways, access driveway and circulation roadway design, bicycle parking, number of car parking spaces, loading requirements, easements to drain water and on-site detention.
- 1.8 The Development Application was referred for comments externally to AusGrid, Roads and Maritime Services, NSW Police Force – Flemington Local Area Command, and internally to Council's Urban Designer, Landscape Architect, Development Engineer, Waste Resource Recovery Officer, and Environmental Health Officer, to which concerns have been raised.
- 1.9 The proposed development has been assessed against the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, including likely impacts, the suitability of the site for the development, and the public interest, and the proposed development is not considered appropriate.



- 1.10 In light of the above, it is recommended that the Sydney West Central Planning Panel Refuse the Development Application, subject to the Refusal Notice provided at **Attachment 3**.

## 2 Site and Context

- 2.1 The subject site is known as Lot 15, DP 746616, 41 Auburn Road, Auburn. The land is an irregular shaped lot and has a frontage of 25.71 metres to Auburn Road, a frontage of 124.32 metres to Queen Street, a frontage of 79.37 metres to Harrow Road, and a frontage of 12.94m to Mary Street. The site also maintains a boundary with 1, 3 & 5 – 7 Mary Street, Auburn, of 53.975 metres and 47.65 metres respectively, and a boundary to 43 & 45 Auburn Road, Auburn, of 33.555 metres and 12.19 metres respectively. The total site area is 5,800sqm, and is illustrated in Figure 5 below:



Figure 5 – Location Map (Source: Cumberland Council, 2017)

- 2.2 The subject site is currently built upon, occupied by single and two storey commercial structures, limited to the Auburn Shopping Village and the Village Tavern.
- 2.3 The topography of the site is maintained to a 4% gradient, with a 6 metre fall from the North-Eastern corner of the site to the North-Western corner of the site. The land is affected by Local Overland Stormwater Flows and an existing Right of Drainage 1.525 metres wide, along the southern boundary with 1, 3, & 5 – 7 Mary Street, Auburn.
- 2.4 The subject site is zoned B4 – Mixed Use pursuant to Auburn Local Environmental Plan (LEP) 2010 as shown in Figure 6 below:

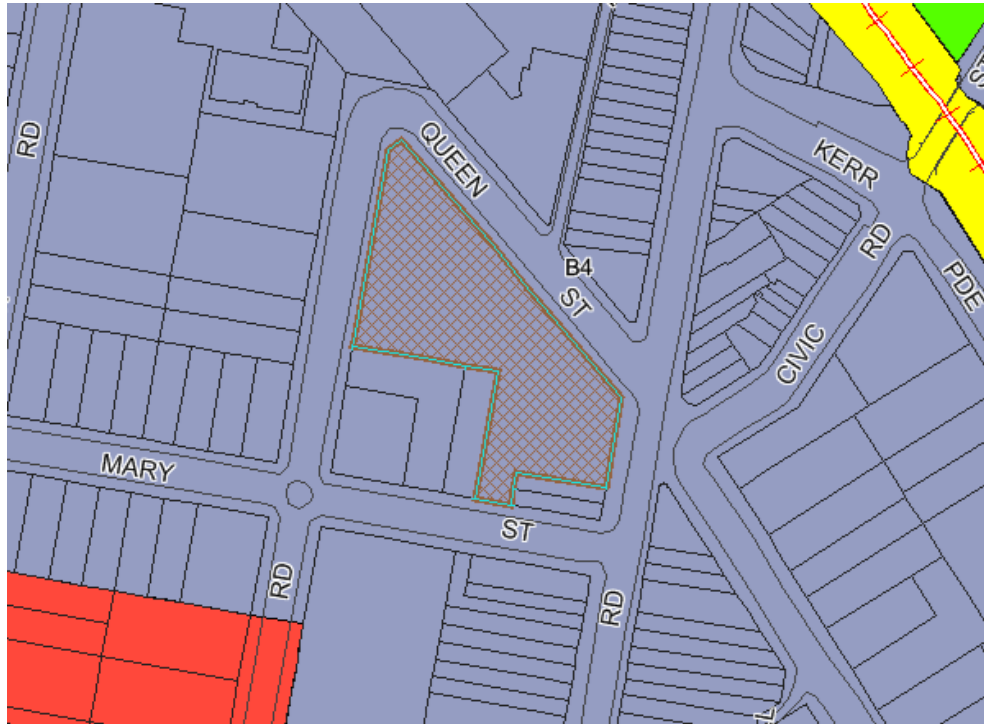


Figure 6 – Zoning Map (Source: Cumberland Council, 2017)

- 2.5 The subject site is situated on the Western side of Auburn Road and is located within the Auburn Town Centre. The site is known as the Five Ways Key Site, to which site specific design criteria and standards are applicable within the Auburn DCP 2010. The subject site is within 250 metres of the Auburn Railway Station, located to the north of the subject site. Figure 7 below illustrates an aerial perspective of the site and the general surrounds:

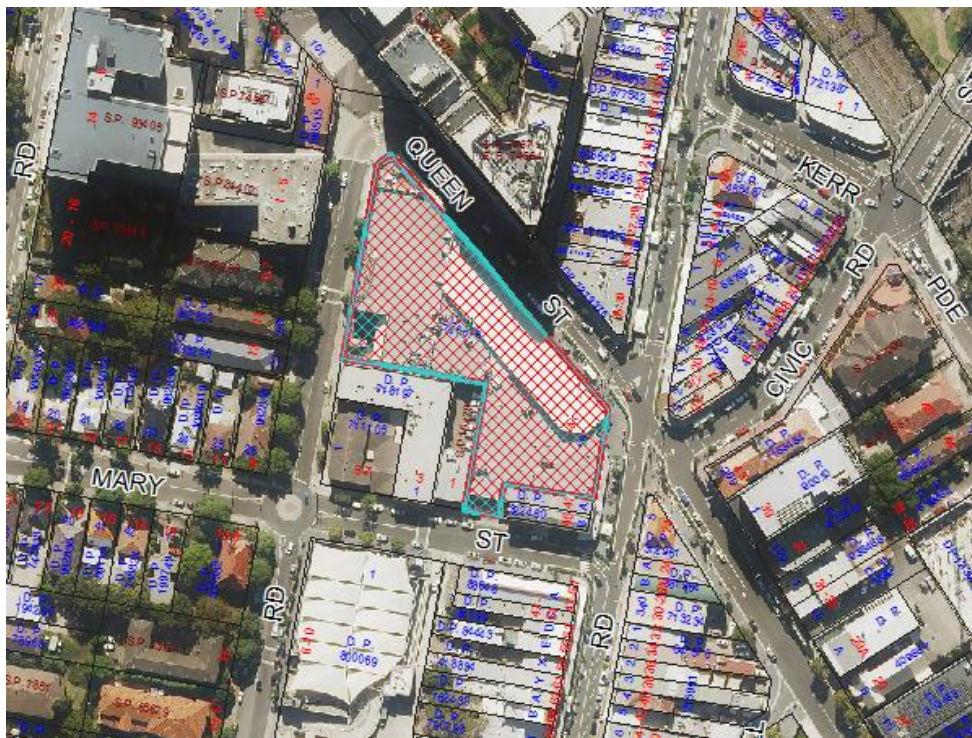


Figure 7 – Aerial Photo (Source: Cumberland Council, 2017)



- 2.6 The subject Development Application proposes demolition of existing structures and construction of a mixed-use development comprising 2 residential towers, 3 levels of retail / commercial uses, 3 levels of basement parking including alterations and additions to the Village Tavern on the corner of Queen Street and Harrow Road and associated stormwater and landscape works.
- 2.7 Within the same street block, and adjacent to the subject site, resides 2 storey commercial premises, known as 43 & 45 Auburn Road, Auburn. To the South-West of the subject site known as 1, 3 & 5 – 7 Auburn Road, Auburn, resides a mixture of 2 storey commercial and business premises, and a place of public worship, located on the corner of Mary Street and Harrow Road.
- 2.8 The locality is characterised by existing commercial and business premises, and residential accommodation. Single storey and two storey commercial / retail shop fronts are located to the East and South of the subject site. To the north of the site resides an existing 2 storey commercial / business premises, and a shop top housing development with a single level commercial shopfront and 16 storey residential towers, inclusive of the Auburn Central Shopping Centre.
- To the North-West of the subject site, located at 54 Queen Street, Auburn, resides a Heritage Item known as the Auburn Ambulance Station. To the West of the subject site, located at 1 – 5 Harrow Road, Auburn, resides a 5 storey business premises known as the Auburn Business Centre. To the West and South-West of the subject site, existing residential development is present, limited to a 3 storey residential flat building, 2 storey villa-townhouse developments and single and two storey dwellings.
- 2.9 The subject site currently benefits from two loading areas, located on Mary Street and Harrow Road respectively.
- 2.10 The subject site is located within the vicinity of 3 heritage items, which are as follows:-
- 54 Queen Street Auburn – *Auburn Ambulance Station*;
  - 8-10 Mary Street, Auburn – *Dwelling*; and
  - 4 Auburn Road, Auburn – *Jack Lang Plaque*.

### 3 Background

- 3.1 On 4 June 2014, the former Auburn City Council held a Pre-Lodgement Meeting for a proposal seeking demolition of existing shopping centre and construction of a new mixed development including retail, residential and three parking levels. Minutes of the Pre-Lodgement Meeting were subsequently issued, identifying matters to be considered for any Development Application lodged.
- 3.2 On 7 August 2015, Auburn City Council received a Planning Proposal for the Auburn Shopping Village, 41 Auburn Road, Auburn. The Planning Proposal sought to amend the Auburn LEP 2010 as it applies to the site, to:
- Increase the Floor Space Ratio from 5:1 to 9:1; and
  - Increase the maximum Height of Buildings from 49 metres to 96 metres.

The Planning Proposal was reported to the Cumberland Independent Hearing and Assessment Panel on 7 September 2016, and resolved by Cumberland Council, that the amendments sought to the Floor Space Ratio and Maximum Height of Buildings

standards under the Auburn LEP 2010 were excessive, and the Planning Proposal did not proceed to Gateway.

## 4 The Proposal

4.1 The proposal is for the demolition of existing structures and construction of a mixed-use development comprising 2 residential towers, 3 levels of retail / commercial uses, 3 levels of basement parking including alterations and additions to the Village Tavern on the corner of Queen Street and Harrow Road and associated stormwater and landscape works.

4.2 Specific details of the proposed development are as follows:

### Basement Levels

	<b>Basement 1</b>	<b>Basement 2</b>	<b>Basement 3</b>	<b>Total</b>
<b>Residential Parking</b>	-	129 spaces (13 accessible)	135 spaces (13 accessible)	264 spaces
<b>Retail / Commercial / Residential Visitor Parking</b>	109 spaces (4 accessible)	-	-	109 spaces
<b>Bicycle Parking</b>	Yes	-	-	Unknown

### Commercial / Retail Levels

<b>Lower Ground Floor</b>	<b>Ground Floor</b>	<b>Level 1</b>
<ul style="list-style-type: none"> <li>- Alterations and additions to the existing Village Tavern.</li> <li>- 6 x Specialty retail tenancies.</li> <li>- 1 x Restaurant.</li> <li>- 3 x Food retail tenancies.</li> <li>- 2 x Mini major tenancies with associated retail stores.</li> <li>- 4 x Retail kiosks.</li> <li>- Public amenities.</li> <li>- Commercial office.</li> <li>- Substation room.</li> <li>- 2 x Vehicular ramps to basement levels.</li> <li>- Loading dock.</li> <li>- Bicycle racks.</li> </ul>	<ul style="list-style-type: none"> <li>- Alterations and additions to the existing Village Tavern.</li> <li>- 6 x Specialty retail tenancies.</li> <li>- 5 x Restaurants.</li> <li>- 1 x Commercial office and associated functions.</li> <li>- 2 x Mini major tenancies.</li> <li>- Residential arcade.</li> <li>- Bicycle racks.</li> </ul>	<ul style="list-style-type: none"> <li>- Alterations and additions to the existing Village Tavern.</li> <li>- 4 x Specialty retail tenancies.</li> <li>- 6 x Restaurants.</li> </ul>

Overall, 7,599m<sup>2</sup> of commercial / retail has been proposed.

### Residential Breakdown

	<b>Residential Tower 1 (10 Storeys)</b>	<b>Residential Tower 2 (14 Storeys)</b>	<b>Total</b>
1 Bedroom Units	24	3	27
2 Bedroom Units	93	113	206
3 Bedroom Units	4	8	12
	<b>Total</b>		<b>245</b>

### Communal Open Space

The proposal includes podium level communal open spaces, as follows:

- Level 1 – 804.9m<sup>2</sup> provided with a pool and seating deck, seating areas, barbeque facilities and playground.
- Level 2 – 337.19m<sup>2</sup> provided with seating and chess paving.
- Residential Tower 1 (Level 8) – 424.9m<sup>2</sup> provided with a community garden, pergola seating / activity areas.

Total communal open space – 1,566.99m<sup>2</sup> or 27% of the site area.

### Built Form

The proposed built form comprises a 2 to 3 level commercial / retail podium, with an interface to Auburn Road, Queen Street, Harrow Road and Mary Street. Above the commercial / retail podium, 2 residential towers are proposed, Tower 1 being 10 storeys in height, maintained to the Northern portion of the site, and Tower 2 being a 14 storey residential tower, maintained to the South-Eastern portion of the site, both with a northern orientation.

The commercial / retail component has been designed for the large part to the respective boundaries, with the exception of indentations to provide for outdoor dining, and sightlines to pedestrian and vehicular entrances.

To the residential component, Tower 1 maintains a setback of 0 metres to 48 metres to Queen Street, which is a function of the irregular shaped block and location of communal open space on Level 1. A nil setback has been designed to Harrow Road, and a nil to 6.217 metre setback has been designed to the southern property boundary with 1, 3, & 5 – 7 Mary Street, Auburn.

Tower 2 maintains a nil to 3.41 metres setback to Auburn Road, and nil to 6.867 metres setback to the south property boundary with 43 Auburn Road, Auburn. The separation between Towers 1 and 2 is limited to 10.8 metres to 15.2 metres, within the lower levels, which opens up to 21.8 metres and 23.6 metres within Levels 8 and 9.

### Village Square

The Development Application seeks to provide a village square active plaza at the North-Eastern corner of site, at the intersection of Auburn Road and Queen Street. The public open space has been designed to be 9.5 metres as measured along Auburn Road, and 22 metres, as measured along Queen Street, providing a central water feature, outdoor seating, and feature lantern elements.



### Access Arrangements

Pedestrian access points to the site are maintained to Auburn Road, Queen Street, Harrow Road and Mary Street. The primary entrance to the site is maintained at Ground Level, through the village square, with secondary entrances maintained to the Lower Ground Level via Queen Street and Harrow Road, and to the Ground Level via Queen Street and Mary Street.

Three cores have been proposed within the development, designed to maintain access to the basement levels, commercial / retail levels and residential levels. A separate lobby has been designed to North-Western portion of the site, with access limited to the basement levels, the commercial / retail levels, and Level 1. Distinct residential lobbies, separate from the commercial / retail component of the development, have not been designed.

Vehicular access points are maintained to Harrow Road, provided via 2 separate vehicular ramps, the first, located closest to the intersection of Queen Street and Harrow Road, maintains access the residential parking basement levels, Levels 2 and 3, and the second, adjacent to the southern property boundary with 1, 3 & 5 – 7 Mary Street, Auburn, maintains access to the commercial / retail and residential visitor basement parking level.

## **5 Planning Controls**

5.1 The planning controls that relate to the proposed development are as follows:

a. State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 4A of the Environmental Planning and Assessment Act, 1979 is defined as 'Regional Development' within the meaning of State Environmental Planning Policy (SEPP) (State and Regional Development) 2011. Such applications require a referral to a Sydney West Central Planning Panel for determination. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) \$64,400,000 which exceeds the \$20 million threshold. While Council is responsible for the assessment of the Development Application, determination of the Application will be made by the Sydney West Central Planning Panel.

b. State Environmental Planning Policy (Infrastructure) 2007

The SEPP (Infrastructure) 2007 ensures that the Roads and Maritime Services (RMS) is given the opportunity to comment on development nominated as 'Traffic Generating Development' under Schedule 3 of the SEPP. Schedule 3 identifies development involving more than 200 car spaces, or 4,000m<sup>2</sup> of shops and commercial premises as Traffic Generating Development. The Development Application proposes 373 parking spaces and 8,355.4m<sup>2</sup> of shops / commercial area, and accordingly was referred to the RMS for comment in accordance with the SEPP (Infrastructure) 2007. The RMS's comments are outlined in Section 7 of this Report. In addition, a copy of any determination will be forwarded to the RMS in accordance with Clause 104(4) of the SEPP (Infrastructure) 2007.

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

SEPP 55 aims to provide a state wide planning approach to the remediation of contaminated land. Where contamination is, or may be, present, the SEPP 55 requires a proponent to investigate the site and provide the Consent Authority with the information to carry out its planning functions.

A Phase 1 Contamination Assessment was prepared by Douglas Partners Pty Ltd, Project Number 43789, dated March 2006. Whilst the Phase 1 Contamination Assessment appears to be prepared in accordance with the EPA *Guidelines for Consultants Reporting on Contaminated Sites*, the report was prepared in 2006, and is therefore more than 10 years old.

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

A BASIX Certificate has been lodged as a part of the Development Application. The BASIX certificate indicates that the development has been designed to achieve the required water, thermal comfort and energy scores.

e. State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

The proposed signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations is of high quality design and finish, and is therefore consistent with the aims and objectives of Clause 3 of SEPP 64.

The table in **Attachment 4** outlines the manner in which the proposed signage satisfies the assessment criteria of SEPP 64.

f. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP 65 and the associated Apartment Design Guide (ADG) apply to the assessment of the subject application as it includes residential flat buildings that are more than 3 storeys in height and contain more than 4 dwellings each. The Development Application has been accompanied by a Design Verification Statement from a Registered Architect.

Clause 28 of the SEPP requires a Consent Authority to take into consideration the provisions of the ADG in the assessment of any Development Application. The proposed development has been assessed to represent a considerable departure from the requirements of SEPP 65 and the ADG. A detailed assessment against the provisions of the ADG is provided at **Attachment 5** to this Report.

g. Auburn Local Environmental Plan (LEP) 2010

The Auburn LEP 2010 applies to the site. The proposed development has been assessed to represent a departure from the requirements of the Auburn LEP

2010. A detailed assessment against the provisions of the Auburn LEP 2010 is provided at **Attachment 6** to this Report.

h. Auburn Development Control Plan (DCP) 2010

The Auburn LEP 2010 applies to the site. The proposed development has been assessed to represent a significant departure from the requirements of the Auburn DCP 2010. A detailed assessment against the provisions of the Auburn DCP 2010 is provided at **Attachment 7** to this Report.

## 6 Planning Comments

### State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

- 6.1 Non-compliances with to State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, limited to matters considered under the Apartment Design Guide.

#### 3C – Public Domain Interface

- a. Objective 3C-1 reads as follows:-

- *Transition between private and public domain is achieved without compromising safety and security.*

The proposal does not maintain safety and security between the public and private domain, due to the following:-

- A double door arrangement is present between the commercial area and residential area on Level 1 within Residential Tower 1.
- A double door arrangement is present between the balcony area of the Restaurant, known as Restaurant 136.58m<sup>2</sup>, and the communal open space area on Level 1.
- Access is proposed between the bar area and communal open space area on Level 1.

#### 3D – Communal Open Space

- b. Objective 3D-2 reads as follows:-

- *Communal open space is designed to allow for a range of activities, respond to the site conditions and be attractive and inviting.*

There is an impediment for future residents within Residential Tower 1 – Level 1 to access the principal communal open space area within Level 1. Access is only afforded via the use of the lift to Level 2, only to require the person/s to then utilise the steps / separate lift within the area identified as C1 and go down to Level 1, to access the communal open space area.



c. Objective 3D-3 reads as follows:-

- *Communal open space is designed to maximise safety.*

The proposal does not maintain safety within the communal open space, due to the following:-

- A section of the communal open space area on Level 2 is hidden from view from the remainder of the communal open space area.
- The communal open space area on Level 2 directly abuts a bedroom window within Unit 2.2.01.7.

### 3F – Visual Privacy

d. Objective 3F-1, which reads as follows:-

- *Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.*

Furthermore, Design Criteria 1 requires the following minimum separation distances from buildings to side and rear boundaries:-

Building height	Habitable rooms and 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 proposal does not comply with the minimum required building separation, which is unacceptable, as building separation is not shared equitably between neighbouring sites, and is not maintained within subject development, to the following areas:-

### South – Residential Tower 1 – Oriented to 1, 3 & 5 – 7 Mary Street, Auburn

- Levels 1 and 2 (Storeys 3 and 4) are required to maintain a separation of 6 metres, however, a separation of 3.117 metres and 5.267 metres has been provided.
- Level 3 (Storey 5) is required to maintain a separation of 9 metres, however, a separation of 0 metres, 3.117 metres and 6.217 metres has been provided.
- Levels 4, 5 and 6 (Storeys 6, 7 and 8) are required to maintain a separation of 9 metres, however, a separation of 1.3 metres, 3.117 metres, 4.4 metres and 6.217 metres has been provided.
- Level 7 (Storey 9) is required to maintain a separation of 12 metres, however, a separation of 1.3 metres, 3.117 metres, 4.4 metres and 6.217 metres has been provided.

- Level 8 (Storey 10) is required to maintain a separation of 12 metres, however, a separation of 4.367 metres and 6.317 metres has been provided.
- Levels 9 and 10 (Storeys 11 and 12) are required to maintain a separation of 12 metres, however, a separation of 1.3 metres, 3.117 metres, 4.117 metres and 6.215 metres has been provided.

West – Residential Tower 2 – Oriented to 1, 3 & 5 – 7 Mary Street, Auburn

- Level 3 (Storey 4) is required to maintain a separation of 6 metres, however, a separation of 1.2 metres and 2.65 metres has been provided.
- Levels 4, 5, 6 and 7 (Storeys 5, 6, 7 and 8) are required to maintain a separation of 9 metres, however, a separation of 1.2 metres and 2.65 metres has been provided.
- Levels 8 to 15 inclusive (Storeys 9 to 16 inclusive) are required to maintain a separation of 12 metres, however, a separation of 1.2 metres and 2.65 metres has been provided.

South – Residential Tower 2 – Oriented to 43 & 45 Auburn Road, Auburn

- Level 3 (Storey 4) is required to maintain a separation of 6 metres, however, a separation of 0 metres, 1.2 metres and 2.65 metres has been provided.
- Levels 4 and 5 (Storeys 5 and 6) are required to maintain a separation of 9 metres, however, a separation of 3.017 metres, 4.7 metres and 6.867 metres has been provided.
- Levels 6 and 7 (Storeys 7 and 8) are required to maintain a separation of 9 metres, however, a separation of 3.017 metres, 4.017 metres, 4.7 metres and 6.867 metres has been provided.
- Levels 8 to 15 inclusive (Storeys 9 to 16 inclusive) are required to maintain a separation of 12 metres, however, a separation of 3.017 metres, 4.017 metres, 4.7 metres and 6.867 metres has been provided.

Separation Between Residential Towers 1 and 2

- Level 4 (Storey 5) is required to maintain a separation of 18 metres, however, a separation of 11.5 metres, 11.8 metres and 15.2 metres has been provided.
- Level 5 (Storey 6) is required to maintain a separation of 18 metres, however, a separation of 8.7 metres, 13.2 metres and 13.5 metres has been provided.

- Level 6 (Storey 7) is required to maintain a separation of 18 metres, however, a separation of 10.8 metres, 11.8 metres and 15.2 metres has been provided.
- Level 7 (Storey 8) is required to maintain a separation of 18 metres, however, a separation of 10.8 metres, 13.6 metres and 15.2 metres has been provided.
- Level 8 (Storey 9) is required to maintain a separation of 24 metres, however, a separation of 15.8 metres has been provided.
- Level 9 (Storey 10) is required to maintain a separation of 24 metres, however, a separation of 21.5 metres and 23.6 metres has been provided.
- Level 10 (Storey 11) is required to maintain a separation of 24 metres, however, a separation of 19.2 metres and 21.6 metres has been provided.

e. Objective 3F-2 reads as follows:-

- *Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.*

The proposal does not maintain privacy within the development, between the following areas:-

#### Residential Tower 1

- The specialty retail tenancy on Level 1, known as Specialty Retail 110.71m<sup>2</sup>, and the communal open space area on Level 1.
- The communal open space area on Level 8 within Residential Tower 1, and the northern units associated with Residential Tower 2, due to the limited separation provided, that being 11.6 metres.
- The private open space area associated with Unit 3.2.15, and the balcony and bedroom associated with Unit 3.2.01.1 on Level 3 within Residential Tower 1.
- The private open space areas and bedrooms associated with Unit 3.1.06.2, and Unit 3.1.07.2 on Level 3 within Residential Tower 1.
- The private open space areas and bedrooms associated with Unit 3.1.06.1, and Unit 3.1.07.1 on Level 3 within Residential Tower 1.
- The private open space area associated with Unit 4.1.06.2, and the living room associated with Unit 4.2.16.2 on Level 4 within Residential Tower 1.
- The private open space area associated with Unit 4.1.06.1, and the living room associated with Unit 4.2.16.1 on Level 4 within Residential Tower 1.



- The private open space area associated with Unit 5.1.07.2, and the private open space and bedroom associated with Unit 5.1.06.2 on Level 5 within Residential Tower 1.
- The private open space area associated with Unit 5.1.07.1, and the private open space and bedroom associated with Unit 5.1.06.1 on Level 5 within Residential Tower 1.
- The private open space area associated with Unit 6.1.06.2, and the living room associated with Unit 6.2.16.2 on Level 6 within Residential Tower 1.
- The private open space area associated with Unit 6.1.06.1, and the living room associated with Unit 6.2.16.1 on Level 6 within Residential Tower 1.
- The private open space area associated with Unit 7.1.07.2, and the private open space and bedroom associated with Unit 7.1.06.2 on Level 7 within Residential Tower 1.
- The private open space area associated with Unit 7.1.07.1, and the private open space and bedroom associated with Unit 7.1.06.1 on Level 7 within Residential Tower 1.
- The private open space area associated with Unit 9.2.06B.1, and the south facing windows associated with Unit 9.2.09A.2 on Level 9 within Residential Tower 1.
- The private open space area associated with Unit 9.2.05B.1, and the south facing windows associated with Unit 9.2.09A.1 on Level 9 within Residential Tower 1.
- The private open space area associated with Unit 10.2.06B.1, and the south facing windows associated with Unit 10.2.09A.2 on Level 10 within Residential Tower 1.
- The private open space area associated with Unit 10.2.05B.1, and the south facing windows associated with Unit 10.2.09A.1 on Level 10 within Residential Tower 1.

#### Residential Tower 2

- The private open space area associated with Unit 3.2.06, and the private open space area associated with Unit 3.2.17.2 on Level 3 within Residential Tower 2.
- The private open space area associated with Unit 3.2.05, and the private open space area associated with Unit 3.2.17.1 on Level 3 within Residential Tower 2.
- The private open space areas associated with Unit 11.2.08.1, and 11.2.01.1 on Level 11 within Residential Tower 2.
- The private open space areas associated with Unit 11.2.08.2, and 11.2.01.3 on Level 11 associated with Residential Tower 2.

### 3J – Bicycle and Car Parking

- f. Design Criteria 1 requires developments within 800 metres of a railway station within the Sydney Metropolitan Area to maintain the minimum car parking requirements for residents and visitors as set out in the *Guide to Traffic Generating Developments*.

The site is located within 800 metres of the Auburn Railway Station. A total of 268 car parking spaces are required to service the residential portion of the development. In total, 264 car parking spaces have been provided within the residential car parking levels on Basement Levels 2 and 3, which is unacceptable, as adequate parking has not been provided to service the development.

**Note:** As the car parking within Basement Level 1 is a combination of commercial / retail and residential visitor parking spaces, inadequate information has been provided to determine the extent of parking provided to service residential visitors.

### 4A – Solar and Daylight Access

- g. Objective 4A-1 reads as follows:-

- *To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.*

Furthermore, Design Criteria 1 requires living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area. Furthermore, Design Criteria 2 notes a maximum of 15% of apartments in a building can receive no direct sunlight between 9 am and 3 pm at mid-winter.

Adequate information has not been provided to determine if the proposed development achieves the required amount of solar access.

**Note:** Sun angles and an hourly sun path analysis (perspectives depicting the view from the sun) have not been provided, required in order to determine the extent of solar access achieved to the development. In particular, the sun angles and hourly sun path analysis would depict the impact of the existing multi-storey development at 57-59 Queen Street, Auburn on the development, and the impact of Residential Tower 1 upon Residential Tower 2 of the subject development.

- h. Objective 4A-3 reads as follows:-

- *Design incorporates shading and glare control, particularly for warmer months.*

Shading devices have not been designed to the western façades of the development, which is unacceptable, as no relief is given to units from the summer sun.

#### 4B – Natural Ventilation

i. Objective 4B-1 reads as follows:-

- *All habitable rooms are naturally ventilated.*

The following standard units maintain double / single door arrangements to bedrooms, with no windows, and as such, are not naturally ventilated:-

Units 1.07, 2.03, 2.03A, 2.04, 2.04A, 2.05, 2.05A, 2.05B, 2.06, 2.06A, 2.06B, and Units 2.14A.

j. Design Criteria 1 requires 60% of apartments to be naturally cross ventilated in the first nine storeys of the building.

The following breakdown is noted, and as such, the development does not maintain an appropriate level of natural ventilation:

- Residential Tower 1 (Core 1): 21.74%;
- Residential Tower 1 (Core 2): 16.28%; and
- Residential Tower 2: 10.81%.

**Note:** The submitted Acoustic Report recommends sleeping areas and living areas be closed in order to maintain acoustic privacy, however, it is unclear which units will be affected by the Acoustic Report recommendations.

#### 4C – Ceiling Heights

k. Objective 4C-1 reads as follows:-

- *Ceiling height achieves sufficient natural ventilation and daylight access.*

Furthermore, Design Criteria 1 requires the following minimum ceiling heights, as measured from the finished floor level to the finished ceiling level:-

Minimum ceiling height for apartment and mixed use buildings	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use

Adequate information has not been provided to determine what the proposed floor to ceiling heights are.

**Note:** The Section Plans only identify the floor to floor heights between storeys.



#### 4D – Apartment Size and Layout

l. Objective 4D-2 reads as follows:-

- *Environmental performance of the apartment is maximised.*

Furthermore, Design Criteria 2 requires in open plan layouts (where the living, dining and kitchen are combined); the maximum habitable room depth is 8 metres from a window.

The maximum habitable room depth of 8 metres from a window for combined living, dining and kitchen areas has not been achieved for the following standards units, which is unacceptable, as the units will instead rely upon artificial means to heat, cool and illuminate the units:-

Units 1.01B, 1.08A, 2.03, 2.05A, 2.05B, 2.16, 2.17, and 2.17A, ranging from 8.25 metres to 9.15 metres in depth.

#### 4E – Private Open Space and Balconies

m. Objective 4E-1 reads as follows:-

- *Apartments provide appropriately sized private open space and balconies to enhance residential amenity.*

Furthermore, Design Criteria 1 requires the following minimum areas and depths for primary balconies:-

Dwelling type	Minimum area	Minimum depth
Studio apartments	4m <sup>2</sup>	-
1 bedroom apartments	8m <sup>2</sup>	2m
2 bedroom apartments	10m <sup>2</sup>	2m
3+ bedroom apartments	12m <sup>2</sup>	2.4m

The minimum balcony dimensions have not been provided for the following units, and as such, compliance is unable to be determined:-

#### Residential Tower 1: Core 1

- Units 3.1.07.2, 8.1.08A, 9.2.09A.2, 9.2.09A.1, and 10.2.09A.2.

#### Residential Tower 1: Core 2

- Units 3.2.14A, 3.2.17A, 4.2.17A, 5.2.17A, 6.2.17A, and 7.2.17A.

#### Residential Tower 2

- Units 2.1.01A.1, 4.2.06, 4.2.05, 5.2.06, 5.2.05, 6.2.06B, 6.2.05B, 12.3.02.1, 12.3.02.2, 13.3.02.1, 13.3.02.2, 14.3.02.1, 14.3.02.2, 15.3.02.1, and 15.3.02.2.

In addition, the minimum balcony areas have not been adhered to for the following units, and as such, residential amenity is compromised:-

Residential Tower 1: Core 1

- Units 2.2.04.1, and 2.2.03.1.

Residential Tower 1: Core 2

- Units 1.2.03.2, 2.2.03.2, and 2.2.04.2.

Furthermore, the minimum balcony dimensions have not been adhered to for the following units, and as such, residential amenity is compromised:-

Residential Tower 1: Core 1

- Units 2.3.06, 2.2.01.1, 2.2.01.2, 2.2.07, 2.2.01.3, 2.2.01.4, 3.2.01.1, 3.2.01.2, 3.1.08, 4.2.15, 4.2.01.1, 4.2.01.2, 4.1.08, 4.1.06.2, 5.2.15, 5.2.01.1, 5.2.01.2, 5.1.08, 5.1.06.2, 6.2.15, 6.2.01.1, 6.2.01.2, 6.1.08, 6.1.06.2, 7.2.15, 7.2.01.1, 7.2.01.2, 7.1.08, 7.1.06.2, 8.1.09, and 9.2.01.2.

Residential Tower 1: Core 2

- Units 2.2.01.5, 2.2.01.6, 3.2.01.3, 3.2.01.4, 4.2.01.3, 4.2.01.4, 4.2.01A, 4.1.06.1, 5.2.01.3, 5.2.01.4, 5.2.01A, 5.1.06.1, 6.2.01.3, 6.2.01.4, 6.2.01A, 6.1.06.1, 7.2.01.3, 7.2.01.4, 7.2.01A, and 7.1.06.1.

Residential Tower 2

- Units 2.2.01.7, 2.2.08, 3.2.08.1, 3.2.01.5, 3.2.01.6, 3.2.01.7, 3.2.08.2, 3.2.17.2, 3.2.17.1, 4.2.08.1, 4.2.01.5, 4.2.01.7, 4.2.08.2, 4.2.17.2, 4.2.17.1, 5.2.01.5, 5.2.01.6, 5.2.01.7, 5.2.17.2, 5.2.17.1, 6.2.08.1, 6.2.01.5, 6.2.01.7, 6.2.08.2, 6.2.17.2, 6.2.17.1, 7.2.08.1, 7.2.01.5, 7.2.01.6, 7.2.01.7, 7.2.08.2, 7.2.17.2, 7.2.17.1, 8.2.08.1, 8.2.01.4, 8.2.01.5, 8.2.01.6, 8.2.08.2, 8.2.17.2, 8.2.17.1, 9.2.08.1, 9.2.01.4, 9.2.01.5, 9.2.01.6, 9.2.08.2, 9.2.17.2, 9.2.17.1, 10.2.08.1, 10.2.01.1, 10.2.01.2, 10.2.01.3, 10.2.08.2, 10.2.17.2, 10.2.17.1, 11.2.08.1, 11.2.08.2, 11.2.17.2, 11.2.17.1, 12.2.17.2, 12.2.17.1, 13.2.17.2, 13.2.17.1, 14.2.17.2, 14.2.17.1, 15.2.17.1, and 15.2.17.1.

4F – Common Circulation and Spaces

n. Objective 4F-1 reads as follows:-

- *Common circulation spaces achieve good amenity and properly service the number of apartments.*

Furthermore, Design Criteria 1 notes the maximum number of apartments off a circulation core on single level is eight. Residential Tower 2 maintains 9 to 11 units per level.

#### 4H – Acoustic Privacy

o. Objective 4H-1 reads as follows:-

- *Noise transfer is minimised through the siting of buildings and building layout.*

Objective 4H-2 reads as follows:-

- *Noise impacts are mitigated within apartments through layout and acoustic treatments.*

In addition to the matters raised under 3F-2 above, related to privacy, acoustic privacy has not been maintained between the following areas:

- To the units directly above the balcony / courtyard area associated with the Board Room / Office on the Ground Level.
- Unit 1.2.04.2 and the abutting Specialty Retail, known as Specialty Retail 215.70m<sup>2</sup> on Level 1.
- To the units on Level 2 directly above the restaurants and balcony areas.

#### 4J – Noise and Pollution

p. Objective 4J-1 reads as follows:-

- *In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.*

Consideration has not been given to the ventilation of the proposed restaurants, which will impact and reduce the amenity of the proposed residential units above.

### Auburn Local Environmental Plan (LEP) 2010

6.2 Non-compliances with the Auburn Local Environmental Plan (LEP) 2010.

#### Clause 4.3 – Height of Buildings

a. The maximum height of buildings applicable to the subject site is 49 metres. Adequate information has not been provided to determine the height of the development.

**Note:** The submitted Statement of Environmental Effects indicates the development complies with the height of buildings standard, apart from a lift overrun, which is limited to a height of 50.6 metres, 1.6 metres above the height of buildings standard.

However, the Elevation and Section Plans submitted with the Development Application reveals a number of protruding blade / fin walls, as well as elements of the 14 storey residential tower extending beyond the 49 metre height of building standard.

- b. A 3D height plane has not been provided, accurately depicting the extent of the exceedance.

#### Clause 4.6 – Exceptions to Development Standards

- c. The submitted Clause 4.6 – Exceptions to Development Standards Statement does not document the full extent of exceedances proposed beyond the Height of Building standard applicable to the site.

**Note:** The Elevations and Section plans submitted with the Development Application reveals a number of protruding blade / fin walls, as well as elements of the 14 storey residential tower extending beyond the 49 metre height of building standard applicable to the site, which have not been documented within the submitted Clause 4.6 – Exceptions to Development Standards Statement.

### Auburn Development Control Plan (DCP) 2010

#### 6.3 Non-compliances with the Auburn Development Control Plan (DCP) 2010.

##### Part 4 – Residential Flat Buildings

##### Clause 2.3 – Building Envelope

- d. The tower component of any building above the podium or street wall height is to have a maximum floor plate of 850m<sup>2</sup>. Residential Tower 1 is maintained to 1118.7m<sup>2</sup> to 1243.4m<sup>2</sup>, and Residential Tower 2 is maintained to 716.1m<sup>2</sup> to 853.2m<sup>2</sup>, which is unacceptable, as the development does not maintain an appropriate level of visual privacy, due in a large part to the building footprint proposed.

##### Clause 6.1 – Solar Amenity

- e. Buildings shall be designed to ensure sunlight to at least 50% of the principal area of ground level private open space of adjoining properties for at least 3 hours between 9:00am and 3:00pm on June 21. If the principal area of ground level private open space of adjoining properties does not currently receive at least this amount of sunlight, then the new building shall not further reduce solar access.

In addition, north-facing windows to living areas of neighbouring dwellings shall not have sunlight reduced to less than 3 hours between 9:00am and 3:00pm on June 21 over a portion of their surface.

Adequate information has not been provided to determine if adjoining properties are affected to the extent that the proposal reduces solar access beyond that to achieve compliance with the standards listed.

**Note:** The relationship of the development to adjoining properties has not been noted on the solar access diagrams, nor have hourly solar access diagrams, in plan and elevation form been submitted, depicting the impact of the proposed development upon adjoining properties.

In addition, the proposed development appears to affect the morning sun to the following properties:-



- 7 - 9, 11 and 13 Harrow Road, Auburn; and
- 9, 11, 13 & 15 Mary Street, Auburn.

#### Clause 8.1 – Lot Amalgamation

- f. Adjoining parcels of land not included in the development site shall be capable of being economically developed.

The subject development landlocks / isolates the adjoining sites at 43 & 45 Auburn Road, Auburn, which has a combined site area of 403.7m<sup>2</sup> and frontage to Auburn Road of 12.19m.

No evidence of reasonable offers based on independent valuation/s have been submitted, nor have concept plans been submitted, which demonstrate that orderly and economic use and development of the adjoining sites can be achieved.

**Note:** A 5-6 storey commercial / retail development has been depicted within 3D massing diagrams, however, by virtue of the limited building separation provided by the subject development, no residential can be accommodated on 43 & 45 Auburn Road, Auburn. Furthermore, an understanding of parking and vehicular access for a future development at 43 & 45 Auburn Road, Auburn, has not been provided.

### Part 8 – Local Centres

#### Clause 2.0 – Built Form

- g. Residential components are to be provided with direct access to street level with entrances clearly distinguishable from entries to commercial premises. Separate residential entries, distinguished from the commercial / retail component of the development have not been designed, which creates a safety and security concern, as residential only areas can be accessed by the general public.
- h. Car parking provided for the residential component of the development is to be clearly delineated and provided separate to general customer parking. The residential visitor parking spaces are not separated from the commercial / retail parking spaces, and as such, no mechanism exists to ensure adequate parking is provided to service the different uses, which is unacceptable.

#### Clause 2.4 - Roofs

- i. Roof forms shall not be designed to add to the perceived height and bulk of the building. Blade / fin walls have been designed to the 14 storey residential tower, which add unnecessary height to the development.

#### Clause 2.5 - Balconies

- j. Verandahs and balconies shall not be enclosed. The following balconies / private open space areas are enclosed to all sides, which is not considered to provide an acceptable level of amenity for future occupants:-

Units 1.2.04.1, 1.2.03.1, 1.2.03.2, 1.2.04.2, 2.1.04, 2.2.17.2, 2.2.04A, and 2.2.03A.

#### Clause 4.3 - Awnings

k. Awning dimensions shall generally be:

- Minimum soffit height of 3.2m and maximum of 4m;
- Low profile [profile], with slim vertical fascia or eaves (generally not to exceed 300mm height);
- 1.2m setback from kerb to allow for clearance of street furniture, trees, and other public amenity elements; and
- In consideration of growth pattern of mature trees.

Adequate detail has not been provided to determine compliance with the following:-

- The proposed soffit height of the awnings has not been provided.
- The profile of the awning is unclear within the submitted plans.
- The setback of the awnings from the kerb line has not been provided.
- Three existing street trees are present along Harrow Road; however, it is unclear from the submitted plans if the awning structure accommodates the existing trees and their growth pattern.

l. Awning design must match building facades, be complementary to those of adjoining buildings and maintain continuity. Furthermore, all residential buildings are to be provided with awnings or other weather protection at their main entrance area.

Adequate information has not been provided within the floor plans to determine if the proposed awnings are continuous along the façades of the development, which is required to ensure all weather protection is afforded to persons residing in the development and the general public.

#### Clause 5.4 – Wind Mitigation

m. A Wind Effects Report is to be submitted with the Development Application for all buildings greater than 35m in height. For buildings over 48m in height, results of a wind tunnel test are to be included in the report.

A Wind Effects Report has been submitted with the Development Application, however, the results of the wind tunnel testing have not been submitted, which is required as the development is greater than 48 metres in height. As such it is unclear if the proposed development will satisfy nominated wind standards and maintain comfortable conditions for pedestrians.

#### Clause 14.4 - Laneways

- n. Redevelopment within the Auburn Town Centre shall make provision for the creation of new laneways. A laneway is required between Queen Street and Mary Street, adjacent to the required Public Open Space Area, which has not been designed, which is unacceptable, as the development hinders pedestrian access and circulation within the town centre.

#### Clause 14.5 – Key Site – Five Ways

- o. The subject site is required to be amalgamated with 43 & 45 Auburn Road, and 1, 3, and 5 - 7 Mary Street, Auburn, to achieve the desired aims and objectives of the Auburn DCP 2010. Amalgamation of the subject site with 43 & 45 Auburn Road, and 1, 3, and 5 - 7 Mary Street, Auburn has not been achieved.

No evidence of reasonable offers based on independent valuation/s have been submitted, nor have concept plans been submitted, which demonstrate that orderly and economic use and development of the adjoining sites be achieved.

**Note:** A 5-6 storey commercial / retail development has been depicted for 43 & 45 Auburn Road, Auburn, within 3D massing diagrams, however, by virtue of the limited building separation provided by the subject development, no residential can be accommodated on 43 & 45 Auburn Road, Auburn. Furthermore, an understanding of parking and vehicular access for a future development at 43 & 45 Auburn Road, Auburn, has not been provided.

A shop top housing development has been depicted for 1, 3, and 5 – 7 Auburn Road, Auburn, with 3D massing diagrams; however, by virtue of the limited building separation provided by the subject development, the majority of the building separation is borne by 1, 3, and 5 – 7 Auburn Road, Auburn.

- p. An open space area shall be provided on the North-East corner of the site at the intersection of Auburn Road and Queen Street with a minimum width of 26m, including a 6m reservation as a pedestrian plaza to accommodate circulation and outdoor dining area.

The public open space area at the corner of Auburn Road and Queen Street has not been designed in accordance with the standards, measuring 9.5 metres along Auburn Road and 22 metres along Queen Street.

**Note:** The limited width of the open space, in particular the frontage to Auburn Road, restricts the openness of the space, limiting the opportunity for the public realm to be expanded. The proposed width limits the opportunity to provide visual relief, as well as provide views between Auburn Road and Queen Street, while also restricting the opportunity for social interaction and outdoor dining.

- q. For residential uses, the maximum building dimensions, inclusive of balconies and building articulation but excluding architectural features, is 24m x 60m. The building length for Residential Tower 1 is 67.402m, which is

unacceptable, as the development does not maintain an appropriate level of visual privacy, due in a large part to the building footprint proposed.

## Part 15 – Parking and Loading

### Clause 3.1 – Bicycle Parking

- r. Bicycle racks shall be provided in safe and convenient locations, providing 1 bicycle storage area for every 5 residential units as part of mixed use development.

In total, 245 residential units are proposed, requiring 49 bicycle parking spaces. Bicycle storage areas have been provided within the development; however, it is unclear how many bicycles can be stored within these areas, which is unacceptable, as it is unclear if the proposed development encourages the use of bicycles as a sustainable mode of transport.

### Clause 5.1.5 – Number of Car Parking Spaces

- s. Development in the B4 Mixed Use Zones within 1000 metres of a railway station in Town Centres (Auburn and Lidcombe) shall provide a minimum of 1 space per 60m<sup>2</sup> of commercial / retail, and a maximum of 4 spaces per 40m<sup>2</sup> of commercial retail.

In total, 7,599m<sup>2</sup> of commercial is proposed, requiring 127 car parking spaces. 109 spaces have been provided within the commercial / retail and residential car parking level on Basement Level 1, which is unacceptable, as adequate parking has not been provided to service the development.

**Note:** As the car parking within Basement Level 1 is a combination of commercial / retail and residential visitor parking spaces, inadequate information has been provided to determine the extent of parking provided to service the commercial / retail area.

## Part 16 – Access and Mobility

### Clause 2.0 – Design Guidelines for Access

- t. Access to persons with a disability has not been afforded from the commercial parking area to the Village Tavern, which is unacceptable, as equal access opportunities has not been afforded to all persons.

## Additional Items

### 6.4 Additional items of concerns raised with the proposal.

- a. The submitted Statement of Environmental Effects notes the proposal includes *‘upgrades to an existing hotel, including alterations and additions’*.

No further information on this aspect of the development is given, and, an assessment of the plans submitted reveals the area in question is more appropriately defined as a Food and drink premises, either being a *Pub* or a *Small Bar*, as opposed to *Hotel or Motel Accommodation*, as no rooms or self-contained suites are proposed.



- b. A standard unit layout has not been provided for Unit 2.01A.
- c. The material schedule submitted with the Development Application does not include the material for paving.
- d. Adequate information has not been provided to show how the basement associated with the Village Tavern, within Basement Level 1, is accessed.
- e. Adequate information has not been provided to determine:-
  - The access arrangement to the private terrace to the east of Unit 2.2.08 on Level 2, Residential Tower 2.
  - The access arrangement to the balcony area to the west of Unit 3.2.17.2 on Level 3, Residential Tower 2.
  - The access arrangement to the balcony area to the east of Unit 3.2.17.1 on Level 3, Residential Tower 2.
  - Which unit the terrace area to the South/West of Unit 8.1.08A on Level 8, within Residential Tower 1, is allocated, and how it is accessed.
  - Which unit the terrace area to the South of Unit 3.2.18 on Level 3, within Residential Tower 1, is allocated, and how it is accessed.

## **7 External Referrals**

- 7.1 The subject Development Application was referred to the following public agencies:-

### **AusGrid**

The Application was referred to AusGrid for comment, who have raised no objection, subject to conditions.

### **Roads and Maritime Services**

The Application was referred to the Roads and Maritime Services for comment, who have raised no objection, subject to conditions.

### **NSW Police Force – Flemington Local Area Command**

The Application was referred to the NSW Police Force – Flemington Local Area Command for comment, who have raised a number of concerns. Specific to the development, a concern has been raised regarding traffic and parking associated with the development. A request that a Traffic Report be submitted with the Development Application has been made, which has been submitted with the Development Application.

## **8 Internal Referrals**

- 8.1 The subject Development Application was referred to the following internal sections of Council:-

## Urban Designer

The Application was referred to Council's Urban Designer for comment, who has raised the following concerns with the development:-

### Five Ways open space (Village Plaza / Plaza)

- A "Plaza" is an open space designed for public use and defined by surrounding buildings and streets. The primary function of the Plaza is to encourage a diversity of opportunities for social interaction, to provide relief and relaxation, to expand and reinforce the public realm and to contribute to the liveability and general amenity of a centre.

The Auburn DCP 2010 has established minimum dimensions of 26m x 26m for the Village Plaza on the corner of Auburn Road and Queen Street. The intention of the Auburn DCP 2010 controls is to provide increased "openness" which will enhance views from the streets and vice versa and make the space inviting and visually attractive.

The proposal does not comply with the minimum Auburn DCP 2010 requirements, especially along Auburn Road. From the corner of Queen Street and Auburn Road, the proposed Village Plaza measures 9.5m along Auburn Road instead of 26m. This is a significant variation to the DCP requirement, which is undesirable, especially given that the Village Plaza is the main entry to the development, an arrival point. In addition, the balconies of units on Level 1, which encroach on to the Village Plaza, as well as the decorative light fittings and the fountain skylight, are visual barriers which clutter the space.

- Pedestrian access to the proposed Village Plaza is essentially only from Queen Street. An attractive urban space is fully integrated with its surrounding streets as the streets provide the flow of people traffic. By reducing the size and restricting the access, the Village Plaza is uninviting. Furthermore, the proposed Plaza appears to be a component that is required by the building, which is undesirable. The Village Plaza should be consciously designed to maximise public use, not as a by-product of the building.

### Built Form Along the Village Plaza

- The built form has an immense impact on the character of the space and its success in the area. Massing and scale is very important to delivering an enhanced streetscape and pedestrian environment.

The towers within the development, rather than defining the Plaza, encroach onto it. The proposed built form, with no setbacks to the tower elements, fails to provide a human scale to the Village Plaza, which dominates the pedestrian experience. The very limited interface of the Plaza with adjoining streets disconnects the street environment.

### Architectural Character

#### Queen Street Facade

- The coloured glass on the lower ground and ground level facades in addition to the metallic copper penny (red) horizontal bands, multi-coloured vertical bands, staggered awnings and angular balconies, although adding interest to the

façade, results in a very busy façade that detracts from the coherence of the overall architectural composition. Furthermore, there are too many repeated elements which has resulted in monotony.

The podium level façade is the most important contributor to the spatial definition of the public realm. Hence it needs fine-grain variation to provide visual interest and to break up the scale in close views. The 124 metre long podium disrupts the rhythm of the street. The elevation does not provide adequate variation to the built form, including vertical articulation, to avoid a bulky, monolithic appearance.

#### General Façade Comments

- Generally, the building facades lack subtlety and elegance desired for the Auburn Town Centre. As stated above, generally, façades should aim to achieve a certain degree of simplicity by reducing the colour and the emphasis on horizontal elements. The elevations of the built form lack adequate variation to avoid a bulky, monolithic appearance (box like appearance).

#### Circulation

- One of the objectives of the key Site – Five Ways is:

*“f. To improve pedestrian access and circulation within the town centre.”*

Two through-site links (one North-South and one East-West) are required to enhance pedestrian connectivity.

As a general rule, through-site links are designed to:

- Be direct and publicly accessible, allow visibility along the length of the link to the public domain and be open to the sky as much as is practicable;
- Be easily identified by users and have a public character;
- Align with breaks between buildings so that views are extended and there is less sense of enclosure;
- Ensure no structures are constructed in the through-site link;
- Be accessible 24 hours a day; and
- Generally be between 4m-6m.

The proposal does not include any through-site links nor does it make provisions for the creation of through-site links in the future when the whole block is redeveloped.

The proposed design includes pedestrian connections from Mary Street to Queen Street. However, there are no established clear sightlines or legibility, and persons are required to travel between levels to get from one point to the next. No connections are proposed linking Auburn Road and Harrow Road.

#### Landscape Architect

The Application was referred to Council’s Landscape Architect for comment, who has raised the following concerns with the development:-

### Pedestrian Wind Environment Statement

- A Pedestrian Wind Environment Statement has been submitted, which identifies the inclusion of densely foliating trees along the ground level of Harrow Road, Queen Street and Mary Street. The densely foliating trees for Harrow Road frontage are recommended to be evergreen to mitigate winds throughout all seasons. Trees shall have a growing height of 4m.

The following points are noted:-

- The indicative species list submitted with the Development Application identifies the following Street trees:-

○ Platanus x hybrid	London Plane Tree	20m x 10m
○ Lophostemon confertus	Brush Box	15m x 10m
○ Tristaniopsis laurina 'Luscious'	Water Gum	9m x 5m

These species do not correlate with the physical characteristics recommended by the Pedestrian and Wind Environment Statement. Furthermore, the proposed location of these tree species has not been identified on the submitted Landscape Plans.

### Five Ways

- The designated area for the Village Square does not satisfy the minimum dimensions as indicated in Part 8, Clause 14.5 of the Auburn DCP 2010. The proposed Village square is required to have a minimum 26 metre street frontage along both Auburn Road and Queen Street, and include a 6 metre reservation as a pedestrian plaza to accommodate circulation and outdoor dining.

The following points are noted:-

- The Village Square has not been reinforced as an open space focal point to the Auburn Town Centre.
- The urban village landscape has not been softened using natural greenery.
- Areas of public seating, including seats with armrests and companion spaces for wheelchairs beside seats, has not been provided.
- Adequate detail has not been provided to determine if wind turbulence will be an issue in transporting water spray across the plaza area from the water feature.
- The featured 'Lantern' elements highlight the retail mall entry rather than improve the visual amenity of the open space in the Auburn Town Centre. The lighting design does not address the streetscape along Auburn Road.

### Indicative Plant Schedule

- Adequate information has not been provided regarding the proposed numbers and location of plants.



## Development Engineer

The Application was referred to Council's Development Engineer for comment, who has raised the following concerns with the development:-

### Easements

- The Survey Plan submitted with the Development Application does not denote the area of the site, or any existing easements and rights of way.

### Flooding

- A copy of the DRAINS model has not been submitted.
- There are inconsistencies in the flood levels used in the Flood Study prepared by Hyder Consulting Pty Ltd, dated 23 April 2015. In addition, the model did not consider the storage of 3,400m<sup>3</sup> as part of the development.
- Overland flow from adjacent properties has not been maintained by the proposal.

### Stormwater

- A detailed On-site Stormwater Detention (OSD) calculation sheet has not been submitted.
- The OSD tank and rainwater tank have not been separated.
- The OSD tank has not been located outside the retail / commercial floor areas.
- Details of stormwater disposal to Council's drainage system have not been clearly annotated on the submitted plans.
- A grated drain has not been provided behind the flap valve. The OSD tank configuration does not comply with Council's standard drawing.
- The spacing between the OSD tank access grates exceeds 5 metres.
- A detailed Survey showing all existing footpaths, kerb and gutter and other surface levels has not been provided.

### Public Domain Design

- A detailed plan, showing all proposed public domain works has not been submitted.
- Boundary line levels from Council have not been obtained and incorporated into the design.
- The low level footpath along Mary Street has not been designed in consultation with Council's Development Engineer.
- The Queen Street and Harrow Road corner does not provide adequate active footpath area.

### Traffic

- The Traffic model has not addressed the following:
  - Intersection counts undertaken at the intersection of Auburn Road, Civic Road and Queen Street do not include pedestrian movement counts.
  - The SIDRA intersection modelling undertaken has not used actual signal phasings and green times signals operating during peak periods. Hence, base modelling results do not reflect the actual level of service and degree of saturation the traffic control signals operate.
- An additional 300mm clear has not been provided for parking spaces where one side is confined by an obstruction.
- A width of 5.8 metres has not been provided for the circulation aisles with 90 degree angle parking.
- The aisle width next to the 90 degree angle parking spaces have not been widened by 300mm where the aisle is confined by a wall or other obstruction.
- A detailed swept path analysis has not been provided, which demonstrates cars passing on another along circulation aisles.
- Adequate manoeuvring space is not available for parking spaces 100 and 135.
- Adequate sight distance is not available for parking space 99.
- Turn areas have not been provided at the blind aisle near parking space 101.
- Adequate information has not been provided to determine if the minimum 2.2 metre clearance has been provided for the car park
- The commercial / retail parking spaces are not provided with a width of 2.6 metres.
- The queuing area in front of the roller door to the residential basement parking levels is not adequate, and is not designed in accordance with AS 2890.1.
- The proposed residential ramp width is not adequate to accommodate a proposed centre median and any access control devices.

### Loading

- A conflict exists between the commercial parking area and the loading bay, specifically, when vehicles are maneuvering.
- The waste collection and commercial loading areas have not been separated.
- 10 loading docks are required to service the development. 1 x medium rigid loading dock and 2 x service vehicles docks have been provided to service the development

- A 4.5 metre headroom height has not been provided for the loading area.
- The loading area does not accommodate a heavy rigid vehicle, required to service the development.
- Deliveries from the loading docks are transported through the public lifts, which is not appropriate.

### Waste Resource Recovery Officer

The Application was referred to Council's Waste Resource Recovery Officer for comment, who has raised the following concerns with the development:-

- The waste service requirements for the proposed development are as follows:-
  - Residential Garbage: 10 x 1100L MGBs collected three times a week.
  - Residential Recycling: 6 x 1100L MGBs collected three times a week.

It is unclear from the submitted plans if the bin storage rooms have the capacity to accommodate the bin arrangement listed above.

- The Applicant has not demonstrated how garbage and recycling bins will be transported from the bin storage room to the loading bay for servicing, and whether there is sufficient space for the required number of bins.
- The Applicant has not demonstrated the location of residential waste holding room noted within the Architectural Plans can accommodate the recommended bin arrangement above.
- The Applicant has not demonstrated that a swept path for a 10.5 metre heavy rigid vehicle can manoeuvre to the loading bay on-site, and undertake collection of garbage and recycling.
- The Applicant has indicated a private garbage and recycling collection service will be used, which will incur a waste availability charge. The Applicant has not considered Council providing the service.
- A caged area for bulky items discarded by residents awaiting Council's collection has not been provided.

### Environmental Health Officer

The Application was referred to Council's Environmental Health Officer for comment, who has raised the following concerns with the development:-

#### Contamination

- A Phase 1 Contamination Assessment was prepared by Douglas Partners Pty Ltd, Project Number 43789, dated March 2006. Whilst the Phase 1 Contamination Assessment appears to be prepared in accordance with the NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites*, the report was prepared in 2006, and is therefore over 10 years old.

## 9 Public Comment

- 9.1 The Development Application was notified for a period of 14 days from 8 August 2017 to 27 August 2017 in accordance with the Auburn DCP 2010. Letters were sent to adjoining and surrounding owners and occupiers, an advertisement was placed in the local paper and a notice was placed on site. In response, Council received 4 submissions.
- 9.2 The concerns raised in the three submissions are addressed below:

### Submission 1 – 1 - 5 Harrow Road, Auburn

#### Notification

- *Concern has been raised regarding the notification of the subject application, specifically; the information provided is not adequate to make an informed submission with regards to the retail / commercial component of the development, and adequate time has not been provided for the making of a submission.*

*Comment:* As noted above, the application has been notified in accordance with the Auburn DCP 2010 for a period of 14 days from 8 August 2017 to 27 August 2017 via letters to adjoining and surrounding owners and occupiers, an advertisement in the local paper, and a notice on site. The information made available, is limited to consultants reports and the external view of the building, in accordance with Council's adopted practice for notification of Development Applications.

In this regard, adequate information and time has been provided in order for persons from the public to make a submission.

#### Building Height

- *Concern has been raised regarding the height of the development; specifically, the question is raised regarding the validity of a height increase.*

*Comment:* An opportunity exists for an Applicant to justify a contravention to a development standard, by means of a Clause 4.6 – Exceptions to Development Standards. In this instance, the Application seeks a variation to the Height of Buildings standard, as noted under the Auburn LEP 2010.

However, as noted within the report; the submitted Clause 4.6 Statement does not document the full extent of exceedances proposed beyond the Height of Building standard applicable to the site, and as such, adequate information has not been provided in order for an assessment to be undertaken.

#### Floor Space Ratio

- *Concern has been raised regarding the floor space ratio of the development; specifically, adequate information has not been provided to determine if the development achieved compliance with the standard.*

*Comment:* The Floor Space Ratio (FSR) applicable to the site is 5:1. Council has undertaken a calculation of the Gross Floor Area (GFA) of the development, to which the development maintains a GFA of 28,978.7m<sup>2</sup>, equivalent to an FSR of 4.996:1 of the site area, in compliance with the standard.

### Parking

- *Concern has been raised regarding parking to service the development, specifically; it is unclear how the parking report has been prepared without an understanding of the extent of commercial / retail proposed. The submission notes that the parking is not adequate to service the development*

*Comment:* In accordance with the Apartment Design Guide and the Auburn DCP 2010, the proposed development requires 268 residential and 127 commercial / retail off street parking spaces to service the development. The above figures have been informed by a calculation undertaken by Cumberland Council's assessment staff.

As noted within the report, 264 residential and 109 commercial / retail car parking spaces have been provided within the basement levels, which is deficient the requirement.

**Note:** As the car parking within Basement Level 1 is a combination of commercial / retail and residential visitor parking spaces, inadequate information has been provided to determine the extent of parking provided to service residential visitors.

### Traffic Generation

- *Concern has been raised regarding the traffic generation, specifically; that the streetscape will suffer by virtue of excessive traffic generation brought about by the proposal.*

*Comment:* A Traffic and Parking Assessment report has been provided as a part of the Application, which has assessed the traffic and parking implications of the development with regards to the existing road network capacity, vehicular access arrangements and potential traffic implications.

Council's Development Engineer has assessed the provided Traffic and Parking Assessment report in conjunction with the proposal to be satisfactory in maintaining an acceptable level of traffic generation, when considering the prevailing traffic conditions and capacity of the street network.

### Number of Storeys

- *Concern has been raised regarding the number of storeys proposed; identifying that that the proposal exceeds the overall height limit.*

*Comment:* There is no limitation within the planning controls applicable to the subject development that prescribes a maximum number of storeys. Refer to earlier commentary under the heading *Building Height*.



### Overshadowing / Loss of Sunlight

- *Concern has been raised regarding overshadowing, specifically; sunlight will be limited to local streets and local properties.*

*Comment:* As noted within the report, inadequate information has been provided to determine if adjoining properties are affected to the extent that the proposal reduces solar access beyond that to achieve compliance with the standards listed.

Regarding overshadowing of local streets, no planning controls exist which control the extent of solar access achieved to local streets.

### Documentation Inaccuracies

- *Concern has been raised regarding documentation inaccuracies, as follows:-*
  - *Three buildings are noted, however, only 2 towers are proposed.*
  - *The Statement of Environmental Effects identifies commercial / retail is proposed to the first floor, however, the plans identify commercial / retail on the lower ground and ground levels.*
  - *Sections through the basement do not reflect the commercial component of the development.*

*Comment:* The following is noted:-

- The Applicant references 3 buildings within the correspondence submitted, which is incorrect, and instead should reflect 3 cores within 2 residential towers.
- Commercial / retail has been proposed to the first floor also as well as the lower ground and ground levels.
- The Section plans submitted reference the 3 levels of basement proposed to the development.

## Submission 2 – Auburn Central

### Extent of Retail Proposed

- *Concern has been raised regarding the extent of retail proposed, noting that ample and established retail is already present within the Auburn Town Centre.*

*Comment:* There are no limitations within the planning controls applicable to the subject development that prescribes a maximum commercial / retail component for the subject development.

As such, the extent of commercial / retail proposed is subject to market forces, and to the discretion of the Applicant for the Development Application, and Owner/s of the land.

## Submission 3 - 13 Harrow Road, Auburn

### Overshadowing / Loss of Sunlight

- *Concern has been raised regarding overshadowing, specifically; sunlight will be limited to 13 Harrow Road, Auburn.*

*Comment:* As noted within the report, inadequate information has been provided to determine if adjoining properties are affected to the extent that the proposal reduces solar access beyond that to achieve compliance with the standards listed.

### View Loss

- *Concern has been raised regarding view loss; specifically, a front view and view of the sky will be lost.*

*Comment:* The subject site benefits from a 49 metre height standard, therefore, any redevelopment will limit the extent of views currently experienced from properties located along the western side of Harrow Road, limited to the extent of the site with a frontage to Harrow Road, looking east.

While considering the above, the proposed built form above the 3 storey podium level is split into 2 residential towers, maintaining some views for properties along the western side of Harrow Road, limited to the extent of the site, looking east.

### Visual Privacy

- *Concern has been raised regarding visual privacy, specifically, residents on the top floor will be able to overlook 13 Harrow Road, Auburn.*

*Comment:* In accordance with Part 3F of the Apartment Design Guide (ADG), visual privacy is maintained where adequate building separation distances are preserved. In the case of 13 Harrow Road, Auburn, a building separation to the upper floors of the subject development is required to maintain a separation of 24 metres in order to maintain visual privacy.

In this regard, the proposed development maintains a building separation of 26 metres to the development upon 13 Harrow Road, Auburn, and therefore, visual privacy is considered to be maintained in this instance.

### Vehicular Entrance

- *Concern has been raised regarding the location of the vehicular access points, specifically, that the entrances are located to Harrow Road, and likely to result in traffic congestion and light spill from vehicles.*

*Comment:* In accordance with Clause 14.5, Part 8 – Local Centres under the Auburn DCP 2010, the preferred vehicular access to the site shall be via Harrow Road, to which the proposed development has been designed.

With regard to traffic congestion, a Traffic and Parking Assessment report has been provided as a part of the Application, which has assessed the traffic and parking implications of the development with regards to the existing road network capacity, vehicular access arrangements and potential traffic implications.

Council's Development Engineer has assessed the provided Traffic and Parking Assessment report in conjunction with the proposal to be satisfactory in maintaining an acceptable level of traffic generation, when considering the prevailing traffic conditions and capacity of the street network.

With regard to light spill from vehicles, and the impact upon 13 Harrow Road, Auburn, it is envisaged that the extent of light spill from vehicle headlights will be maintained to the extent of time needed to exit the site only.

In light of the above, it is considered that the proposal will not result in unreasonable headlight glare to 13 Harrow Road, Auburn.

#### Parking

- *Concern has been raised regarding parking difficulties, specifically, that parking difficulties currently experienced will be exacerbated by the proposed development.*

**Comment:** In accordance with the Apartment Design Guide and the Auburn DCP 2010, the proposed development requires 268 residential and 127 commercial / retail off street parking spaces to service the development.

As noted within the report, 264 residential and 109 commercial / retail car parking spaces have been provided within the basement levels, which is deficient the requirement.

**Note:** As the car parking within Basement Level 1 is a combination of commercial / retail and residential visitor parking spaces, inadequate information has been provided to determine the extent of parking provided to service residential visitors.

#### Noise from Development

- *Concern has been raised regarding acoustic privacy, specifically; noise emanating from the commercial / retail portion of the development once constructed.*

**Comment:** An Acoustic Report prepared by an appropriately qualified acoustic consultant has been submitted as a part of this Application. The Acoustic Report is inclusive of a calculation of sound transmission to meet the relevant acoustic requirements and criteria and provides a recommendation of materials and construction techniques to achieve compliance with the relevant acoustic requirements and criteria. Furthermore to the above, long term

noise monitoring was conducted to determine the background noise level for the area.

The Acoustic Report has detailed the proposed development meets the relevant acoustic requirements and criteria. Council's Environmental Health officer has assessed the provided Acoustic Report in conjunction with the proposal to be satisfactory in maintaining acoustic privacy.

## Submission 4 – 45 Auburn Road, Auburn

### Size of the Development

- *Concern has been raised regarding the size of the development, specifically; the proposal, if permitted, will surround and envelop 43 and 45 Auburn Road, Auburn, leaving the sites visually and physically isolated.*

*Comment:* The subject development landlocks / isolates the adjoining sites at 43 & 45 Auburn Road, Auburn, which has a combined site area of 403.7m<sup>2</sup> and frontage to Auburn Road of 12.19m.

No evidence of reasonable offers based on independent valuation/s have been submitted, nor have concept plans been submitted, which demonstrate that orderly and economic use and development of the adjoining sites can be achieved.

**Note:** A 5-6 storey commercial / retail development has been depicted within 3D massing diagrams, however, by virtue of the limited building separation provided by the subject development, no residential can be accommodated on 43 & 45 Auburn Road, Auburn. Furthermore, an understanding of parking and vehicular access for a future development at 43 & 45 Auburn Road, Auburn, has not been provided.

### Negative Impacts

- *Concern has been raised regarding noise, vibration, building damage, shade, wind changes resulting from the proposed development, as well as, disruptions to traffic, customer flow, parking, general business access and property value, during construction and post-development.*

*Comment:* The following commentary is provided regarding the above concerns:-

### Noise

An Acoustic Report prepared by an appropriately qualified acoustic consultant has been submitted as a part of this Application. The Acoustic Report is inclusive of a calculation of sound transmission to meet the relevant acoustic requirements and criteria and provides a recommendation of materials and construction techniques to achieve compliance with the relevant acoustic requirements and criteria. Furthermore to the above, long term noise monitoring was conducted to determine the background noise level for the area.

The Acoustic Report has detailed the proposed development meets the relevant acoustic requirements and criteria. Council's Environmental Health officer has assessed the provided Acoustic Report in conjunction with the proposal to be satisfactory in maintaining acoustic privacy.

#### Vibration and Building Damage

The following standard condition of consent would be imposed within any Development Consent issued, regarding support of neighbouring properties / allotments:-

1. *A dilapidation report of adjoining properties/allotments and details of the proposed excavation works in excess of 2m or within the zone of influence of neighbouring building foundations and required underpinning and supportive measures shall be submitted to the Principal Certifying Authority. Any required underpinning and supportive measures shall be designed by a practising structural engineer and details shall be submitted to the Principal Certifying Authority for approval prior to construction works commencing.*

#### Shade

Due to the orientation of the site, the proposed development would not impede upon solar access currently experienced to the eastern portion of 43 and 45 Auburn Road, Auburn.

#### Wind Changes

A Pedestrian Wind Environment Statement has been submitted with the Development Application; however, the results of the wind tunnel testing have not been submitted. As such it is unclear if the proposed development will satisfy nominated wind standards and maintain comfortable conditions for pedestrians.

#### Parking

In accordance with the Apartment Design Guide and the Auburn DCP 2010, the proposed development requires 268 residential and 127 commercial / retail off street parking spaces to service the development.

As noted within the report, 264 residential and 109 commercial / retail car parking spaces have been provided within the basement levels, which is deficient the requirement.

**Note:** As the car parking within Basement Level 1 is a combination of commercial / retail and residential visitor parking spaces, inadequate information has been provided to determine the extent of parking provided to service residential visitors.



### Disruptions to Traffic

A Traffic and Parking Assessment report has been provided as a part of the Application, which has assessed the traffic and parking implications of the development with regards to the existing road network capacity, vehicular access arrangements and potential traffic implications.

Council's Development Engineer has assessed the provided Traffic and Parking Assessment report in conjunction with the proposal to be satisfactory in maintaining an acceptable level of traffic generation, when considering the prevailing traffic conditions and capacity of the street network.

### Customer Flow and General Business Access

The following standard condition of consent would be imposed within any Development Consent issued, to limit the disruption of the development upon the surrounding area:-

2. *A Construction Management Plan (CMP) prepared by a suitably qualified consultant shall be prepared to address issues such as traffic control, noise, dust, etc. during construction. All measures / works / methods / procedures / control measures / recommendation made within the Construction Management Plan shall be implemented accordingly. Detail is to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.*

### Property Value

No evidence has been submitted which suggests that the proposed development would result in the decline of property values of surrounding properties.

### Suitable Location for the Development

- *Concern has been raised regarding the suitability of the site and Auburn Town Centre for the development, identifying the development is better suited to city fringe areas.*

*Comment:* The subject site is zoned B4 – Mixed Use Development with a height limit of 49 metres, permitting shop top housing, commercial premises and food and drink premises, to which the development is defined.

As such, and notwithstanding the concerns raised within this report, a shop top housing development, with an overall height of 49 metres is considered appropriate for the site.

### Questions

- *The following questions have been raised within the submission:-*
  - *Is the new basement parking in this DA adequate and will it be free or contracted out so that residents and customers must pay for what is presently free?*

*Comment:* As noted previously, adequate commercial parking has not been provided to service the commercial / retail portion of the development.

The matter of paid v. unpaid parking is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.
  - Where is the reassurance there will be no total street closures or traffic re-direction which could hurt other businesses during the years of construction?

*Comment:* As noted previously, a standard condition of consent requiring a Construction Management Plan, would be imposed within any Development Consent issued, to limit the disruption of the development upon the surrounding area.
  - How do tenants know this sudden proposed large increase in retail space next door will not bring an over-supply of new direct competition to their own food / retail services and livelihood?

*Comment:* This is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.
  - Where are the extra green and recreational areas for the many new residents, visitors and children suddenly situated in the centre of Auburn CBD?

*Comment:* In accordance with the Apartment Design Guide (ADG), 1,450m<sup>2</sup> of communal open space is required to service the residential portion of the development. In this regard, 1,566.9m<sup>2</sup> of communal open space has been provided, in compliance with the ADG.

## **10 Section 79C Consideration**

10.1 Consideration of the matters prescribed by Section 79C of the Environmental Planning and Assessment Act is summarised below:

Head of Consideration	Comment	Comply
a. the provisions of: (i) any environmental planning instrument (ii) any draft	The provisions of relevant Environmental Planning Instruments and the Development Control Plan relating to the proposed development are summarised in Section 5 of this Report.	No

Head of Consideration	Comment	Comply
environmental planning instrument (iii) any development control plan (iiia) any planning agreement (iv) the regulations	<p>There are no planning agreements that relate to the Development.</p> <p>The proposed development raises concerns with the level of detail submitted in order for Council to undertake an assessment, as defined by Clause 51 of the Regulations.</p>	
b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The likely impacts of the development have been considered in the assessment of the application and are not considered appropriate.	No
c. the suitability of the site for the development	The site is not considered suitable for the development as proposed.	No
d. any submissions made in accordance with this Act or the regulations	The Development Application was notified for a period of 14 days from 8 August 2017 to 27 August 2017 in accordance with the Auburn DCP 2010. Letters were sent to adjoining and surrounding owners and occupiers, an advertisement was placed in the local paper and a notice was placed on site. In response, Council received 4 submissions. Submissions have been addressed in Section 9 of this Report.	Yes
e. the public interest	<p>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.</p> <p>In view of the information provided within this report, it is considered that the development, if carried out in its present form, will not be in the public interest.</p>	No

## 11 Conclusion

- 11.1 The Application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No. 55 (Remediation of Land), State Environmental Planning Policy (Building Sustainability

Index: BASIX) 2004, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Auburn Local Environmental Plan (LEP) 2010, and Auburn Development Control Plan (DCP) 2010, and is recommended for **Refusal**, noting the concerns raised within this report.

## 12 Recommendation

- 12.1 The Development Application be Refused by the Sydney West Central Planning Panel, subject to the Refusal Notice provided at **Attachment 3**.
- 12.2 The applicant and objectors be advised of the Sydney West Central Planning Panel's decision.