

**SYDNEY CENTRAL CITY PLANNING PANEL**

**TO:** Sydney Central City Planning Panel

**REPORT:** SCCPP Report

**SUBJECT:** 1A & 1B Queen Street, AUBURN NSW 2144

**FILE No:** DA-382/2017

<b>Application lodged</b>	8-Sep-2017
<b>Applicant</b>	E G Funds Management
<b>Owner</b>	Australian Executor Trustees (NSW) Limited
<b>Application No.</b>	DA-382/2017
<b>Description of Land</b>	Lot 2 DP 1160950, Lot 1 DP 1160950, 1A & 1B Queen Street, AUBURN NSW 2144
<b>Proposed Development</b>	Demolition of structures and construction of 12 residential apartment buildings, being part 3, part 6 and part 8 storey buildings containing 595 residential apartments including basement parking, landscaping, stormwater, public domain works and subdivision - Integrated Development (Water Management Act 2000)
<b>Site Area</b>	26876m <sup>2</sup>
<b>Zoning</b>	R4 High Residential Zone
<b>Disclosure of political donations and gifts</b>	Nil disclosure
<b>Heritage</b>	No – within vicinity of heritage items
<b>Issues</b>	ADG non-compliances Height Public Submissions NSW Police concerns

**SUMMARY**

- Development Application No. DA-382/2017 was received on 8-Sep-2017 for the Demolition of structures and construction of 12 residential apartment buildings, being part 3, part 6 and part 8 storey buildings containing 595 residential apartments including basement parking, landscaping, stormwater, public domain works and subdivision - Integrated Development (Water Management Act 2000)*
- Variations of 0.2m (0.04%) to 4.31m (21.5%) to the varying maximum height of buildings limit under Auburn Local Environmental Plan 2010 are proposed in accordance with clause 4.6 of the LEP. Minor variations to building separation, solar access and building form/envelope as required by the Apartment Design Guide and site specific DCP are also proposed.*
- The application was publicly notified to occupants and owners of the adjoining properties for a period of 30 days between 27 September 2017 to 27 October 2017*

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*(This was later extended to 11 November due to an administration error). During this exhibition period, Council officers were in receipt of 48 submissions. The submissions raised concerns over numerous issues pertaining to increases in traffic, lack of parking, amenity concerns, crime concerns and that the proposal generates an overdevelopment of the locality which will impact upon the local infrastructure.*

4. *On 16 March 2018, Council officers received an amended package of supporting documents containing changes to the design and provide additional information to address Councils letter dated 20 February 2018 and issues raised within the public submissions.*
5. *The amended application was publicly notified to occupants, owners of the adjoining properties and previous persons who made a submission for a period of 14 days between 10 April 2018 to 24 April 2018. During this exhibition period, Council officers were in receipt of 9 additional submissions. The submissions raised similar concerns as per the original exhibition period.*
6. *All relevant external agencies, inclusive of Roads and Maritime Services, AusGrid, Sydney Trains, Water NSW and NSW Police were consulted in regards to the proposed development. With the exception of NSW Police, no objection was raised by these external agencies.*
7. *The application is recommended for conditional approval subject to the conditions as provided in the attached schedule. The application The application is referred to the Panel due to the CIV exceeding \$20million (NB: the relevant threshold at the time the application was lodged).*

## REPORT

### SUBJECT SITE AND SURROUNDING AREA

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The site is legally described as Lots 1 and 2 in DP 1160950 and is known as 1A and 1B Queen Street, Auburn.

The site is generally rectangular in shape and has a total area of 2.68ha. It has a primary street frontage of 223m to Queen Street to the west and a secondary frontage of 108m to Marion Street to the north west. The site shares its north eastern boundary with the Western Railway Line corridor and a light industrial complex to the south east. To the north west are four to five storey residential flat buildings and to the south west are predominately low density one and two storey dwellings.

The site's elevation ranges between approximately RL 21m in the northwest to RL 19m in the southeast. This change in topography presents as generally flat site due to the comparative size of the site.

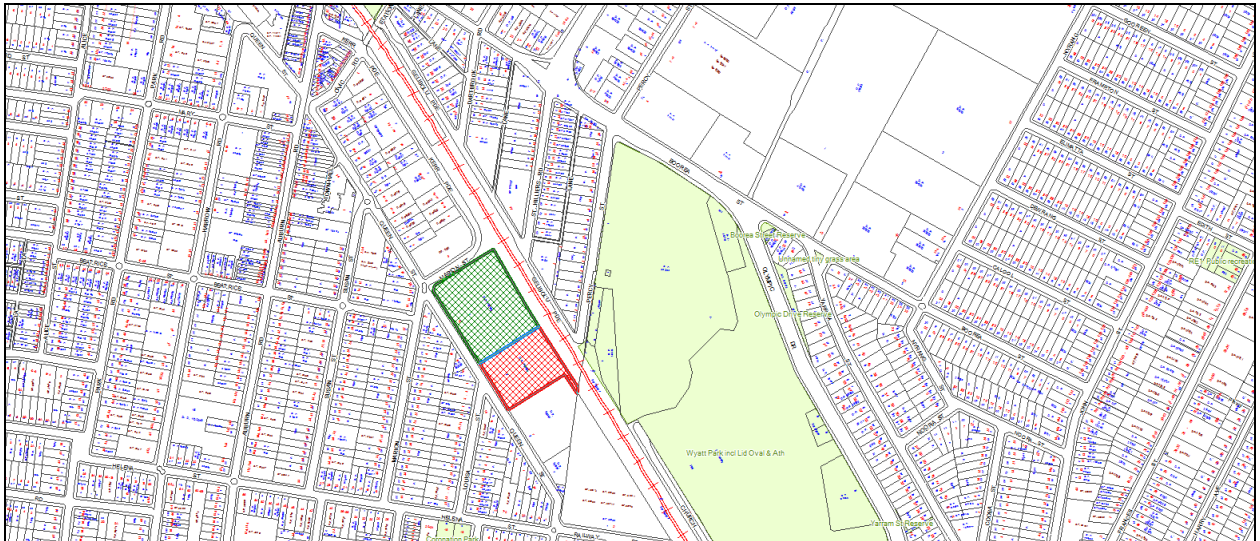
Stormwater runoff is currently directed to two Council asset pipe outlets which are situated in the adjacent railway corridor.

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The site is currently occupied by six large, single storey warehouse buildings used for a range of light industrial/warehouse uses. Vegetation within the site is generally confined to the north eastern corner and along the Marion and Queen Street boundaries (both within the site and the adjacent footpath reserve).

The site is located in close proximity to the Auburn Town Centre and is approximately 550m from Auburn Railway Station.

*Figure 1 – Locality Plan of subject site*



*Figure 2 – Aerial view of subject site*





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*Figure 3 – Street view of subject site*



## DESCRIPTION OF THE PROPOSED DEVELOPMENT

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Council is in receipt of a development application for the demolition of structures and construction of 12 residential apartment buildings, being part 3, part 6 and part 8 storey buildings containing 595 residential apartments including basement parking, landscaping, stormwater, public domain works and subdivision. It is noted that the subject application is an Integrated Development given the requirement for a dewatering license under the Water Management Act 2000.

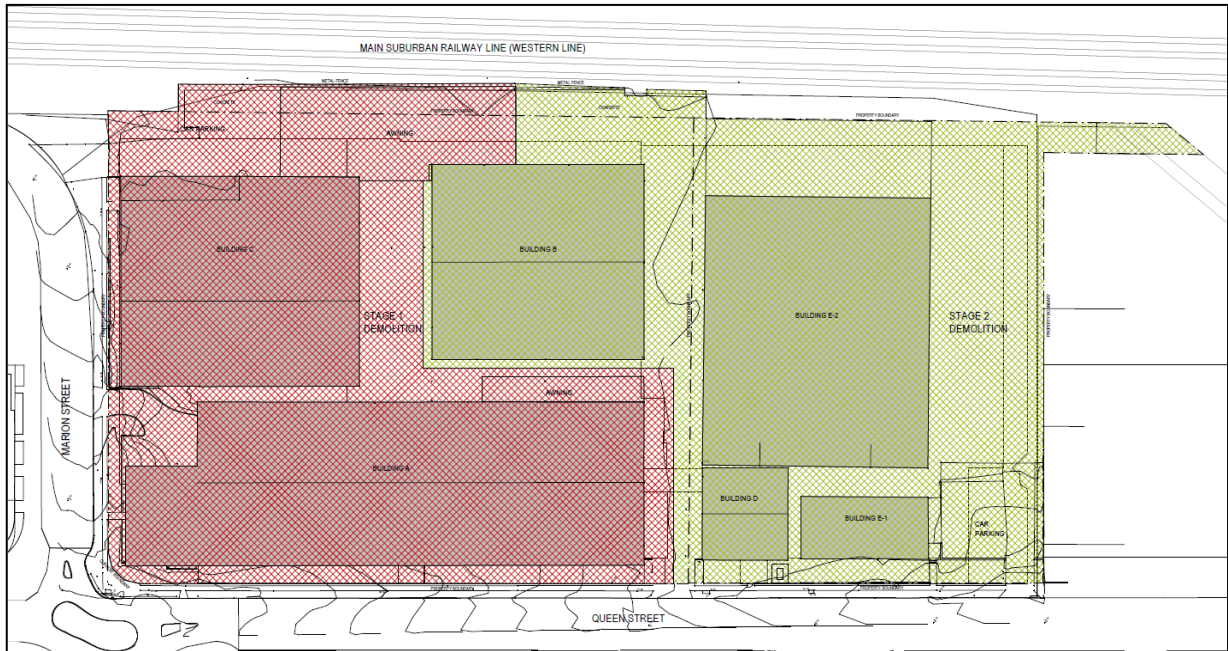
The proposed development will incorporate the following;

- Staged demolition of all existing structures;
- Staged excavation and site preparation works and tree removal;
- Staged construction of 3 blocks of 4 residential apartment buildings, comprising 595 dwellings across:
  - 193 apartments in Block A;
  - 201 apartments in Block B;
  - 201 apartments in Block C;
- Staged construction of a single basement level comprising 654 car spaces, loading facilities and residential storage;
- Associated landscaping works, including:
  - Three public pocket parks;
  - Rooftop communal open space;
  - Ground level communal courtyards;
- Stratum Subdivision

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### Staging of the development

It is noted that the development incorporates the staging of development for both demolition works and construction works. The following is a diagram of the demolition staging;



*Demolition staging*

The works are proposed to be completed over three construction stages, to isolate the potential impacts of construction and to allow new accommodation and facilities to commence or continue operation on site while other works are being delivered. The associated staging relates to each block respectively, being Blocks A, B and C.

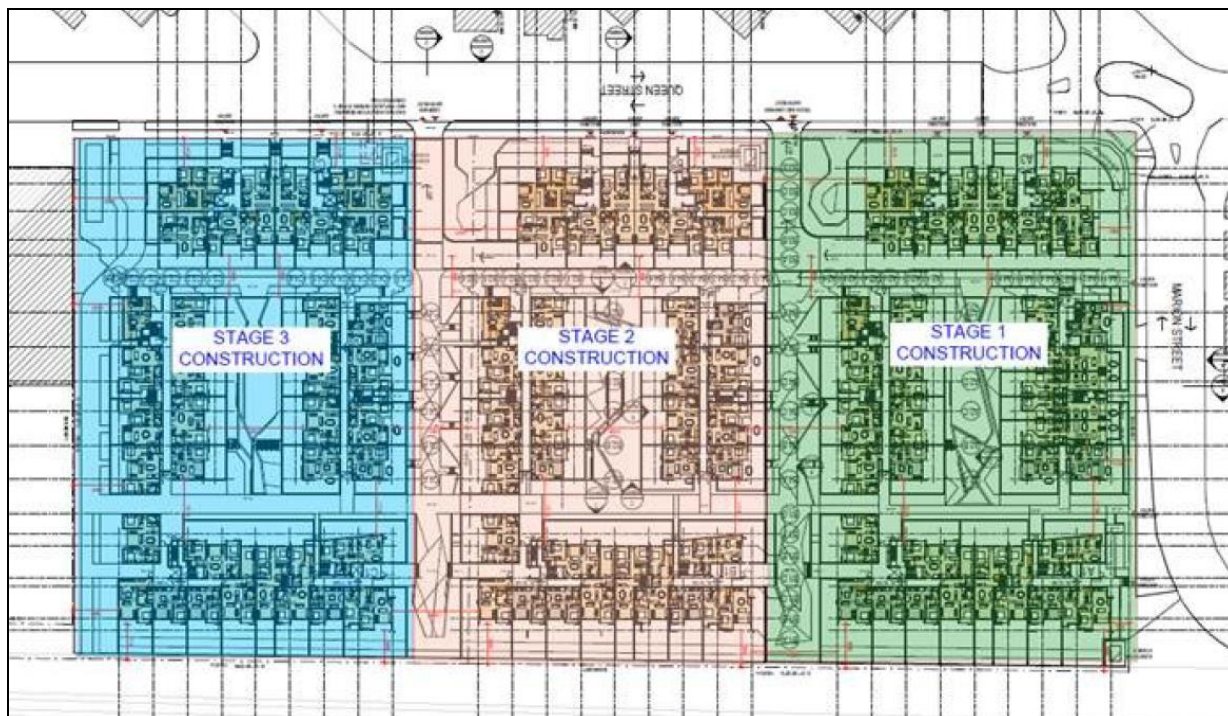
The applicant has nominated that each stage is self-sufficient in regards to the operation of the site. All matters associated with the following have been considered in the respective construction staging;

- Car parking and traffic;
- Waste Management;
- ADG compliance;
- DDA compliance;
- BCA compliance.



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The development is to be undertaken in 3 stages as demonstrated below;



*Construction staging*

It should be noted that works associated with the construction of the Queen Street/Marion Street roundabout as dictated by the associated Voluntary Planning Agreement as required by the Planning Proposal for the site will be undertaken within the 1st Stage of construction works.

Parking associated with each stage is demonstrated within the following table. This is considered to be consistent with the Apartment Design Guideline assessment as provided within this report.

Stage	Resident spaces	Car	Visitor Car spaces	Total
Stage 1 (Block A)	173	39		212
Stage 2 (Block B)	181	40		221
Stage 3 (Block C)	181	40		221
<b>Totals</b>	<b>535</b>	<b>119</b>		<b>654</b>

If the development is to be recommended for approval, suitable conditions will be imposed on the development to ensure that each stage can be constructed individually whilst protecting the amenity and operations of each subsequent stage.

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### HISTORY

- At its meeting on 8 March 2017, the Sydney West Central Planning Panel endorsed the planning proposal and draft amendment to the Auburn Local Environmental Plan 2010 to allow for the following;

Amendment	From	To
Zoning	IN2 Light Industrial	R4 High Density Residential
FSR	1:1	2:1
Height	No Maximum	Maximums varying from 12m to 27m

- The endorsement and draft plans were subsequently forwarded to the Department of Planning and Environment for finalisation.
- On 4 August 2017, the amendment to the *Auburn Local Environmental Plan 2010* (Amendment No 11) was published with its implementation subject to a two-month deferred commencement period from this date. The deferred commencement was to allow Council time for the draft DCP to be considered and for notice to be given in the local newspaper. Following the 9 August 2017 CIHAP resolution recommending adoption of the DCP, the administrator resolved to adopt the DCP on 6 September 2017.
- On 8 September 2017, Council officers received a development application for the demolition of structures and construction of 12 residential apartment buildings, being part 3, part 6 and part 8 storey buildings containing 595 residential apartments including basement parking, landscaping, stormwater, public domain works and subdivision. It is noted that the subject application is an Integrated Development given the requirement for a dewatering license under the Water Management Act 2000.
- On 26 September 2017 the site specific DCP residential controls for the subject site became effective. On 4 October 2017, amendment to the Auburn Local Environmental Plan 2010 (Amendment No 11) became effective.
- The application was publicly notified to occupants and owners of the adjoining properties for a period of 30 days between 27 September 2017 to 27 October 2017. During this exhibition period, Council officers were in receipt of 48 submissions. The submissions raised concerns over numerous issues pertaining to increases in traffic, lack of parking, amenity concerns, crime concerns and that the proposal generates an overdevelopment of the locality which will impact upon the local infrastructure.
- On 20 February 2018, Council officers completed an assessment of the development and raised concerns to the applicant by letter, requesting the following items to be addressed;
  - Further contamination studies to be addressed;
  - Further acoustic testing to be undertaken;
  - Concerns in regards to height breaches;

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- Non compliances with SEPP 65 and Apartment Design Guide;
  - Non compliances with the Auburn Development Control Plan 2010;
  - Concerns relating to Stormwater drainage, traffic and parking, and waste management; and
  - Concerns in relation to design of the buildings and landscaping;
- On 16 March 2018, Council officers received an amended package of supporting documents to address Council's letter dated 20 February 2018.
- The amended application was publicly notified to occupants, owners of the adjoining properties and previous persons who made a submission for a period of 14 days between 10 April 2018 to 24 April 2018. During this exhibition period, Council officers were in receipt of 9 additional submissions. The submissions raised similar concerns as per the original exhibition period.

### **Voluntary Planning Agreement**

A Voluntary Planning Agreement (VPA) between the proponent and Council accompanied the Planning Proposal (as detailed above) to facilitate:

- the dedication of land adjoining the intersection of Queen Street and Marion Street to Council at no cost; and
- the reconstruction of the current roundabout at this intersection to a circular roundabout to improve its manoeuvrability and operational capacity.

In return, the applicant is to receive a credit of 15% of the section 94/94A contributions that would otherwise have been imposed on the residential development of the site. The VPA also confirms that the land dedicated to Council is to be included in the site area for the purposes of calculating the floor space ratio for this development. The VPA was executed by Council on 6 March 2017.

The subject development consent will incorporate the 15% credit within the contributions payable.

### **APPLICANTS SUPPORTING STATEMENT**

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The applicant has provided a Statement of Environmental Effects prepared by Ethos Urban dated 6 September 2017 and was received by Council on 8 September 2017 in support of the application.

### **CONTACT WITH RELEVANT PARTIES**

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The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.



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**INTERNAL REFERRALS**

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Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory in regard to stormwater drainage and parking layout/manoeuvrability internal to the site and therefore can be supported subject to recommended conditions of consent.

Traffic Engineer

In association with the referral with Council's Development Engineer, the application was also discussed with Council's traffic engineers given the potential impacts the development may have on the local road network.

It is noted that the developments impact upon the local road network was considered within the planning proposal associated with the rezoning of the subject site (as discussed above), resulting in a Voluntary Planning Agreement to be entered into for intersection upgrades (i.e. Queen Street/Marion Street roundabout reconfiguration). The conclusions and recommendations associated with the planning proposal were based on a potential 644 apartments to be accommodated on site. It is therefore considered that the traffic effects are to be similar, if not lesser, than that consented too within the planning proposal associated with the rezoning of the subject site.

Consideration was therefore undertaken as to access arrangements and internal aspects of the development for the purposes of traffic management. The following was noted by the traffic engineer;

- *The proposed southern driveway is too close to the intersection of Queen Street and Louisa Street. There is a potential for crashes between the vehicles turning right out of the driveway and vehicles turning left from Louisa Street. It is recommended that the access at the southern driveway be restricted to left-in and left-out only. In fact it is preferable to restrict the access to the site at both driveways to left-in and left-out. The applicant may consider constructing a roundabout at the intersection of Queen Street and Louisa Street to facilitate northbound movements for vehicles exiting the driveways.*

This issue was put to the applicant and in response the following was noted;

- *With regards to the southern driveway, we agree with Council that this driveway could be left in/left out. This could be achieved by provision of a central median in Queen Street, extending from the northern kerb alignment of Louisa Street to a location immediately north of the proposed southern access driveway. It would be located clear of existing residential driveways located on the western side of Queen Street. The provision of the central median could be a condition of consent.*
- *With regards to the northern driveway, it is located clear of adjacent intersections and will provide appropriate sight lines for entering and exiting traffic in accordance with the Australian Standards for a 50 km/hour speed environment. Council's preference*

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*to also make the northern driveway left in/left out is therefore not supported and not warranted.*

- *Given that the northern driveway will provide access to the basement car park and loading dock, vehicles wishing to turn right into or out of the development will be able to use this driveway. Consequently a roundabout is not required at the intersection of Queen Street and Louisa Street.*

Council's traffic engineers still raise concern as to the potential traffic impacts generated by the driveway access and have requested the following;

- That both driveways be restricted to be left turn in/out
- Median strips be constructed to limit access to and from the site to facilitate left turn in/out.
- Construct a roundabout at the Queen Street/Marion Street intersection.

It is therefore recommended that the above requirements be imposed as conditions of development consent and works form part of this application. Subject to the works being completed as per the requirements above, the development is considered to perform satisfactorily in regards to any impacts upon the local road network.

### Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory. The proposal has been supported by suitable documentation which demonstrates that the site can be made suitable for the purposes of residential accommodation, subject to land remediation (refer to SEPP 55 commentary), and that the acoustic amenity of the development has been adequately addressed and deemed acceptable given the proximity of the development to the railway and the provision of acoustic treatments as discussed within the submitted acoustic report (refer to SEPP Infrastructure commentary). In this regard, the development can be supported subject to recommended conditions of consent.

### Landscape Architect/Officer

The development application was referred to Council's Landscape Officer for comment who has advised that the development proposal, inclusive of tree removal, design of the communal open spaces, public spaces and general landscape design is satisfactory and therefore can be supported subject to recommended conditions of consent.

### Heritage Advisor

The development application was referred to Council's Heritage Advisor for comment given that the development site was located in the vicinity of three heritage items that have local significance, being Heritage Item I11 (dwelling at 16 Queen Street, Auburn), Heritage Item I40 (Wyatt Park, Haslam's Creek, Lidcombe Pool, Lidcombe Oval and Stormwater Drain) and Heritage Item I41 (Strand of Eucalyptus Microcorys). This is further discussed within the ALEP 2010 commentary.

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The heritage Advisor has advised that the development proposal is satisfactory given that the development will have no negative impact on the heritage items in the vicinity of the development and therefore can be supported subject to recommended conditions of consent.

### Urban Design

The development application was referred to Council's Urban Designer for comment given the significance of the development. It is noted that the urban designer had concerns relating to the structure plan (being a stringent grid like pattern), overshadowing, fragmented public open spaces and the design of the buildings facing the railway corridor.

The applicant responded to these concerns by nominating that the block pattern is established by the ADCP 2010 and the locations of parks are consistent with these requirements. In addition to this, it is noted that each individual pocket park are generally greater than 300sqm in area (as per the requirement of the ADCP 2010) and therefore the application is compliant with the requirements of this part. However, the applicant has redesigned the pocket parks to permit larger areas of consolidated public open space and reconfigured some of the building forms to allow better solar penetration into these areas. Furthermore, the applicant has provided detailed photo montages which further demonstrate that the rear buildings will be visually appealing when viewed from the railway line or areas beyond.

Council officers are of the opinion that the development is generally compliant with the relevant statutory requirements for design (inclusive of the Apartment Design Guideline and relevant provisions of the ADCP 2010).

## EXTERNAL REFERRALS

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### WaterNSW

The subject development is an integrated development, requiring approval from WaterNSW as the development will require a Water Supply Work Approval under the Water Management Act 2000. A letter seeking concurrence from Water NSW was issued by Council on 4 October 2017. On 1 November 2017, WaterNSW responded, issuing their General Terms of Approval. These General Terms of approval will form part of the conditions of consent if the proposal is recommended for approval.

### NSW Police

The development application was referred to the NSW Police Service in accordance with the Policy on Crime Prevention Through Environmental Design (CPTED) for a crime risk assessment. In a letter dated 13 October 2017, no objections were raised by NSW Police to the proposed development subject to the imposition of conditions on any development consent in respect of security and crime prevention. It was also noted that NSW Police raised concern with potential overcrowding, illegal activities being undertaken due to the population increase and traffic concerns.

On 2 May 2018, Council officers received an additional letter from NSW Police stating that NSW Police are not in support of the development application, given the following;



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- Difficulties in managing population on site (multiple tenants using apartments);
- Impact of traffic congestion and how this will impact emergency response times;
- Impacts on Fire Services to the development site and how this would be best managed;
- Access to buildings for emergency services;
- Concern over FSR and Height compliance;
- Issues relatable to Auburn Central and previous investigations within the Auburn Central development (*Department of Premiers and Cabinet (operations) investigation into the issues at Auburn Central complex in 2008/2009*).

Council officers sent the concerns of NSW Police to the applicant for comment. The applicant provided a response to the concerns as listed above through letter dated 25 May 2018. The comments are as follows;

- *The level of detail provided on the residential floor plans is appropriate for the purposes of a development application and is in accordance with Council's requirements. If approved, the construction of the development would require a Construction Certificate and Occupation Certificate which will ensure that the development is constructed as approved and that no unauthorised constructions take place inside the units.*
- *It is noted that any potential unauthorised constructions, 'hot bedding' or criminal activity by future occupants of the development is an issue of compliance and is no different to any other residential flat building across the LGA or State. These matters would be monitored in accordance with Cumberland Council's Compliance and Enforcement Policy. In addition, a building manager will be on site to monitor illegal construction works.*
- *A detailed traffic and parking assessment was undertaken by ARUP at the rezoning stage of the development and a subsequent report was prepared by CBRK specifically for the current DA.*
- *The traffic modelling originally undertaken by Arup concluded that the capacity of the assessed intersections is unaffected by the proposed development due to the relatively small traffic contribution it will make in context of the wider Auburn Town Centre development. This conclusion was accepted by the Planning Panel and the site has now been rezoned to allow development to the scale proposed.*
- *The current DA proposal is similar in scale (with slightly less dwellings) to that envisioned through the rezoning and the CBRK Traffic and Parking Study, submitted with the DA, concludes that the traffic impacts will therefore be similar.*
- *The proposal has been designed to ensure emergency vehicles have access to all buildings across the site via the internal pedestrian paths, as described further below. This is demonstrated within the CBRK Report.*
- *It is also noted that the proponent will be reconstructing the current roundabout at the intersection of Queen Street and Marion Street, as part of the application, to improve its functionality and operational capacity. This will improve the flow of traffic and increase pedestrian safety around the streets immediately surrounding the site.*
- *A BCA Report was provided with the application which concludes that the proposed design is capable of complying with the relevant sections of the BCA, including those relating to fire safety. It is also noted that all fire/essential safety measures installed within the building are required to be certified upon completion of the project and prior to occupation of the building by the owner of the building, by issuing a Final Fire Safety Certificate under the Act. Further, the owner will be required under the Act to certify each of the Fire Safety Measures annually by issuing a Fire Safety Statement.*
- *Emergency vehicle access (7.75 metre fire truck) to all buildings is provided via the proposed driveways which provide access to the ground level pedestrian areas extending around the various residential buildings to be located on the site. A 4m wide shared path will extend through the site, which will cater for*

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*the swept path of these emergency vehicles to enter and exit the site in a forward direction. Access to these pedestrian areas will be controlled by removable bollards.*

- *The total GFA of the development, inclusive of wintergardens and corridors, is 53,093m<sup>2</sup> (noting a GFA assessment of 53,218.4 m<sup>2</sup> as provided in updated documentation) which equates to a FSR of 1.98:1. This is well within the maximum FSR allowable for the site of 2:1 and has been calculated as per the NSW standard GFA definition.*
- *Localised non-compliances with the maximum height control are proposed for lift overruns and roof top landscaping structures to accommodate the proposed roof top communal open space. Notwithstanding, there are clear and justifiable environmental planning merits that validate the flexible application of the height control which is allowed by Clause 4.6 of the Auburn LEP. In this regard, a written Clause 4.6 variation request has been submitted with the application.*
- *This report investigates issues with Auburn Council in relation to a specific development more than 10 years ago. It is noted that Auburn Council has since been replaced by Cumberland Council and this application is being assessed based on its merits and in accordance with current planning legislation.*

Council officers have reviewed the advice from NSW Police and the applicant's response to the issues raised. Council officers are obliged to assess the application in accordance with the relevant statutory requirements as per the Environmental Planning and Assessment Act 1979 and have formed an opinion that the development is generally compliant with these controls, noting minor departure in some instances. Whilst safety, security and crime prevention are key requirements to be addressed within any assessment, it is noted that the development incorporates suitable mitigating measures to lessen any potential impact of these issues and Council officers can support the development application, subject to standard conditions associated with the development.

### Ausgrid

The subject development incorporates basement excavation in proximity (within 2m) to an existing electricity distribution pole and development is to occur within 5m of an overhead electricity powerline. In accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007, the consent authority is to give written notice to the electricity supply authority and to take into consideration any comments received. On 4 October 2017, Council officers referred the application to Ausgrid for comment. On 18 October 2017, Ausgrid responded raising no objection to the development application subject to the imposition of conditions of consent. The recommended conditions as proposed by Ausgrid will form part of the development consent if supported.

### Roads and Maritime Services

The subject development incorporates 595 dwellings which requires a referral to Roads and Maritime Services in accordance with Clause 104 and Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007. On 4 October 2017, Council officers referred the application to Roads and Maritime Services for comment. On 31 January 2018, Roads and Maritime Services responded raising no objection to the development application subject to the imposition of conditions of consent. The recommended conditions as proposed by Roads and Maritime Services will form part of the development consent if supported.

### Sydney Trains

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The subject development incorporates excavation works within proximity to a rail corridor. In this regard, the development is to be referred to the relevant rail authority and their concurrence granted. In this instance, Sydney Trains are the relevant rail authority. A letter was forwarded to Sydney Trains on 21 September 2017 advising them of the proposed development. On 28 September 2017, Sydney Trains requested additional information and a concurrence fee given the sites proximity to the railway. On 24 November 2017, revised documentation and associated fees were provided to Sydney Trains. It is noted that numerous discussions with the applicant occurred and on 8 June 2018, Council officers received Sydney Trains concurrence with attached conditions of consent. The recommended conditions as proposed by Sydney Trains will form part of the development consent if supported.

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## PLANNING COMMENTS

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### **The provisions of any Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(i))**

#### State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

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

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$188,725,000 which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

**(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

A Detailed Site Investigation was prepared by DLA Environmental Services (ref: DL3724S003777) dated August 2017. The report identifies a series of contaminants of concern; however the author based on the identification of these items has made the following conclusion:

*It is therefore the opinion of DLA that the Site assessment objectives of this report have been achieved. The DSI concludes that the Site is considered suitable for the intended land use consistent with NEPM (NEPC, 2013) Residential B – Residential with minimal access to soil, with the exception of the two identified areas. These areas of the Site can be made suitable through the removal of the fill materials and a subsequent asbestos clearance / validation report.*



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In addition to this investigation, the proposal was supported by a Remedial Action Plan which nominates a remediation strategy of the site. It is noted that the remediation/validation works will be conducted in separate phases during the three stage construction as proposed. It is noted that following the completion of the proposed remedial/management strategy at each stage, a validation report specific to each development stage will be prepared and submitted to Council.

A referral was sent to Councils Environmental Health officer who raised no objection to the development subject to the imposition of conditions.

Accordingly, the site is considered suitable to accommodate the proposed development as per clause 7 of SEPP 55. No further investigation or remediation works are considered warranted in the circumstances.

### (c) **Statement Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development**

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

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

*Figure 4 – SEPP 65 Design Quality Principles Table*

ADG design quality principle	Response
<b>1. Context and neighborhood character</b>	<p>The proposed development is considered to make a positive contribution to the locality and improve the existing streetscape. The character of this locality is undergoing transition from low/medium-density residential and industrial uses, to high density mixed use developments within Auburn. This proposal is consistent with that shift.</p> <p>The proposal is within walking distance of the local shops, parks and Auburn train station.</p>
<b>2. Built form and scale</b>	<p>The site sits on the edge of Auburn Town Centre and mediates between the high scale of the town Centre, as well as respond to the lower scale of the neighbourhood moving away from the town centre.</p> <p>The development application is seeking consent for 12 separate residential flat buildings ranging between 3 and 8 storeys over a single level of basement car park.</p>

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	<p>The building will present a strong façade to both Queen Street and Marion Streets.</p> <p>The scale bulk and height of the building is considered appropriate to its context and future context and achieves a suitable relationship between the existing and future neighbouring developments.</p>
<b>3. Density</b>	<p>The site is zoned for high residential development and is located adjacent to the Auburn town centre.</p> <p>The development will contribute 595 apartments in midrise building forms that will contribute to the redevelopment of the area. The proposal is within the permissible total FSR allowable.</p> <p>The proposed development complies with the maximum FSR for the site. The proposed development is, therefore, of an appropriate density.</p>
<b>4. Sustainability</b>	<p>A BASIX Certificate and relevant reports have been submitted with the development application.</p> <p>The certificates require sustainable development features to be installed into the development.</p> <p>The proposal will incorporate features relating to ESD in the design and construction of the development inclusive of water efficient fixtures and energy saving devices.</p> <p>The development achieves a good level of cross ventilation throughout the development with a majority of the proposed units having dual aspects or diagonal cross ventilation.</p>
<b>5. Landscape</b>	<p>A landscape plan was submitted with the proposal. The landscaping options are considered to be adequate.</p> <p>The proposal incorporates several areas of communal open space which is inclusive of the public pocket parks associated with the site. These areas include rooftop terraces, areas in-between developments and the three pocket parks provided along Queen Street. It is noted that these pocket parks far exceed the 300sqm required by the ADCP 2010 and as such have been utilised within the communal open space calculation given their ability to dual function as additional space for the residents of the development and that of the local residents in proximity to the property. The development incorporates 7254sqm or 27% of communal open space</p>

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<p><b>6. Amenity</b></p>	<p>The proposal will deliver sufficient amenity to residents of the building. The proposal achieves compliance with the ADG in this regard which contains many amenity controls.</p> <p>The building design incorporates access and circulation, apartment layouts, floor area, ceiling height, private open space, common open space, energy efficiency rating, adaptability and diversity, safety, security and site facilities. The proposal is considered to comply with the ADG and ADCP 2010 which contains numerous amenity controls.</p> <p>Suitable access is provided to all parts of the building, through the efficient use of lift to access all levels.</p> <p>The development is considered to provide an appropriate level of amenity for future residents.</p>
<p><b>7. Safety</b></p>	<p>Passive surveillance of public space is maximised through orientation of units.</p> <p>The position and orientation of the various building elements allow balconies and habitable rooms of apartments to overlook the street and communal open spaces on the podium level.</p> <p>The main pedestrian entrances are generally visible from the street or internal communal courtyard areas.</p> <p>Safety is achieved by separating the pedestrian paths from the vehicular driveway.</p> <p>All access paths shall be suitably illuminated at night.</p> <p>Lighting shall be provided to all common areas including the car parking areas as well as the stairs and access areas to external areas.</p> <p>Dark unlit areas and entrapment areas within the basement have been avoided or minimised.</p>
<p><b>8. Housing diversity and social interaction</b></p>	<p>The apartment mix is considered to be satisfactory. The specifics of the building are:-</p> <ul style="list-style-type: none"> <li>- 107 x 1 Bedroom apartments</li> <li>- 425 x 2 bedroom apartments</li> <li>- 63 x 3 bedroom apartments</li> </ul> <p>Of those there are 60 adaptable apartments out of a total of 595 apartments stre provided.</p>



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	<p>The site is within proximity to the Auburn Town Centre and close to associated services. Services are readily available close by such as shopping facilities, public transport, schools, healthcare and religious activities.</p> <p>The mix of apartments is satisfactory.</p>
<b>9. Aesthetics</b>	<p>The buildings have an attractive contemporary appearance and utilises building elements that provide individuality to the development without compromising the streetscape or detracting from the appearance of existing surrounding development.</p> <p>The buildings respond well in this regard with its provision of good aesthetics through the use of high quality materials, attention to detail in its internal spaces and how it addresses the street frontages.</p> <p>The buildings provide an appropriate response to the existing and likely future character of the locality.</p>

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

Following a detailed assessment of the proposal against the provisions of SEPP 65 and the ADG, it is considered the proposal is generally compliant with the exception of visual privacy and solar access and daylight. These variations are discussed below:

Part 3F - Visual privacy				
<b>3F-1 Design criteria</b> <b>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Building height</b>	<b>Habitable rooms &amp; balconies</b>	<b>Non habitable rooms</b>		<p>The proposed developments incorporate suitable separation distances with the surrounding developments to all boundaries. It should be noted that developments to east and south are not zoned for the purposes of residential (being railway and industrial), however achieve suitable boundary separation to improve noise and any associated pollution concern.</p> <p>Additionally, the provision of 9 metres separation to the southern boundary allows for any future development to occur within the neighbouring development if ever it is to be rezoned.</p>
<b>Up to 12m (4 storeys)</b>	<b>6m</b>	<b>3m</b>		
<b>Up to 25m (5-8 storeys)</b>	<b>9m</b>	<b>4.5m</b>		
<b>Over 25m (9 + storeys)</b>	<b>12m</b>	<b>6m</b>		

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<p>Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2).</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>			<p>The developments to the north and west incorporate suitable separation distances in excess of 18 metres and are consistent with the requirements of this part.</p> <p><u>Internal separation</u></p> <p><i>Internal separation between Blocks A, B and C</i></p> <p>The development proposes a general separation distance between Blocks A and B/B and C of 18.47m. This distance increases within the buildings fronting Queen Street to facilitate the pocket parks. Additionally, the separation distances for the rear buildings (A1, B1 and C1) increase on the 6<sup>th</sup> to 8<sup>th</sup> floors to facilitate additional solar penetration into the development site.</p> <p><b>It is noted that an area of non-compliance occurs to the western separation distance between Buildings A2/B4 and B2/C4 given an angled balcony proposed. This distance is 16.95m and is only present for a partial area of the balconies located on levels 5 and 6. Given that this non-compliance effects a minor portion of the balcony and the design of the balcony has been designed so as to incorporate a blank wall for the portion of non-compliance, this is not considered to generate a visual privacy concern in this instance.</b></p> <p><i>Internal separation of buildings of each block</i></p> <p>The separation distances between the buildings of each block are generally consistent with the requirements of this part.</p>
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				<p>Building 3 of each block has been set back a suitable distance of approximately 9 metres and it is noted that the separation distance is taken to a blank wall. This is considered suitable for the purposes of visual separation.</p> <p>It is noted that there are some highlight windows on the west facing walls of Buildings 2 and 4. These are generally not orientated to be in line with opposing habitable areas/balconies and are considered acceptable in this instance.</p> <p><b>It is noted that an area of non-compliance occurs between Building 1 and 2 of floors 1 through 6 given the location of the east facing balcony of each level of Building 2. The separation distance is 11.15m. The proposed separation distance is required to be 12m up to 4 storeys, increasing to 18m above this given that the distance is between a balcony and habitable rooms. To address this non-compliance, the bedroom windows have been suitably screened so as to no provide direct views onto the effected balcony, whilst maintaining suitable solar access. This is considered acceptable in this instance given the arrangement of the buildings and the block pattern as prescribed within the ADCP 2010.</b></p>
<b>Part 4A - Solar and daylight access</b>				
<b>4A-1 Design Criteria</b> 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	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed development is considered to be generally consistent with the Solar and



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<p>and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.</p>				<p>Daylight Access objectives as the orientation of living areas allows for daylight infiltration</p> <p>The applicant provided shadow diagrams/tables that demonstrate that 411 of the 595 units or 69.1% of all units have living areas and private open space areas achieving the minimum 2 hours solar access.</p> <p>101 of the 595 units or 17% will receive less than 2 hours solar access.</p> <p>The non-compliance relates to approximately 6 apartments. It is noted that a 512 of 595 apartments 86.1% will achieve some solar access during the winter solstice. The development has been designed in accordance with the block pattern as prescribed by the ADCP 2010 and given the orientation of these buildings, solar access is limited for some apartments. Considering that the development generally meets the requirements of the guideline and that 86.1% of apartments achieve some solar access, the minor departure is considered acceptable in this instance.</p>
<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>83 of the 595 units or 13.9% of apartments will receive no direct sunlight between 9am and 3pm at mid-winter.</p>
<p><b>4A-1 Design Guidance</b></p> <p>The design maximises north aspect and the number of single aspect south facing apartments is minimised.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposal has been designed in accordance with the block pattern established within the ADCP 2010. All buildings are orientated in a</p>

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				northerly aspect where possible.
Single aspect, single storey apartments should have a northerly or easterly aspect.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	It is noted that dual aspect apartments have been maximised within the development. However, given the site orientation and the block pattern established by the ADCP 2010, there are several instances of single aspect apartments having southerly aspects only. This is considered unavoidable given the orientation of the buildings.
Living areas are best located to the north and service areas to the south and west of apartments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The internal layouts of the apartments are considered to be satisfactory, with living spaces orientated to the north where possible.
To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: <ul style="list-style-type: none"> <li>dual aspect apartments.</li> <li>shallow apartment layouts.</li> <li>two storey and mezzanine level apartments.</li> <li>bay windows.</li> </ul>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	It is noted that to optimise direct sunlight within habitable rooms, the development has maximised the usage of dual aspect apartments. Additionally, single aspect developments have a shallow depth allowing sufficient amenity to these units and the development also incorporates two storey apartments.
To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m <sup>2</sup> of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This is considered to be achieved for all units with solar access.
Achieving the design criteria may not be				Given that the development

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possible on some sites. This includes:				orientation is established, the development is acceptable in this regard.
• where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• on south facing sloping sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• where significant views are oriented away from the desired aspect for direct sunlight.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

A full assessment of the development in accordance with State Environmental Planning Policy No. 65 and associated Apartment Design Guideline is available within [Appendix A](#).

#### (d) **State Environmental Planning Policy (Infrastructure) 2007**

The provisions of the Infrastructure SEPP (ISEPP) 2007 have been considered in the assessment of the development application.

##### *Clause 45 - Development likely to affect an electricity transmission or distribution network*

The subject development incorporates basement excavation in proximity (within 2 metres) to an electricity distribution pole and occurs within 5 metres of an overhead electricity power line. As such, the Consent Authority is required to give written notice to an electricity supply authority.

On 4 October 2017, Council officers referred the application to Ausgrid for comment. On 18 October 2017, Ausgrid responded raising no objection to the development application subject to the imposition of conditions of consent. The recommended conditions as proposed by Ausgrid will form part of the development consent if supported.

##### *Clause 85 – Development adjacent to railway corridors*

The application is subject to clause 85 of the ISEPP as the site is adjacent to a rail corridor. A letter was forwarded to Sydney Trains on 21 September 2017 advising them of the proposed development. On 28 September 2017, Sydney Trains requested additional information and a concurrence fee given the sites proximity to the railway. On 24 November 2017, revised documentation and associated fees were provided to Sydney Trains. It is noted that numerous discussions with the applicant occurred and on 8 June 2018, Council officers received Sydney Trains concurrence with attached conditions of consent. The recommended conditions as proposed by Sydney Trains will form part of the development consent if supported.

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*Clause 86 – Excavation in, above, below or adjacent to rail corridors*

The application is subject to clause 86 of the ISEPP as the proposed redevelopment of the site involves excavation to a depth of at least 2m below ground level (existing), on land within 25m (measured horizontally) of a rail corridor. As discussed above, a referral was sent to Sydney Trains and concurrence (with conditions) provided on 8 June 2018.

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

The proposal relates to the construction of 595 residential units on a site that is located adjacent to a Railway Line.

An acoustic report prepared by Acoustic Dynamics dated 5 September 2017 has been submitted with the development application to address this requirement. The report concludes the following;

*Acoustic Dynamics advises that the incorporation of the recommendations of this report into the design and construction of the proposed development will achieve compliance with the relevant acoustic design requirements of Cumberland Council, the NSW Department of Planning and relevant Australian Standards.*

It is considered that the development will perform adequately in regards to mitigation of rail noise subject to the recommendations of the submitted acoustic report. It is therefore recommended that if the development is to be determined favourably, the recommendations of the submitted acoustic report form part of any conditions of development consent.

*Clause 101 – Frontage to classified road*

The application is not subject to clause 101 of the ISEPP as the site does not have frontage to a classified road.

*Clause 102 – Impact of road noise or vibration on non-road development*

The application is not subject to clause 102 of the ISEPP as the average daily traffic volume is less than 40,000 vehicles.

*Clause 104 – Traffic generation developments*

The application is subject to clause 104 as the proposal does trigger the requirements for traffic generating developments listed in Schedule 3 of the ISEPP. On 4 October 2017, Council officers referred the application to Roads and Maritime Services for comment. On 31 January 2018, Roads and Maritime Services responded raising no objection to the development application subject to the imposition of conditions of consent. The recommended conditions as proposed by Roads and Maritime Services will form part of the development consent if supported.

**(e) Statement Environmental Planning Policy No 19 - Bushland in Urban Areas**

The proposal does not propose to disturb bushland zoned or reserved for public open space/The subject site does not adjoin land zoned or reserved for public open space.



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**(f) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable. It is noted that a suitable Landscape Plan has been submitted and supported by Councils Landscape officer.

**(g) State Environmental Planning Policy (Coastal Management) 2018**

The subject site is not identified as a coastal wetland or land identified as "proximity area for coastal wetlands" or land identified as such by the Coastal Vulnerability Area Map.

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

BASIX Certificate (Cert. No.855150M\_03) dated issued on 23 July 2018 has been submitted with Council. BASIX Certificate has been reviewed and is considered to be satisfactory.

**Regional Environmental Plans**

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

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

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

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

**Local Environmental Plans****Auburn Local Environmental Plan 2010**

The provision of the Auburn Local Environmental Plan 2010 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Auburn Local Environmental Plan 2010 and the objectives of the R4 High Density zoning.

- Permissibility:-

The proposed development is defined as a residential flat building and is permissible in the R4 High Density Residential zone with consent.

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**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The relevant matters to be considered under Auburn Local Environmental Plan 2010 and the applicable clauses for the proposed development are summarised below. A comprehensive assessment of the ALEP 2010 is provided within [Appendix B](#).

Figure 5 – Auburn LEP 2010 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.1 Minimum subdivision lot size Min. 1500sqm	Y	<p>The application proposes the stratum subdivision of the development site to incorporate 3 stratum subdivisions to accommodate all three blocks.</p> <p>It is noted that all strata units associated with the development are in excess of 1500sqm. It is noted that the minimum subdivision size does not apply to strata plan or strata plan of subdivision.</p>
<b>4.3 Height of Buildings</b> <b>The subject site incorporates four differing height limitations. Those being;</b>  <b>Max. 12m (west)</b> <b>Max. 17m (north)</b> <b>Max. 20m (central)</b> <b>Max 27m (east)</b>	N	<p><b>The proposal incorporates minor height variations across the site to accommodate lift overruns and associated rooftop communal open space. These non-compliances are noted below;</b></p> <p><b>Maximum 12m: A portion of building A3 exceeds this height by approximately 0.6m.</b></p> <p><b>Maximum 17m: A portion of building A4 exceeds this height by approximately 0.95m.</b></p> <p><b>Maximum 20m: Buildings A2, B2, B4, C2 and C4 exceed this height through variances of 0.75m to 4.2m.</b></p> <p><b>Maximum 27m: Buildings A1 and B1 exceed this height through variances of 0.2m to 0.46m.</b></p> <p><b>The applicant has provided a request to vary the development standard in accordance with clause 4.6 as detailed below.</b></p>
4.4 Floor Space Ratio Max. 2:1	Y	<p>The development incorporates a calculable gross floor area of 53,218.4 m<sup>2</sup> or 1.98:1</p>

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<b>4.6 Exceptions to development standards</b>	<b>Y</b>	<b>A variation to the maximum height of buildings is proposed. This matter is discussed in further detail below.</b>
5.10 Heritage Conservation	Y	<p>The subject site is not listed as a heritage item, archaeological site, or Aboriginal place of heritage significance nor is it located in a heritage conservation area. The subject site is however located in the vicinity of three heritage items that have local significance, being Heritage Item I11 (dwelling at 16 Queen Street, Auburn), Heritage Item I40 (Wyatt Park, Haslam's Creek, Lidcombe Pool, Lidcombe Oval and Stormwater Drain) and Heritage Item I41 (Strand of Eucalyptus Microcorys).</p> <p>The applicant has provided suitable documentation to demonstrate that the proposal will have minimal impact upon the heritage significance of these items. This has been referred to Councils Heritage officer who has raised no objection to the proposal.</p>
6.11 Development on Certain Land at 1A and 1B Queen Street		The subject site is located within Lots 1 and 2, DP 1160950, 1A and 1B Queen Street, Auburn
(2) The consent authority must, before granting consent to development on land to which this clause applies, take into consideration whether or not:		
(a) the height of any proposed building is compatible with the existing and likely future scale of development in the immediate vicinity, and	Y	The proposed height is generally consistent with the maximum height and FSR provisions of the LEP which establish the future scale of development in the area. The proposed exceedances to the height limit are minor in nature and do not affect the overall density or bulk of development on the site.
(b) the height of any proposed building adequately transitions to any adjoining residential accommodation, and	Y	The built form transitions from a height of 27.46m to 12.6m. The development successfully transitions from the railway line to the east to the low residential area to the west by gradually stepping down in height. This objective is achieved.

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(c) the development provides an appropriate level of solar access to common open spaces, and	Y	Suitable solar access diagrams/plans have been provided to demonstrate that the development will provide satisfactory solar access to the communal open spaces associated with the site. It is noted that the rooftop communal open spaces will receive solar access throughout the day, with other ground floor open spaces achieving suitable solar penetration.
(d) the development results in a visually interesting and varied built form.	Y	The buildings are considered to be visually interesting and reflective of the built form within the locality.

### • Clause 4.6 – Variation to Building Height

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 18-003, dated 21 February 2018.

The applicant has submitted a written request to vary the following development standards Clause 4.3 – Height of Buildings. Based on various case laws established by the Land and Environment Court of NSW such as *Four2five P/L v Ashfield Council [2015] NSWLEC 9*, *Randwick City Council v Micaul Holdings P/L [2016] NSW LEC7* and *Zhang and anor v Council of the City of Ryde [2016] NSWLEC 1179*, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variances following the 3 part test is discussed in detail below.

*Figure 1 – Clause 4.6 Variation*

The three (3) preconditions which must be satisfied before the application can proceed is as follows:

#### 1. Is the proposed development consistent with the objectives of the zone?

Applicant's justification: The proposed height exceedances do not relate to habitable floor areas, and as such do not directly contribute to housing on the site. The proposed height does not result in development to a height in storeys above what was envisaged for the site and does not exceed the maximum FSR. The exceedances are predominantly to allow for the provision of rooftop communal open spaces that are consistent with the high-density nature of the site, and the vision for the redevelopment of the site established under the DCP. The minor exceedances support the urban



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renewal of the site for residential uses, which will encompass a mix of apartments and terrace-like dwellings, and supporting private and communal open space areas with sunlight access to service the day to day needs of residents.

The proposal will redevelop a light industrial site to provide new homes within 550m of Auburn Railway Station and established bus routes within the Auburn Town Centre.

Planner's comment: It is noted that the development site is a result of a planning proposal and site specific development control plan to facilitate the construction of high density residential flat buildings. The development is considered to be consistent with the objectives of the zone given that the development provides for additional high density residential environment in close proximity to the Auburn Town Centre and associated public transport network.

### **2. Is the proposed development consistent with the objectives of the development standard which is not met?**

Applicant's justification: The proposed minor variations to the maximum height of building development standard does not reasonably change the permissible density that would otherwise be achieved on the site. The proposed variations are not attributed to habitable floor area, and as such will not intensify the use of the site. Instead, the variations relate to lift overruns, shade structures, and parapets that facilitate access to, and contribute to the amenity of, rooftop communal open space areas.

The minor, localised variations will not result in additional dwellings, rather they contribute to the quality of life of residents and the integrity of architectural design on the site. The proposal also remains consistent with the FSR provisions for the site also used to measure the desirable density of development.

The rooftop lift overruns and shade structures have been designed to be recessive and compatible with the overall pallet of materials and finishes, to ensure they integrate into the building form. These roof additions are minor or have been set-in from the building edge, to safeguard the overall transition in height across the site and to minimise the visual impact of the development.

The proposed architectural roof features are not inconsistent with the character of the area. Whilst there is no definitive architectural style in the area to respond to, the development will continue to read as three storeys when viewed from Queen Street, and as such is compatible with the scale of development on the south western edge of the site. The proposed architectural roof features will assist in articulating the built form and creating an interesting streetscape.

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Planner's comment: The subject site incorporates 4 distinctive height limitations, being, 12m along Queen Street (western boundary), 17 metres along Marion Street (northern boundary), 20 metres internal to the site and 27 metres along the railway line (eastern boundary). It is noted that the subject site adjoins a low residential area to the west having a height limitation of 9 metres, a high density mixed use area to the north having a height limitation of 27 metres and railway/industrial zones to the east and west of the site having no height limitations.

The objective of the height of buildings clause is to ensure the height of buildings is compatible with the character of the locality. It is noted that the main areas of variation to this standard are located internal to the site, being directly related to the provision of rooftop communal open space associated with Building 2 of each block. The variation relates to the provision of lift overruns and associated awnings associated with the access and amenity of rooftop communal open space of these buildings and do not relate to any additional habitable floor space. The elements that project above the height limitation are not perceived to add to the bulk and scale of the buildings and would not be evident from natural ground level. The variations to height related to other buildings relate to lift overruns and range between 0.2m and 0.95m. These are not considered to generate any significant bulk and scale associated with the development.

Council officers can be satisfied that the height of buildings will be compatible with the character of the locality in regard to height given that suitable separation and transition in height is still provided within the proposed development, where the development gradually increases in height towards the railway line, consistent to heights as provided within the adjoining town centre developments.

**The site is subject to a site-specific provision under the Auburn LEP, being Clause 6.11 Development of certain land at 1A and 1B Queen Street, Auburn. This provision contains specific objectives that must be considered prior to granting consent for development on the site, and whilst these objectives are not strictly the objectives of the standard, they speak to the suitability of development on site.**

Applicant's justification: The proposed exceedances are minor in nature and do not affect the overall density or bulk of development on the site. They will not impact the ability of the development to integrate with and extend from the Auburn Town Centre and provide an appropriate interface to lower density areas in the south west.

The proposed development will continue to appropriately transition in height from the site to the surrounding residential areas, the railway line, and town centre. As illustrated in the building elevations included above, the proposed exceedances are limited to minor structures on the roof which do not change the overall bulk and scale of the development. This is assisted by the fact that the components of the buildings

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exceeding the height limit are set in from the main façade. The proposed development will still read as three storeys when viewed from Queen Street.

The proposed height exceedances directly respond to the provision of solar access to communal areas. The proposed lift overruns, parapets and shade structures on the roof of select apartment buildings facilitate access to, and contribute to the amenity of, rooftop communal open space areas. These communal open space areas will benefit from excellent amenity in terms of solar access and views. By virtue of the fact the site specific DCP places ground level communal spaces on the southern parts of building locations, it becomes even more imperative that roof top communal open spaces are provided with enhanced solar access.

Whilst the architectural roof features will partly exceed the maximum building height, their primary purpose is to create a visually interesting and articulated built form that contributes to the surrounding streetscapes and view from the railway line.

The proposed lift overruns and shade structures have been designed to be recessive and compatible with the overall pallet of materials and finishes, rather than celebrated. These elements have been designed to integrate with the built form, and not comprise the delivery of a high-quality design outcome on the site.

Planners comment: As previously discussed above, the development proposes a compatible height in context with the subject sites development being located adjacent the Auburn Town Centre and a railway line, where high density residential has been envisaged. It is noted that the variations in height are not inconsistent with the objectives of Clause 6.11 given that the development;

- Is compatible with the existing and likely scale of development within adjoining land uses;
- Maintains appropriate height transition towards the railway line;
- Improves solar access to communal open spaces by providing rooftop communal open space as envisaged by the site specific DCP; and,
- Provides detailed architectural designs that result in visually interesting and varied built form.

Council officers can be satisfied that the objectives of this clause, inclusive of the proposed height variations, have been satisfied.

**3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? And;**

Applicant's justification: The Clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and

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accordingly justifies the variation to the height control notwithstanding non-compliance with the standard.

Planner's comment: The applicant has provided sufficient evidence in regards to the variation of the Clause 4.3 Height of Buildings, demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Council officers can be satisfied that the proposed variations will be consistent with the objectives as stated within the LEP table as stated above.

**Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?**

Applicant's justification: There are particular circumstances that affect the site and for the variation proposed which warrant variation from strict compliance with the height standard.

Specifically:

- The variations relate to the provision of communal roof top open in accordance with the DCP;
- The site is subject to a site-specific DCP and rezoning which envisioned development to a scale and style of that proposed but the imposed height limit did not provide for the provision of roof top open space or vertical articulation (both of which are desired by the DCP);
- The variations include roof features which contribute to the articulation of the building and enhances visual interest; and
- The building envelopes no longer fall in accordance with the naturally sloping ground levels which causes exceedance of the height limit at some locations.

Planner's comment: The development has introduced suitable setbacks from all residential developments adjoining the site. This is noted to be consistent with the requirements of the ADG as specified within the report. Additionally, the main area of variation is located internal to the site and is not considered to add any additional bulk and scale to the development as the non-compliant components are related to lift overruns and rooftop terraces only. The variations do not pertain to any additional habitable floor area.

It is noted that the subject site has a site specific DCP associated with the development, which encourages the use of rooftops for the purposes of communal open space so as to facilitate good solar amenity. This is seen to be adequately achieved by the development proposal.



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The variations to height that relate to buildings which present to the street (Queen/Marion Streets) are limited to 0.2m and 0.95m and limited to lift overruns. These variations are not considered to be inconsistent with the planning intentions of the site and the locality.

Council officers can therefore be satisfied that in the circumstances of this case, the variation will achieve a suitable planning outcome and allow for appropriate levels of amenity for existing and future surrounding developments.

Conclusion: Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and objectives for the development within the zone in which the development is proposed to be carried out.

**The provisions of any Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(ii))**

- Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate. It is noted that the subject development is not impacted upon by the draft SEPP

**The provisions of any Development Control Plans (EP& A Act s4.15 (1)(a)(iii))**



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				entries at ground floor. Considering the street setbacks and building forms which address both Queen and Marion Streets, the access to ground floor apartments are considered acceptable.
<p><b>Building envelopes</b> D5 Lower scale housing forms such as townhouses / terraces are to be provided along Queen Street to provide an active address to this street and a scale that responds to neighbouring development.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The development incorporates three storey residential flat buildings (as defined by the ALEP 2010) along the Queen Street frontage. Whilst it is noted that the intention of this part was to encourage lower scale developments along this frontage, it is considered that, with the zoning, fsr and height maximums as prescribed by the LEP, this type of development is considered appropriate. The proposal seeks to maintain a townhouse/terrace form via the incorporation of a flat roof and architectural frames which break up the built form along this frontage into smaller, rectangular components giving the impression of a row of terrace dwellings.</p> <p>The buildings fronting Queen Street are considered to be reflective of lower scale housing and are consistent with developments along Queen Street, being a mixture of one and two storey dwellings (inclusive of town houses along Louisa Street. Council officers are satisfied that the proposed development is consistent with the objectives of this part.</p>
<p><b>D6 The following minimum setbacks shall apply to the site:</b></p> <p>a. Front setback from Queen Street shall be 6m</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>It is noted that the revised design of the building along Queen Street include minor encroachments into the setback area ranging between 0.9m and 1.2m as a result of the proposed architectural framing, however these protrusions do not form part of the main face of the building, nor the apartment balconies, and therefore can be treated as articulation elements (which the Auburn DCP for Residential Flat Buildings permits). The proposed architectural framing provides shading against afternoon sun, provides additional articulation and is an important component for establishing the terrace dwelling</p>

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				character along the Queen Street frontage. As such, the proposed Queen Street setbacks are consistent with the site-specific DCP and represent a positive amendment to the design of these buildings.
b. Building setback from the rail corridor shall be 6m	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The building setback from the rail corridor ranges between 6.69m to 8.85m
c. Setback from Marion Street shall be 4m	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Marion Street setback is generally 4m with the exception of the 7th and 8th storeys of the rear building running parallel to the railway line which intrudes on this setback by 1.11m. IT is noted that this corner is associated with a large bend within Marion Street and allows for a strong visual presentation to this view corridor. This is considered acceptable for the purposes of providing visual interest to this corner.
d. The setbacks at the corner of Queen and Marion Streets should apply to the final property boundary after any land dedication for the roundabout.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The setbacks associated with the street corner are consistent with this part. It is noted that there are some architectural elements such as blade walls that intrude on this setback, however the primary building line is considered to be consistent with this part.
<b>Note: the setback areas are to be unencumbered by balconies</b>				The setbacks are not inclusive of balconies. It is noted that ground floor terraces/private open spaces associated with units facing Marion and Queen Streets are included within the setback areas.
<b>D7 Building separation is to comply with the relevant provisions of SEPP 65 and the Apartment Design Guide.</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>The development is generally consistent with the building separation requirements of the ADG with minor variations as discussed within the ADG compliance section.</b>
<b>D8 Building heights are shown in metres in the Auburn Local Environmental Plan 2010 Height of Buildings Map and site specific clauses are included within Auburn Local Environmental Plan 2010.</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>It is noted that the applicant has requested variation to the heights as specified within the ALEP 2010. This is discussed within the 4.6 variation commentary above. It is noted that the variation relates to the provision of lift overruns and rooftop communal open space. This is considered acceptable.</b>
D9 Appropriate building articulation, façade treatment and modulation is to be provided.				
a. Buildings are to achieve visual interest through variations in	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

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<p>massing, articulation and composition of building elements including fenestration, material use, entrances, balconies, balustrades and planters.</p> <p>b. Development is to achieve a varied silhouette when viewed from the rail corridor.</p> <p>c. Design elements and façade treatments should aim to minimise glare affecting passing pedestrians, vehicles and trains.</p> <p>D10 Vertical and horizontal articulation should be substantial, to enable the buildings to be read as separate buildings and should include:</p> <p>a. Vertical recesses</p> <p>b. Separate façade components with distinct architectural detailing</p> <p>c. DCP enforced building setbacks and height controls.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The buildings are considered to be designed to incorporate these items.</p> <p>The east facing façade is visually interesting and varies in built form by introducing a step within the design and adding different architectural elements so as to not provide a uniform appearance.</p> <p>The development is considered to be acceptable in regard to this part.</p> <p>All buildings are separate and read as different buildings.</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### ii) Residential Flat Building

The relevant requirements and objectives of the Residential Flat Building part of the ADCP 2010 have been considered in the assessment and are considered satisfactory. Although it is noted that the development proposal departs from the controls associated with site coverage, building envelopes, setbacks, apartment sizes and deep soil requirements, the proposed development however complies with the SEPP 65 principles, ADG requirements and site specific requirements (1A and 1B Queen Street, Auburn controls).

Given that the SEPP and therefore the ADG prevails to the extent of inconsistency in relation to Council's planning controls, the proposal is therefore considered to be satisfactory and the departures are therefore acceptable in this regard.

It is also noted that the site specific controls associated with 1A and 1B Queen Street, Auburn also prevail where any noted inconsistency within the ADCP 2010. Please refer to Appendix B for a detailed assessment of this part of the DCP.

### iii) Parking and Loading

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

Given that the development is located within a R4 – High Density Residential zone and is within 800 metres of a railway station in the Auburn Town Centre, the specific provisions for car park numbers associated with the Apartment Design Guide apply. Under the Roads and



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Maritime Service Guidelines, the development should be provided with the following requirements;

- Studio/1 bedroom: 0.6 = 64.2 spaces
- 2 bedroom: 0.9 spaces = 382.5 spaces
- 3 bedroom: 1.4spaces = 88.2 spaces
- Visitors: 1 per 5 units = 119
- Total Residential: 653.9 (654 spaces)

### Required total: 654 spaces

The proposed development provides 654 spaces and is considered compliant with this part. Council officers raised concerns that the proposed construction staging of the development may impact upon the availability of parking for each stage in accordance with the ADG. The applicant has provided a detailed breakdown of parking to be made available at each stage and this is seen to be consistent with the ADG. This is as follows;

Bedrooms	Stage 1	Stage 2	Stage 3
1B	35*0.6	36*0.6	36*0.6
2B	139*0.9	143*0.9	143*0.9
3B	19*1.4	22*1.4	22*1.4
Visitor	193*0.2	201*0.2	201*0.2
<b>Total</b>	<b>212 spaces</b>	<b>221 spaces</b>	<b>221 spaces</b>

The proposed loading area for waste collection and other loading/unloading of larger items is seen to be acceptable and suitable conditions will be imposed on the development to ensure relevant Australian Standards are met.

### iv) Access and Mobility

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

The development has been supported by an Access report which concludes the following;

*Generally, the plans assessed show that compliance with requirements for accessibility, adaptable housing and livable housing is achievable subject to incorporation of specific details and nomination of further livable units.*

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It is noted that the recommendations of this report will form part of the conditions of consent associated with the development.

In this regard the application is considered to be consistent with the objectives and relevant requirements of the ADCP 2010.

**v) Stormwater Drainage**

The relevant requirements and objectives of the Stormwater Drainage part of the ADCP 2010 have been considered in the assessment of the development application. The development application was referred to Council's Development Engineer and no objections to the development were raised subject to the imposition of conditions.

**vi) Waste**

The relevant requirements and objectives of the Waste part of the ADCP 2010 have been considered in the assessment of the development application. Suitable arrangements of waste management have been proposed as part of this development application and appropriate conditions are to be imposed.

***4.15(1)(a)(iia) - any planning agreement that has been entered into under part 7.4, or any draft planning agreement that a developer has offered to enter into under part 7.4, and***

The development application is subject to a VPA associated with the Planning Proposal for the development site. The VPA that was entered into, dictated that the prior to the issue of any construction certificate on site, the developer is to provide Queen Street/Marion Street upgrade works, inclusive of land dedication and construction of a new roundabout. As part of this VPA, Council is to credit 15% of any development contributions payable under 7.11 of the Act. This is discussed below.

**The provisions of the Regulations (EP& A Act s4.15 (1)(a)(iv))**

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

**The Likely Environmental, Social or Economic Impacts (EP& A Act s4.15 (1)(b))**

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

**The suitability of the site for the development (EP&A Act s4.15 (1)(c))**

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, the site can be said to be suitable to accommodate the proposal. The proposed development has been assessed in regard to its environmental consequences and having

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

**Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))**

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

In accordance with Council's Notification requirements contained within the Auburn DCP 2010, the proposal was publicly exhibited for a period of 30 days between 27 September 2017 and 27 October 2017. This was later extended to 11 November 2017 due to an administration error. The notification generated 48 submissions in respect of the proposal. Given amended documentation was received by Council; the application was re-notified for a further period of 14 days between 10 April 2018 to 24 April 2018. During this exhibition period, Council officers were in receipt of 9 additional submissions.

Council officers were in receipt of a total of 57 submissions, with no submission disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

Issue: Concern is raised as to amount of parking provided within the development and its impact upon the existing concerns of on street parking present within the locality.

Comment: The proposal has been assessed against the relevant statutory provisions of SEPP 65 and the associated Apartment Design Guideline as discussed within this report. It is noted that the development provides a sufficient amount of parking to meet the requirements of the relevant legislation. As noted within Clause 30(1) of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development a development cannot be refused if the proposed parking is equal or greater than the recommended minimum rate specified within the Apartment Design Guide (which itself references the rates contained within RMS Guide to Traffic Generating Developments). Additional concern has been raised as to vehicles parking across private driveways. It is noted that this is a compliance matter and will be dealt with separately.

Issue: Concern is raised as to traffic concerns generated by the increase in population and associated traffic movements associated with the development.

Comment: It is noted that during the planning proposal assessment (for the purposes of rezoning the land from industrial to high density residential and associated floor spaces and height limitations), the proposal was supported by suitable documentation demonstrating that the proposed density, being envisaged at conceptual stage for 644 apartments, was able to be accommodated subject to suitable intersection upgrades, primarily being the reconfiguration of the existing roundabout at Marion/Queen Street. This formed part of a VPA and was subsequently consented too in March 2017 by the then Sydney West Central Planning Panel. It is noted that during assessment and further investigation into traffic impacts the development may have on the local road

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network, it was concluded that there would be a need for an additional roundabout at the Louisa Street/Queen Street intersection so as to further manage traffic flow of vehicles exiting the site from the development coming from the secondary site access closer to the Louisa Street intersection.

It is noted that the submissions also recommended that the Marion Street/Queen Street intersection should be signalised, rather than an upgraded roundabout. It is considered that the upgraded roundabout satisfactorily addresses any local traffic concerns.

The development is therefore considered to be appropriate for the area given its minor impacts on the local traffic network given its appropriate proximity to a local public transport network, sufficient provision of onsite parking and its ability to accommodate any increased traffic numbers subject to the construction of the new roundabouts that form part of this consent.

**Issue:** Residents have recommended that the following measures should be taken into account as part of the development application, including, the construction of a pedestrian bridge over the railway line, construction of median strips to restrict right hand turning into the and out of the development, provision of an additional roundabout at the Kerrs Parade/Marion Street intersection, rethink the Auburn public carpark (payment/more parking) and increase pedestrian safety within the area.

**Comment:** The proposal will incorporate the construction of two roundabouts, being the Queen Street/Marion Street intersection as part of the VPA and the Louisa Street/Queen Street roundabout as part of this application (as recommended by Councils traffic engineers). As part of these upgrades, median strips will also be constructed to ensure left in and left out movements can only occur in association with the site. This is considered to improve pedestrian safety within the area given that vehicles will be slowed down to accommodate for these additional movements.

The pedestrian bridge over the railway line is not a consideration for the purposes of this development and should be explored separate to this application. The construction of an additional roundabout at Kerrs Parade and Marion Street is seen as unwarranted as no vehicular access is provided at this junction nor is it encouraged. It is noted that Councils traffic engineers wish to restrict vehicular access onto Marion Street so as to facilitate better traffic movements.

It is noted that Auburn Carpark is within proximity to the site. Any recommendations as to increasing its capacity and/or rearranging its operation (e.g. payment/restrictions) should be undertaken separately as it does not form part of this application.

The proposed infrastructure works associated with the development are considered satisfactory so as to lessen the impact the development will have on the locality in regard to traffic.

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**Issue:** Concern is raised to access for emergency services and how this will be managed.

**Comment:** The development incorporates removable bollards in and around the development and low lying landscaping/paving to assist emergency vehicles into the site where required. Fire safety requirements will form part of any management associated with the strata plans and compliance with the Building Code of Australia.

**Issue:** Concern is raised as to potential privacy impact upon adjoining developments, particularly to that associated with the surrounding residential uses.

**Comment:** The proposal has been assessed against the relevant statutory provisions of SEPP 65 and the associated Apartment Design Guideline which stipulate suitable separation distances between residential developments. It is noted that the proposed development suitably meets the separation distances in these instances. The development incorporates a suitable height transition which incorporates a 3 storey element for the Queen Street frontage, being the frontage opposite an area of low density residential (accommodating single and two storey developments). This 3 storey component then transitions to a height of 6 storeys then 8 storeys when adjacent the railway line. The development scheme is considered compliant with both the ADG and site specific DCP which was prepared to guide the development so as to lessen its impact upon adjoining developments, given its semi sensitive location.

The development is not considered to generate any significant privacy concerns associated with the proposed building heights or orientations.

**Issue:** Concern is raised as to potential overshadowing of adjoining properties.

**Comment:** The proposal has been supported by sufficient shadow diagrams which demonstrate that the development will have no significant shadowing impact upon adjoining residential developments. It is noted that the main intrusion of shadow experienced by adjoining developments would occur in the morning as demonstrated by the following diagram;





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It is noted that the 3 storey element facing Queen Street will not significantly impact upon the solar access of the residential properties on the opposing side of the street.

**Issue:** Concern is raised as to the height of the development and the insufficient reasoning provided within the cl4.6 variation request.

**Comment:** Following the first public notification period, an amended scheme was submitted to address concerns regarding the height of the proposed built form. The amended scheme was designed to include flat roofs along Queen Street to reduce the perceived bulk of the development and to ensure compliance with the maximum building height control of 12m for this part of the site. The clause 4.6 variation request was therefore updated to reflect the latest proposal which still includes localised non-compliances with the maximum height control elsewhere to accommodate the roof top communal open space. The exceedances do not increase the scale of the built form as they are not visible from the street nor will they significantly increase impacts such as shadowing.

It is noted that the height variations proposed relate to lift overruns and rooftop communal open spaces which are encouraged within this development. Council officers raise no objection to the height variations given that the exceedances do not generate any significant additional bulk to the building nor do they pertain to any additional habitable area.

**Issue:** An issue has been raised as to the proposal being an overdevelopment for the area and that there is no local infrastructure to cater for the development.

**Comment:** The scale and density of the development is considered to be in line with the planning intentions with the area. The proposal is considered to be consistent with the objectives of the zone and is of an appropriate density that will be accommodated by the exiting Auburn town centre given the provision of large scale supermarkets and other associated specialty stores, inclusive of a public transport network within 550 metres from the subject site. AS the proposal is consistent with the planning objectives of the site, and general compliance with the core requirements of the ADG and associated site specific DCP is achieved, the development is not considered to be an overdevelopment for the site.

**Issue:** Concern is raised as to potential crime risks and potential increase in crime associated with the development.

**Comment:** It is noted that any increase in population has the potential to generate some anti-social behaviours which may generate some additional crime risk within the area. It is also noted that NSW Police have also raised some concerns in relation to the management of a high population and how would this be mitigated. It is noted that the development has allowed for the following;

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- a building layout and configuration that facilitates passive surveillance of both the private and public domain in the immediate vicinity of the site;
- minimal opportunity for offenders to hide or entrap victims;
- pedestrian routes and spaces within the development, particularly at ground level that are clearly defined and have clear and direct sightlines for users;
- internal pathways activated with pedestrian and bicycle movement, increasing security for people and property;
- appropriate lighting to all public areas to ensure safety to public areas;
- clear boundaries between public and private spaces in the form of landscaping, material change and fencing;
- territorial reinforcement via secure access swipe cards, thereby restricting the possibility of non-residents accessing residential floors and the basement level;

Council officers are of the opinion that suitable measures are put in place to manage the site in regards to security and crime.

**Issue:** Concern is raised as to the demolition/construction impacts the development will have on the neighbouring properties.

**Comment:** Council officers will incorporate suitable conditions of development consent to manage demolition/construction phases. This will include appropriate mitigation measures to limit any noise, vibration, dust and traffic impacts.

**Issue:** That the development is not consistent with the strategic framework of the Auburn area, including the site should be maintained for commercial/industrial uses and that the area requires more business opportunities rather than residential development.

**Comment:** The proposed residential use of the site has been substantiated through a detailed rezoning process which considered the site's most appropriate land use and scale. The approval of the rezoning recognised that the loss of employment generating land would have no material adverse planning consequences. It was also concluded and that the site's proximity to the Auburn Town Centre warrants its high density residential zoning.

**Issue:** The location of pocket parks adjacent vehicular entrances is unsafe.

**Comment:** The location of the proposed pocket parks is consistent with the site-specific DCP which allows for highly visible spaces that invite the wider community into the site. Safety is achieved through design treatments, including; changes in materials, planting and low-rise walls, that separate the pocket parks from the driveways.

**Issue:** Concern is raised as to the potential noise associated with the railway and the potential for that noise to be transmitted to the existing residential properties in the locality due to the loss of the industrial buildings. It is recommended that a wall be constructed so as to mitigate this concern.

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- Comment:** The removal of the existing industrial buildings is unlikely to result in increased acoustic impacts to surrounding properties as these buildings will be replaced with larger residential buildings. The proposed buildings would be reasonably expected to be a more efficient barrier to noise than the existing industrial sheds and would generate less noise. An acoustic study was submitted with the DA which concluded that the development is capable of achieving compliance with all relevant acoustic requirements.
- Issue:** Concern is raised as to the layout of the development site and that alternative residential types should be utilised (e.g. Townhouses etc).
- Comment:** The proposed layout of the development reflects the site-specific DCP which was prepared in consultation with Council and the Sydney West Central Planning Panel during the site's rezoning. This layout is considered to achieve an optimum urban design outcome in context of the site's complex planning objectives. Notwithstanding, it is noted that the revised scheme includes changes to the pocket parks that increase the amount of deep soil and improves solar access to communal areas.
- The proposed dwelling typologies reflect the site's R4 High Density Residential zoning and meets the objectives of this zone. Developing the site for other dwelling typologies would not achieve the vision of the site as established through the rezoning process and would fail to optimise the use of a significant parcel of land in close proximity to the town centre and rail station. It is noted, however, that significant effort has been made to incorporate terrace style housing along Queen Street to respond to the existing character of the area and provide a range of dwelling forms across the site.
- Issue:** Concern is raised as to the building separations associated with the development and non-compliances with the ADG.
- Comment:** The subject report highlights the non-compliances with the ADG and notes the mitigation measures in place to reduce any privacy impact between buildings. This includes window orientations to blank walls, privacy screens and highlight windows. The development has provided suitable material to demonstrate that the building locations and proposed separations are consistent with the ADG.
- Issue:** Concern is raised as to the loss of trees associated with the development.
- Comment:** Council officers requested that a majority of the existing trees requested to be removed be retained where possible, given their significance to the area. A revised landscape plan was received and it was detailed that a majority of the trees that were noted to be removed are to be retained. This is considered acceptable in this instance.
- Issue:** Concern is raised as to the appearance of the development from the railway line.

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- Comment: The railway frontage of the development has been further considered and additional treatments are proposed to present a more interesting façade, including:
- The provision of screening trees within the setback zone to soften the interface and break up the built form;
  - The provision of planters and climbers to a select number of dwellings on the upper levels to complement the ground plane landscaping and provide greenery across the frontage; and
  - The use of unique colours/material schemes for each of the building blocks.

In addition, it is noted that vertical articulation is provided by the landscaped apartment courtyards, the provision of wintergardens up to level 6, and an upper level setback with roof openings to the sky. The design of the development is considered acceptable.

- Issue: Issue was raised as to the notification of the proposal and that the proposal should have been notified further (i.e. the notification catchment should be increased).

- Comment: The development was notified in accordance with the Auburn DCP 2010. It was noted that an extended catchment of 100 metres was made so as to capture all residents in proximity of the development who would be immediately affected. Council officers will take on board the advice received in relation to notification and will investigate expanding notification procedures when the notification policy is reviewed.

**The public interest (EP& A Act s4.15(1)(e))**

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

**SECTION 7.11 (FORMERLY S94) CONTRIBUTION TOWARDS PROVISION OR IMPROVEMENT OF AMENITIES OR SERVICES**

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

- (1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*

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- (a) the dedication of land free of cost, or  
(b) the payment of a monetary contribution, or both.

- (2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'

### Comments:

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

The amounts payable will be adjusted in accordance with the section titled Review of Contribution rates and are generally indexed on a quarterly basis by the Consumer Price Index CPI (all Groups Sydney) unless otherwise stated in the plan.

Reference is made to the Voluntary Planning Agreement entered into between AET Ltd ATF Auburn Ownership Trust c/- EG Funds Management and Cumberland Council dated 6 March 2017.

In accordance with Section 15 of this agreement, the developer is to be given a credit of fifteen percent (15%) of the total development contributions payable. In this regard a credit of **\$525,396.13** is available for the subject development.

A sum of **\$2,977,244.77** (inclusive of the credit) is to be paid to Council for the purpose of the provision of additional services and public facilities that is likely to generate from employment generating development within the Cumberland LGA.

The above sum is broken down to the following items:

Item	Amount
Community Facilities	\$863,755.83
Public Domain	\$1,910,362.09
Accessibility and Traffic	\$526,537.69
Administration	\$201,985.28
Less 15%	- \$525,396.13
<b>TOTAL</b>	<b>\$2,977,244.77</b>

The credit is to be applied for the first stage of the development.

Contributions will be adjusted at the payment date in accordance with the plan and payment is to be made prior to the issue of any Construction Certificate for each stage of the development as outlined in the payment schedule below

Stage	Section 7.11 Payable
1	\$1,132,086.70 -



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	\$525,396.13
	<b>\$606,690.57</b>
2	<b>\$1,185,277.10</b>
3	<b>\$1,185,277.10</b>
<b>Total</b>	<b>\$2,977,244.77</b>

## DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

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

## CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, relevant applicable State policies, Auburn LEP and Auburn DCP and is considered to be satisfactory for approval subject to conditions.

The proposed development is appropriately located within a R4 High Density Residential zone under the provisions of the Auburn LEP, however variations in relation to the height of the development under the Auburn LEP is sought.

It is also noted that there are some minor variations proposed in relation to the application of the Apartment Design Guide and the Auburn Development Control Plan 2010. These are nominated within the report and are considered acceptable under the circumstances of the case.

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

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the development may be approved subject to conditions.

## **RECOMMENDATION**

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1. That Development Application No. DA-382/2017 for Demolition of structures and construction of 12 residential apartment buildings, being part 3, part 6 and part 8 storey buildings containing 595 residential apartments including basement parking, landscaping, stormwater, public domain works and subdivision - Integrated Development (Water Management Act 2000) on land at 1A & 1B Queen Street, AUBURN NSW 2144 be approved subject to attached conditions
2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

## **ATTACHMENTS**

Appendix A – SEPP 65/ADG Compliance

Appendix B – ALEP 2010/ADCP 2010 (Queen St/RFB Sections) Compliance

Draft Conditions of Consent

Clause 4.6 Variation

Architectural Plans

Landscaping Plans

Stormwater Plans

NSW Police Commentary