

TO: Sydney Central City Planning Panel

SUBJECT: 30 Kerr Parade AUBURN NSW 2144

APPLICATION No: DA2020/0182

Application lodged	26 March 2020
Applicant	Urban Link Pty Ltd
Owner	Proprietors of SP 19831
Application No.	DA2020/0182
Description of Land	30 Kerr Parade AUBURN NSW 2144, SP 19831 32-40 Kerr Parade AUBURN NSW 2144, DP1230735
Proposed Development	Demolition of existing structures and construction of a twelve (12) storey boarding house with a ground floor commercial tenancy and four levels of basement parking including associated landscaping and site works
Site Area	942.2m ²
Zoning	B4 - Mixed Use under the Auburn LEP 2010
Disclosure of political donations and gifts	Nil disclosure
Heritage	No
Issues	Compliance with SEPP (Affordable Rental Housing), parking, access, matters raised in submissions.

SUMMARY

1. Development Application No. 2020/0182 was received on 26 March 2020 for the demolition of existing structures and construction of a twelve (12) storey boarding house with a ground floor commercial tenancy and four levels of basement parking including associated landscaping and site works
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 28 days between 7 April 2020 and 5 May 2020.
3. There are no notable variations to any planning controls.
4. Following an independent assessment, the application is recommended for conditional approval subject to the conditions as provided in the attached schedule. The application is referred to the Panel as the proposal is for affordable housing with a capital investment value greater than \$5M.

REPORT

SUBJECT SITE AND SURROUNDING AREA

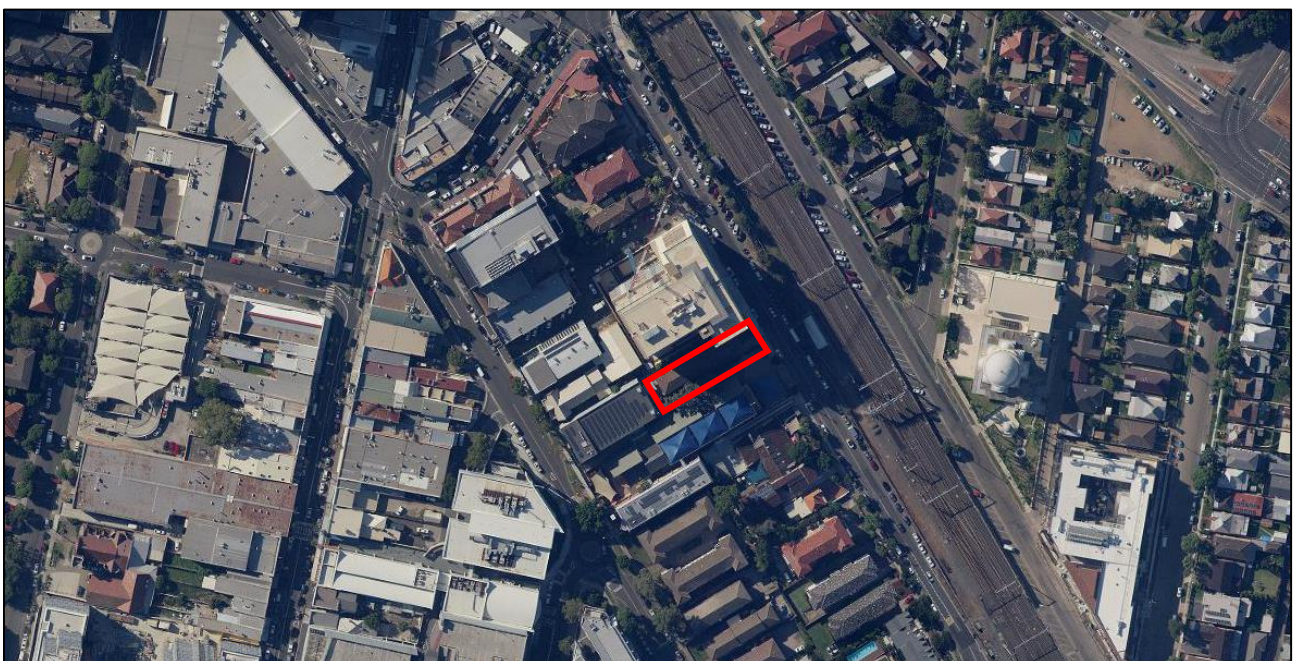
The site has an area of 942.2m², with frontage to Kerr Parade to the north east.

The site is regular in shape with a width of 16.765m and a depth of 56.295m. The site is illustrated in Figure 1 below:

Figure 1 – Locality Plan of subject site



Figure 2 – Aerial view of subject site



The site is located near the eastern fringe of the Auburn business district. The site is immediately adjacent to the western railway line and is approximately 390m from the entrance to Auburn railway station.

Land adjoining to the north at 32-40 Kerr Parade has been developed with a 12 storey residential flat building. The subject proposal gains vehicle access through the basement of that development.

Land to the south is occupied by an educational establishment known as Amity College, which extends through to a second frontage to Queen Street.

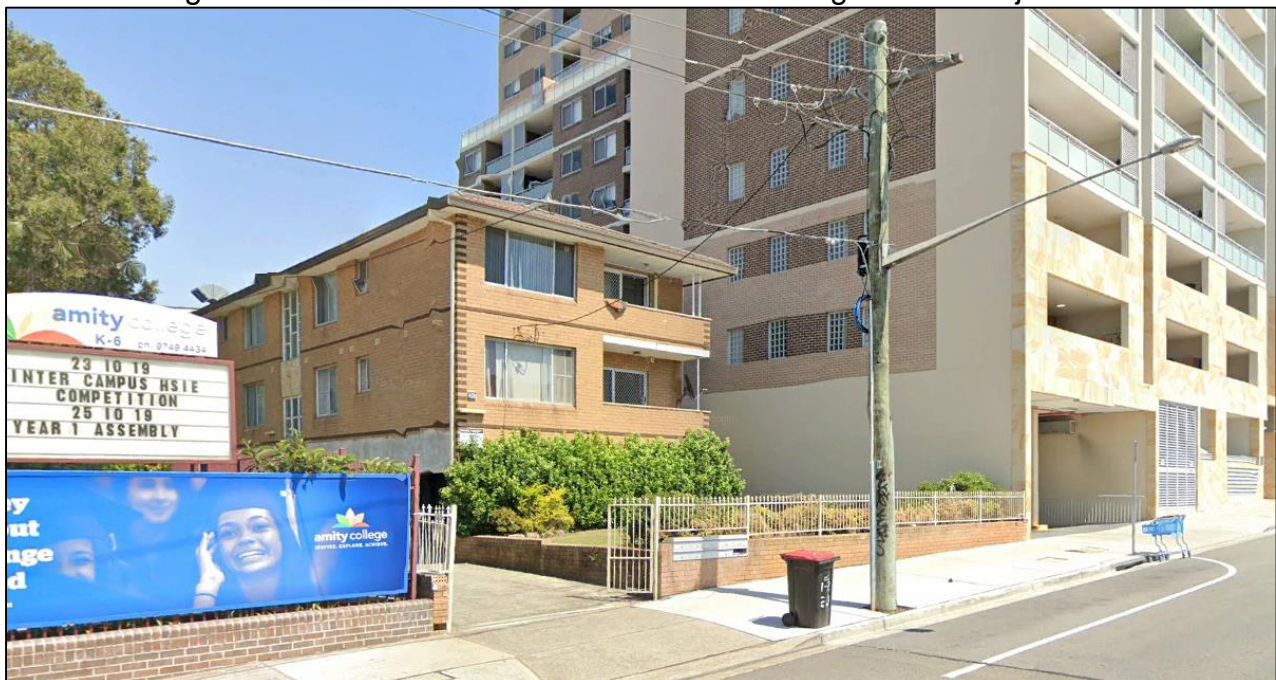
Land to the west fronting Queen Street is a 3 storey commercial building

The subject site is currently occupied by a residential flat building of 2 storeys above carparking and comprising 8 dwellings.

The site has a fall to the south east to Kerr Parade.

Vegetation of the site is limited to turfing around the north and east as well as garden planting in the front setback and along the north western boundary.

Figure 3 – Street view of the Kerr Parade frontage of the subject site



DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for the demolition of the existing residential development on the subject land and the construction of a 12 storey boarding house comprising:

- 139 double rooms including 6 accessible rooms;
- 1 manager's room and open space area;
- 5 communal areas;
- 64 car parking spaces;
- 33 motorbike spaces;
- 33 bicycle spaces; and
- 1 commercial food and beverage tenancy

In detail the proposal comprises the following:

Floor	Details
Basement 4	17 car parking spaces including 1 accessible space 4 motorbike spaces
Basement 2 and 3 (each)	17 car parking spaces including 1 accessible space 4 motorbike spaces
Basement 1	13 car parking spaces including: <ul style="list-style-type: none"> - 2 accessible spaces - 5 commercial spaces 30 motorbike spaces 25 bicycles spaces Basement entry from adjoining building.
Ground floor	Commercial food and beverage tenancy of 135m ² Entry lobby 8 bicycle parking spaces Waste room with access to collection point to adjoining building Communal open space area Managers suite and open space 3 x double rooms
Level 1	12 x double rooms including 1 accessible room Communal area
Level 2	12 x double rooms including 1 accessible room
Levels 3 and 4 (each)	13 x double rooms including 1 accessible room per floor
Level 5	12 x double rooms including 1 accessible room Communal area
Level 6	12 x double rooms including 1 accessible room
Levels 7, 8 and 9 (each)	13 x double rooms
Level 10	12 x double rooms Communal area
Level 11	11 x double rooms Common room

The proposed development has a total GFA of 5,630m² resulting in an FSR of 5.97:1.

HISTORY

Date	Action
25/11/2019	Pre Development Application Advisory meeting held with Council.
15/1/2019	Further Pre Development Application Advisory meeting held with Council.
26/3/2020	The Development Application was lodged.
24/4/2020	The Development Application was considered by the Cumberland Design Excellence Panel
7/4/2020 – 5/5/2020	Application placed on public notification for 28 days. The notification generated 1 submission in respect of the proposal which raised the following concerns: <ul style="list-style-type: none"> • Overshadowing; and • Construction hours.
15/5/2020	Application was deferred for the following reasons: <ul style="list-style-type: none"> • SEPP (ARH) compliance with regard to communal facilities; • Setback to the rear; • Design of the ground floor and lobby areas; • Floor to ceiling heights to be increased; • Improve amenity to the manager's room; • Improve privacy to the adjoining school; • Justification of parking numbers; • Design of the basement carpark; • Waste management; and • Stormwater management.
22/6/2020	Amended plans and additional information were submitted for assessment.
29/6/2020	Application was deferred for the following reasons: <ul style="list-style-type: none"> • Further information required to demonstrate the usability and function of the communal facilities; and • Further information to justify the rear setback.
28/7/2020	Amended plans and additional information were submitted for assessment.
	Application referred to JRPP for determination following completion of assessment.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by The Planning Hub dated 19 March 2020 and was received by Council on 26/3/2020 in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessment of the Development Application and preparation of this report has been undertaken by an external planning consultant in conjunction with Council's Development Assessment officer.

A site inspection was carried out by the consulting planner on 10 April 2020.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has provided conditions of consent to the proposal.

Building Surveyor

The development application was referred to Council's Building Surveyor for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has reviewed the relevant environmental reports who has raised the following concerns:

- Further details are required as to mechanical ventilation to rooms noting that the acoustic report states that windows will need to be closed to ensure sleep disturbance noise criteria is met;
- Installation of a grease trap is required for the café tenancy; and
- Details are required as to mechanical ventilation for the carpark and the café tenancy;

These matters are able to be addressed via conditions of consent.

Otherwise the proposal is satisfactory and can be supported subject to recommended conditions of consent to address:

- Implementing the recommendations of the Preliminary Site Investigation;
- Implementing the recommendations of the Environmental Noise Impact Assessment; and
- Implementing erosion and sedimentation controls.

Design Excellence Panel

The development application was referred to Council's Design Excellence Panel for comment.

The Design Excellence Panel raised concerns including solar access, façade treatment at the ground level being compromised by the hydrant booster and a need to resolve the ground floor design to ensure usable communal space that was properly delineated from access paths through the space.

Amendments to the plans have reduced the visual impact of the hydrant booster by reducing the width of that space, recessing it further from the boundary. Another improvement to the ground level presentation is the inclusion of a planter to the street in front of the commercial tenancy.

The amended plans also improve the layout of the ground floor area by relocating the WC to a more discreet location and resolving the ground floor common open space area to better separate the seating areas from the access paths.

With regard to solar access, the proposal satisfies State Environmental Planning Policy (Affordable Rental Housing) 2009 which provides that consent cannot be refused on grounds of solar access where a communal living room receives a minimum of 3 hours of direct sunlight between 9am and 3pm on the winter solstice. Amendments to the proposal now provide a number of common room areas, with those areas on levels 10 and 11 achieving compliant solar access.

The issues raised by the Design Excellence Panel were addressed by the design amendments and as such the application was not referred back to the Design Excellence Panel.

Waste Management

The development application was referred to Council's Waste Project Officer for comment who has advised that the development proposal is satisfactory subject to recommended conditions of consent regarding the number of bins and the method of collection.

A waste chute is provided on each floor which exits to the waste storage room on the ground floor. A separate bulky waste storage room is provided. Bin collection will take place from the waste collection point in the basement of the adjoining development.

Traffic Engineer

The development application was referred to Council's Senior Traffic Engineer who raised concerns as to the adequacy of the number of car parking spaces. This issue is addressed later in this report when considering the proposal against the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

Otherwise, the Traffic Engineer has provided conditions of consent.

EXTERNAL REFERRALS

Ausgrid

The development application was referred to Ausgrid, who has raised no objection to the proposal subject to the imposition of conditions of consent.

Sydney Trains

Sydney Trains reviewed the proposed development and in its letter of 26 August 2020, granted its concurrence subject to the imposition of a number of conditions.

The concurrence includes the following deferred commencement matters:

- a. Final Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.

- b. Final Construction methodology with construction details pertaining to structural support during excavation.
- c. Cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor.
- d. Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains rail corridor (land and any easements) and infrastructure.

Other conditions of consent cover matters including but not limited to:

- a. Acoustic assessment of the development and implementation of the recommendations of that acoustic assessment;
- b. Assessment of electrolysis risk;
- c. Construction requirements including scaffolding and craneage to comply with Sydney Trains requirements; and
- d. Geotechnical requirements for excavation, shoring and piling.

NSW Police Service – Auburn Police Area Command

The Crime Prevention Officer has reviewed the proposed development and raises no objection to the granting of consent subject to the imposition of conditions relating to safety and security measures being implemented.

PLANNING COMMENTS

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 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 as per the following table:

Figure 4 – SEPP 55 Compliance Table

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>A Preliminary Site Investigation (PSI) report has been prepared by EI Australia and dated 20 March 2020 to investigate the site. That report notes that there has been no historical land use that may have potentially been a source of contamination.</p> <p>The PSI recommends protocols for dealing with any contaminated material found during excavation, including the testing and classification of material in accordance with the NSW EPA <i>Waste Classification Guidelines</i> prior to disposal.</p> <p>Council's Environmental Health Officer has reviewed the PSI and has raised no concerns subject to the recommendations being adopted, implemented and adhered to.</p>	

(b) State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)

SEPP (ARH) applies to the development.

The subject land is 390m to the entrance to Auburn Railway Station and is therefore in an accessible area for the purposes of SEPP (ARH).


The proposed development is compliant with all matters under SEPP (ARH) as follows:

Figure 5 – SEPP (ARH) Compliance Table

Provision	Response
29. Standards that cannot be used to refuse consent	
Density or scale, if the FSR is not more than the maximum identified in an environmental planning instrument plus 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1, if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item	<p>Residential flat buildings are permissible in the B4 Mixed Use zone under the Auburn LEP 2010. The land does not contain a heritage item.</p> <p>The FSR prescribed for the land by the Auburn LEP 2010 is 5:1. The development is able to avail itself of a 20% increase to the prescribed FSR, which results in a maximum FSR of 6:1.</p> <p>The proposed development achieves an FSR of 5.97:1.</p>
Building height, if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land	<p>The maximum building height prescribed for the land by the Auburn LEP 2010 is 38m.</p> <p>The proposed development achieves a maximum height of 37.95m.</p>
Landscaped area, if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located	The proposed development is compatible with the streetscape of the B4 Mixed Use zone which features an adjoining apartment building built to the street boundary.
Solar access, where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	The proposed development provides for 5 separate communal areas throughout the building. 2 of those communal areas (levels 10 and 11) achieve compliant solar access.
Private open space, if at least the following private open space areas are	

<p>provided (other than the front setback area)—</p> <p>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation</p>	<p>5 communal areas are provided with areas as follows:</p> <p>Ground floor open space area – 107sqm Level 1 – communal terrace – 37sqm Level 5 – communal terrace – 37sqm Level 10 – communal terrace – 37sqm Level 11 lounge area – 35sqm</p> <p>21sqm provided.</p>
<p>Parking, if in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p>	<p>The control states that consent cannot be refused on grounds of parking if the proposal provides 0.5 spaces per boarding room.</p> <p>Based on that ratio, the proposed development would require 70 spaces plus a managers space.</p> <p>The proposal provides 64 car spaces including 5 allocated to the commercial tenancy and 1 to be allocated for the manager. This leaves 58 spaces for 140 rooms.</p> <p>A parking statement is provided which justifies the shortfall and is discussed later in this report.</p>
<p>Accommodation size, if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least 12 square metres in the case of a boarding room intended to be used by a single lodger, or 16 square metres in any other case.</p>	<p>All rooms are nominated for use by a double lodger and are between 21 and 25m² in size excluding kitchen and bathroom areas.</p>

30. Standards for boarding houses A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:	
If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.	5 communal spaces are provided throughout the building which offer communal seating, cooking and dining opportunities.
No boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres	The maximum room size (excluding bathroom and kitchen) is 25m ² .
No boarding room will be occupied by more than 2 adult lodgers	A condition of consent can be imposed to this effect.
Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	Each boarding room is provided with its own kitchen and bathroom facilities.
If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	An on-site manager is proposed with accommodation on the ground floor.
If the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use	The street front at the ground floor is provided with a retail premises which is likely to be a food and drink premises.

<p>At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms</p>	<p>28 of each required. 30 motorbikes and 33 bicycle parking spaces is provided.</p>
<p>30A. Character of local area</p>	
<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>The local area is considered to be that part of the B4 Mixed Use zone bounded by Kerr Parade, Marion Street, Queen Street and Civic Road as shown below.</p>  <p>The local area comprises a number of low rise residential flat buildings, commercial buildings, a church and a school. The local area is transitioning to higher density developments in accordance with the planning controls that apply as evident from the adjoining development. The area is currently subject to a maximum height limit of 38m and maximum floor space ratio (FSR) of 5:1. The emerging character of the area is generally that of mixed use or residential flat buildings approximately 12 storeys in height.</p> <p>The scale of the proposed building is in keeping with that anticipated by the development standards that apply to the land.</p> <p>The physical characteristics of the development do not restrict how other land in the local area may be developed in the future.</p> <p>Overshadowing from the development is reasonable and the proposal has addressed privacy through design measures.</p> <p>The design of the proposed development is considered to be compatible with the character of the local area, noting the emerging character anticipated by the development standards that apply.</p>

Following a detailed assessment of the proposal against the provisions of SEPP (ARH), it is found that the proposal is compliant with the relevant provisions.

- **Clause 29(2)(e) - Parking**

Clause 29(2)(e) of SEPP (ARH) states that consent cannot be refused on grounds of parking if the proposal provides 0.5 spaces per boarding room.

It is proposed to provide 64 carparking spaces for 139 boarding rooms, a manager's room and a commercial premises of 135m².

The commercial tenancy requires 4 spaces based on a rate of 1 space per 40m², being the rate applied to both retail premises and restaurants. 5 spaces are allocated to the commercial tenancy.

A dedicated manager's parking space is to be allocated.

This results in 58 parking spaces being available for 139 boarding rooms, which equates to 0.42 spaces per room.

While Clause 29(2)(e) of SEPP (ARH) does not mandate a minimum number of spaces, it is worth discussing the provision of carparking for the proposed development.

Justification of the parking provision has been provided by Varga Traffic Planning Pty Ltd, dated 17 June 2020 as follows:

- the site is readily accessible to frequent and reliable public transport services including multiple bus and train routes located within a very short walking distance of the site;
- the local Auburn Town Centre is also located within a very short walking distance of the site, offering a full range of shops and services including grocery stores, cafés, restaurants, medical centres and services such as banks and the local Post Office;
- the parking provision also provides a genuine incentive for boarding house residents to reduce private car usage and to encourage greater use of active transport and public transport services; and
- a recent study undertaken by the University of NSW on behalf of SSROC found that two-thirds of boarding house tenants did *not* own a car, and that this was directly comparable with the 2016 Census results which also found that two-thirds of studio occupants (i.e. an apartment with no bedrooms) also did *not* own a car. On the basis of the UNSW & Census results, the proposed boarding house could generate a demand for 46 parking spaces.

It is agreed that the subject land is well located in proximity to public transport and a wide range of services within the Auburn town centre. There is merit in encouraging public transport use and locating higher density accommodation options in proximity to public transport nodes assists in meeting that objective.

Further, the leasing of rooms can be carried out having regard to the availability of parking spaces within the development to ensure that a shortfall of parking does not occur.

The number of parking spaces provided is not considered an impediment to the granting of consent to the development.

(c) Infrastructure 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

Comments have been received from Ausgrid and are summarised above in the discussion of External Referrals.

Clause 85 – Development adjacent to railway corridors

Comments were received from Sydney Trains on 26 August 2020 and are summarised above in the discussion of External Referrals.

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 within 25m (measured horizontally) of a rail corridor.

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

The application is subject to clause 87 of the ISEPP as the site is adjacent to a rail corridor.

An acoustic report has been prepared addressing any issues of rail noise and notes that appropriate construction standards and materials can be selected at the detailed design stages for the building.

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 generating developments

The application is not subject to clause 104 as the proposal does not trigger the requirements for traffic generating developments listed in Schedule 3 of the ISEPP.

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

BASIX Certification has been provided for the development and demonstrates a pass for all categories.

(e) State Environmental Planning Policy No 64—Advertising and Signage

Advertising signage is not proposed as part of the development. Separate consent for advertising signage other than for signage constituting exempt development, will need to be sought in conjunction with the use of the commercial tenancy.

Regional Environmental Plans

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

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 LEP 2010

The provisions of the Auburn LEP 2010 are applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Auburn LEP 2010 and the objectives of the B4 Mixed Use zone applicable to the subject land.

The proposed development comprises:

- A boarding house; and
- A retail premises

Each use is permissible in the B4 Mixed Use zone with consent.

The relevant matters to be considered under the Auburn LEP 2010 for the proposed development are summarised below.

Figure 6 –Auburn LEP 2010 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.1 Minimum subdivision lot size	N/A	
4.3 Height of Buildings Maximum 38m	Yes	The development proposes a height of 37.95m to the top of the lift overrun.

4.4 Floor Space Ratio 5.0:1	Yes	<p>The proposed development also benefits from a FSR bonus under Clause 29(1)(c)(ii) of the ARH SEPP of an additional 20%.</p> <p>As a result, the available FSR is 6:1.</p> <p>The development has a total GFA of 5,630m² over a site area of 944m² which results in an FSR of 5.97:1.</p>
4.6 Exceptions to development standards	N/A	No variations are sought to any development standards.
5.1A Land Reservation Acquisition	N/A	
5.10 Heritage Conservation	Yes	The site is not within proximity to any item of environmental heritage.
6.1 Acid Sulphate Soils	N/A	The land is given a Class 5 rating however is not within 500m of land with a higher classification.
6.3 Flood Planning	N/A	The land is not identified as a flood planning lot.

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

(a) 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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is the only relevant instrument of those to be repealed by the draft SEPP and has previously been discussed in this report.

(b) Draft Cumberland Local Environmental Plan 2020

The Draft Cumberland Local Environmental Plan 2020 (Draft CLEP) has been prepared by Cumberland Council to provide a single planning framework for the future planning of Cumberland City. The changes proposed seek to harmonise and repeal the three existing LEPs currently applicable to the Cumberland local government area, those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

The Draft CLEP does not propose any changes for the subject site that would prohibit or impede the development as proposed.

Relevantly, the subject land is proposed retain its B4 Mixed Use zone. Boarding houses, shops and food and drink premises remain permissible with consent under the Draft CLEP.

With regard to built form, the 5:1 FSR that currently applies to the land is proposed to be retained under the Draft CLEP. The draft plan proposes to increase the building heights applicable to the land from the current 38m to 55m.

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

The proposed development is satisfactory when considered against the objectives and provisions of the Auburn DCP 2010. A full assessment against the provisions of the Auburn DCP 2020 is provided at Attachment 7.

Key matters under the Auburn DCP are discussed below.

Figure 7 – Auburn DCP 2010 Compliance Table

Clause	Control	Proposed	Complies
Local Centres			
2.2	Articulation and proportion		
	Buildings shall incorporate: <ul style="list-style-type: none"> • balanced horizontal and vertical proportions and well spaced and proportioned windows; • a clearly defined base, middle and top; • modulation and texture; and • architectural features which give human scale at street level such as entrances and porticos. 	The proposal was referred to Council's Design Review Panel who are satisfied with the building proportions, articulation and materials.	Yes

	Articulation of the building exterior shall be achieved through recesses in the horizontal and vertical plane, adequate contrasts in materials, design features and the use of awnings.	The proposed development is an appropriate response to the streetscape.	
2.6	Interface with schools, places of public worship, and public precincts		
	<p>Where a site adjoins a school, place of public worship or public open space:</p> <ul style="list-style-type: none"> • This interface shall be identified in the site analysis plan and reflected in building design; • Building design incorporates an appropriate transition in scale and character along the site boundary(s); • Building design presents an appropriately detailed facade and landscaping in the context of the adjoining land use. <p>The potential for overlooking of playing areas of schools shall be minimised by siting, orientation or screening.</p>	<p>The subject land adjoins a school known as Amity College which features a number of covered play areas on the roof and at the street front.</p> <p>The transition from the 12 storey building to the school is considered appropriate given the context of the site in a mixed use zone where high density residential development up to 38m in height is encouraged.</p> <p>The corridors and rooms are provided with privacy louvers to prevent direct overlooking of the school.</p>	Yes
4.0	Mixed use developments		
	<p>The architecture of ground level uses shall reflect the commercial/retail function of the centre.</p> <p>Buildings shall achieve a quality living environment that sympathetically integrates into the character of the commercial precinct.</p> <p>Commercial and retail servicing, loading and parking facilities shall be separated</p>	<p>The architecture of the ground floor provides legibility to the commercial tenancy.</p> <p>Servicing for the commercial tenancy is located within the basement and is separated from the</p>	Yes

	from residential access and servicing and parking.	residential activities.	
8.6	Solar amenity		
	Shadow diagrams shall accompany development applications for buildings which demonstrate that the proposal will not reduce sunlight to less than 3 hours between 9.00 am and 3.00 pm on 21 June for: <ul style="list-style-type: none"> • public places or open space; • 50% of private open space areas; • 40% of school playground areas; or • windows of adjoining residences. 	Overshadowing is compliant with the DCP provisions noting the function of neighbouring buildings.	Yes

As indicated in the compliance table above, the proposed development complies with the key provisions of the Auburn DCP 2010.

Although not a matter prescribed by the Auburn DCP 2010, the setback to the rear boundary was considered, particularly whether the 3m setback was appropriate. The 3m setback is in keeping with the rear setback applied to bedrooms in the adjoining development.

The 3m setback does not impact on solar access or privacy to any residential receiver and is considered acceptable.

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 (EP& A Act s4.15(1)(a)(iia))

There is no draft planning agreement associated with the subject Development Application.

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 proposed development assists in providing housing choice, particularly affordable housing options, in proximity to a town centre that is well served by public transport options.

The proposed development will also contribute to the livelihood of the Auburn town centre, including providing activity in the town centre after hours.

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 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 28 days between 7 April 2020 and 5 May 2020. The notification generated one submission in respect of the proposal which did not disclose a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

Figure 8 – Submissions summary table

Issue	Comment
Overshadowing of the Presbyterian Church already results from the development at 32-40 Kerr Parade. The proposed development will further reduce natural light.	<p>St Andrew's Presbyterian Church is located to the west of the subject land. While it is acknowledged that the church is affected by overshadowing from the existing building at 32-40 Kerr Parade, the proposed development will not increase that overshadowing.</p> <p>Shadow diagrams have been provided with the architectural plans to demonstrate this. Relevantly, the extract from Drawing DA-1402 B shows the 9am shadow not impacting on the church. That shadow will move around to the south and then to the east throughout the day.</p> 
No building works should be carried out on Sunday.	A standard condition of consent can be imposed to this effect.

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

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

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

Comments:

The development requires the payment of contributions in accordance with the Cumberland Local Infrastructure Contributions Plan 2020 for the additional population.

The calculation is based on an additional population of 140 persons.

As at 10 September 2020, the fee payable is \$741,894. This figure is subject to indexation as per the relevant plan. The draft determination attached includes a condition requiring payment of the contribution prior to issue of a Construction Certificate.

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, Auburn LEP 2010 and Auburn DCP 2010 and is considered to be satisfactory for approval subject to conditions.

The proposed development is appropriately located within the B4 Mixed Use zone under the relevant provisions of Auburn LEP 2010. The proposal is consistent with all statutory and

non-statutory controls applying to the development and does not result in any non-compliance with any planning instrument or policy.

Having regard to the assessment of the proposal from a merit perspective, the Panel should be satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents.

The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

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

RECOMMENDATION

- 1. That Development Application No. 2020/0182 for The demolition of existing structures and construction of a twelve (12) storey boarding house comprising 139 rooms and a manager's room, ground floor commercial tenancy and four levels of basement parking including associated landscaping and site works on land at 30 Kerr Parade, Auburn be granted a deferred commencement consent 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

1. Draft Notice of Determination
 2. Architectural Plans
 3. Submission received from notification period x 1
 4. Locality Map
 5. SEPP (ARH) Compliance Table
 6. Auburn LEP 2010 Compliance Table
 7. Auburn DCP 2010 Compliance Table
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