

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-177
DA Number	DA/810/2021
LGA	Randwick City Council
Proposed Development	Integrated Development Application for demolition of existing structures and construction of a nine (9) storey mixed use building comprising commercial and residential.
Street Address	<p>137-151 Anzac Parade, Kensington</p> <ul style="list-style-type: none"> • Lot 10 Sec 3 DP 3897 [137 Anzac Parade] • Lot 1 DP 554563 [139 Anzac Parade] • Lot 2 DP 554563 [141 Anzac Parade] • Lot B DP 340818 [143 Anzac Parade] • Lot C DP 100646 [145 Anzac Parade] • Lot D DP 100646 [145A Anzac Parade] • Lot 1 in DP 573636 [147A Anzac Parade] • Lot 10 DP 828868 [147-151 Anzac Parade]
Applicant/Owner	Toga Addison Unit Trust Pty Ltd
Date of DA lodgement	22 December 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • Five (5) • Five (5) • One (1) petition.
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	<p>Clause 2 of Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i>: General Development over \$30million.</p> <p>Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i>: General Development over \$30million.</p>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy (Infrastructure) 2007; • State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021. • Randwick Local Environmental Plan 2012; • Part E6 of Randwick Development Control Plan Kensington and Kingsford Town Centres.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans (Combined Kensington DA Set_Updated 220519, uploaded 22 May 2022); • Landscape Plans (Appendix 5); • Statement of Environmental Effects; • Clause 4.6 Variation (Appendix 14_Height clause 4.6 Variation Request, uploaded 21/12/21); • Design Verification Statement (Appendix 4 – SEPP65); • Traffic and Parking Assessment (Appendix 6); • Operational Waste Management Plan (Appendix 7); • Remediation Action Plan (Appendix 8);

	<ul style="list-style-type: none"> • Arborist Report (Appendix 11); • Acoustic Report (Appendix 12); • BASIX Certificate (Appendix 13); • Air Quality (Appendix 16); • Flood Report (Appendix 17); • Geotechnical Report (Appendix 18); • Wind Impact Assessment (Appendix 19) • CPTe (Appendix 22); • Access Report (Appendix 23); • BCA Report (Appendix 24); • Letter of Offer for VPA (Appendix 27 – Community Infrastructure and Affordable Housing Offer, uploaded 27/05/22); • Hydrogeological Report (137-151 Anzac Pde Kensington Groundwater Assessment); • Applicant Response to DEAP and confirmation of AWCS.
Clause 4.6 requests	<ul style="list-style-type: none"> • Randwick Local Environmental Plan 2012 • Clause 4.3 and Clause 6.17 in relation to Building Height. • B2 Local Centre zone. •
Summary of key submissions	<ul style="list-style-type: none"> • Solar access • Building height • Built Form • Visual Privacy • Acoustic Privacy • Traffic and parking • Landscaping and impacts upon trees • Heritage • Use of future laneway • Stormwater management and water extraction.
Report prepared by	Angela Manahan
Report date	24 June 2022

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Yes

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

No

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-177 – DA/810/2021
PROPOSAL	Integrated Development Application for demolition of existing structures and construction of a nine (9) storey mixed use building comprising commercial and residential.
ADDRESS	Lot 10 Sec 3 DP 3897 [137 Anzac Parade] Lot 1 DP 554563 [139 Anzac Parade] Lot 2 DP 554563 [141 Anzac Parade] Lot B DP 340818 [143 Anzac Parade] Lot C DP 100646 [145 Anzac Parade] Lot D DP 100646 [145A Anzac Parade] Lot 1 in DP 573636 [147A Anzac Parade] Lot 10 DP 828868 [147-151 Anzac Parade]
APPLICANT	Elizabeth Anderson – The Trustee for Toga Addison Unit Trust
OWNER	Toga Addison Unit Trust Pty Ltd
DA LODGEMENT DATE	22 December 2021
APPLICATION TYPE	Development Application (Integrated)
REGIONALLY SIGNIFICANT CRITERIA	Clause 2 of Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> : General Development over \$30million. Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : General Development over \$30million.
CIV	\$59,394,134 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.3 and 6.17 of RLEP 2012 (Building Height)
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i>; • <i>State Environmental Planning Policy (State and Regional Development) 2011</i>; • <i>State Environmental Planning Policy (Infrastructure) 2007</i>; • <i>State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building</i>; • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>;

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021;</i> • <i>State Environmental Planning Policy (Planning Systems) 2021;</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021.</i> • <i>Randwick Local Environmental Plan 2012;</i> • <i>Part E6 of Randwick Development Control Plan Kensington and Kingsford Town Centres.</i>
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	UNIQUE KEY IN
	Five (5) (four (4) in objection and one (1) in support). One (1) petition included containing fifty-one (51) signatures.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> - Architectural Plans (Combined Kensington DA Set_Updated 220519, uploaded 22 May 2022); - Landscape Plans (Appendix 5); - Statement of Environmental Effects; - Clause 4.6 Variation (Appendix 14_Height clause 4.6 Variation Request, uploaded 21/12/21); - Design Verification Statement (Appendix 4 – SEPP65); - Traffic and Parking Assessment (Appendix 6); - Operational Waste Management Plan (Appendix 7); - Remediation Action Plan (Appendix 8); - Arborist Report (Appendix 11); - Acoustic Report (Appendix 12); - BASIX Certificate (Appendix 13); - Air Quality (Appendix 16); - Flood Report (Appendix 17); - Geotechnical Report (Appendix 18); - Wind Impact Assessment (Appendix 19) - CPTe (Appendix 22); - Access Report (Appendix 23); - BCA Report (Appendix 24); - Letter of Offer for VPA (Appendix 27 – Community Infrastructure and Affordable Housing Offer, uploaded 27/05/22); - Hydrogeological Report (137-151 Anzac Pde Kensington Groundwater Assessment); - Applicant Response to DEAP and confirmation of AWCS.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Affordable Housing Contributions Community Infrastructure Contributions
RECOMMENDATION	Deferred Commencement
DRAFT CONDITIONS TO APPLICANT	NO
SCHEDULED MEETING DATE	7 July 2022
PLAN VERSION	28/04/2022 and 21/05/2022, Revision 02 and 03
PREPARED BY	Angela Manahan
DATE OF REPORT	24 June 2022

EXECUTIVE SUMMARY

Council is in receipt of a development application seeking approval for demolition of existing structures and construction of a nine (9) storey mixed use development comprising commercial and residential, with associated landscaping and works at the subject site. The proposed development shall comprise 142 dwellings, 765.34m² of retail space and 681.91m² of commercial/office space.

The site is located on the eastern side of Anzac Parade. The site comprises of eight (8) separate lots and collectively it is known as 137-151 Anzac Parade, Kensington with a total consolidated site area of 3,914m².

The site is located within the B2 Local Centre zone and the proposed development is permitted with consent, being defined as a shop-top housing development comprising a mixed-use of ground floor retail and commercial with dwellings above.

The principal planning controls relevant to the proposal include State Environmental Planning Policy 65, Randwick Local Environmental Plan 2012 ('RLEP 2012'), Randwick Comprehensive Development Control Plan 2013 ('RDCP') and the Kensington and Kingsford Town Centres Development Control Plan 2020 ("K2K DCP 2020").

The application is identified as being integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and approval from Water NSW is required under sections 89, 90 and 91 of the Water Management Act 2000. Water NSW granted concurrence to the proposed development, subject to general terms of approval, and formal approval for water supply work from Water NSW prior to any works being undertaken.

The application was also referred to the following agencies for concurrence pursuant to Section 4.13 of the EP&A Act:

- A referral to Transport for NSW (previously Roads and Maritime Services) pursuant to s138 of the Roads Act 1993, clause 85, 86 and 104 of the SEPP (Infrastructure) 2007, superseded by SEPP (Transport and Infrastructure) 2021, was sent and no objections raised subject to recommended conditions.
- A referral to Sydney Airport Corporation pursuant to clause 6.8 and 6.9 of RLEP 2012 was sent and no objections raised.
- A referral to Ausgrid pursuant to clause 45 of the SEPP (Infrastructure) 2007, superseded by the Transport and Infrastructure SEPP, and no objections raised subject to recommended conditions.

The application was placed on public exhibition from 20 January 2022 to 18 February 2022, with a total of five (5) submissions received (i.e. 4 in objection and 1 in support). One (1) submission included an appendix of a pro-forma/petition containing fifty-one (51) signatures. The submissions received raised issues relating to solar access, privacy, height, built form, traffic and parking, noise, landscaping and tree damage, heritage, water management, and the use of the public access laneway. These issues are considered further in this report.

The application is referred to the Sydney Eastern City Planning Panel (SECPP or 'the Panel') as the development is identified as being '*regionally significant development*' pursuant to Clause 2 of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, and subsequently Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, due to the proposal being *general development* with a CIV over \$30 million.

A briefing was held with the Panel on 12 May 2022 where key issues were discussed, including the non-compliance with the DCP building envelope, setback, bulk and building articulation, and the inclusion of an automated waste collection system.

The key issues associated with the proposal included:

- *Design Excellence* – The proposal was referred to Council's Design Excellence Advisory Panel who provided feedback with regards to the preferred elevation treatment fronting Anzac Parade, and who raised concerns with the proposal in relation to the variation to the DCP envelope control, number of residential entries, the concept of the rear wings, and potential amenity impacts upon adjoining and neighbouring properties. The Applicant provided justification in relation to the areas of concerns, including undertaking massing studies and it is considered that the proposed development is an appropriate response to the site and is consistent with the provisions of clause 6.11 of RLEP 2012 in relation to design excellence.
- *Building Height* – RLEP 2012 prescribes a maximum building height of 31m for the subject site pursuant to clause 6.17. The proposal is seeking a maximum height of 35.45m to the lift overrun, with roof top structures in relation to lift and stair access, pergolas and plant screening also sited above the 31m height limit. The proposed variation primarily relates to the provision of a roof top terrace and the associated structures in order to provide additional amenity for occupants. As such the proposal shall remain consistent with the maximum number of storeys permitted on the site of nine (9) storeys. A Clause 4.6 variation request is provided with the application, and the variation is considered supportable.
- *Built Form* – The proposed development differs from the detailed building envelope specified in the K2K DCP 2020 with particular regards to the upper level setback on Anzac Parade, the rear wings to the west and the setbacks to the north and south. The deviation from the prescribed building envelope is due to the subject site comprising approximately 75% of Block 21, and the southern sites not amalgamated with the subject site. As such an alternative design has been proposed. Notwithstanding, the overall built form is largely consistent with the built form and envelope envisaged for the site under Block 21. Where non-compliances occur, the applicant has demonstrated that there shall be no adverse built or environmental impacts as a result of the alternative design, with particular regards to the adoption of three (3) rear wings to the west which provides better modulation of the western elevation and breaks up the building mass. The variation to the street wall height for the central portion of the building is also supported, and was considered an appropriate response by the DEAP.
- *Visual Privacy* – The proposal results in numerical non-compliance with the minimum separation distances specified by the ADG for portions of the building. However, alternative privacy measures have been imposed to ensure no unreasonable privacy impacts upon adjoining properties as a result of the proposed development.

Following consideration of the matters under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, RLEP 2012 and RDCP 2013 and K2K DCP 2020, the proposal as amended is considered suitable for the subject site.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA/810/2021 is recommended for approval subject to the draft conditions attached to the report.

1. THE SITE AND LOCALITY

1.1 The Site

The site is known as 137-151 Anzac Parade, Kensington and is occupied by a number of developments.

The site is comprised of the following allotments:

- (a) Lot 10 in DP828868 (147-151 Anzac Parade);
- (b) Lot 1 in DP573636 (147S Anzac Parade);
- (c) Lot D in DP100646 (145A Anzac Parade);
- (d) Lot C in DP100646 (145 Anzac Parade);
- (e) Lot B in DP340818 (143 Anzac Parade);
- (f) Lot 2 in DP554563 (141 Anzac Parade);
- (g) Lot 1 in DP554563 (139 Anzac Parade); and,
- (h) Lot 10 Sec 3 in DP3897 (137 Anzac Parade).

The site is a regular shape with a combined primary frontage of approximately 91m to Anzac Parade to the east. The site has a total area of 3014m². The site remains relatively flat from north to south and from east to west. Currently occupying 147 -151 Anzac Parade (10 in DP828868) is a three and four storey concrete housing complex known as the 'Addison Hotel and Oz Harvest Market'. The building formerly accommodated a hotel and now contains residential housing and includes supportive accommodation for homeless youth. 145A Anzac Parade (Lot D in DP100646) comprises a 2-storey brick rendered shop top housing building with a commercial use at ground level. The rear of this development consists of an open car park that is accessible from Anzac Parade. 145 Anzac Parade (Lot C in DP100646) consists of a 2 storey shop top housing development with a ground level commercial use. 143 Anzac Parade (Lot B in DP340818) comprises a shop top housing development with a ground level commercial use. 139-141 Anzac Parade (Lot 1 & 2 in DP554563) consists of two single storey semi-detached dwellings each with a brick materiality. 137 Anzac Parade (Lot 10 in DP3897) contains a four 4 storey brick building containing residential apartments with on-site parking accommodated at ground level.



Figure 1 – subject site identified in yellow.

1.2 The Locality

The development located in the immediate vicinity of the site is predominantly characterised by a mix of medium to high density development reflective of the B2 Local Centre zoning. The surrounding development is varied, consisting of inter-war period flat buildings and contemporary mixed use residential developments. Adjoining the site to the north is a service station. Beyond this lies the intersection of Todman Avenue and Anzac Parade. Further northward are a number of medium to high density developments, including a part 4 and part 7 storey building located at 105 Anzac Parade and an 8-storey mixed use building located 118 Anzac Parade. To the immediate south the development consists of a 3-storey residential flat building. Adjoining this is a single story detached dwelling. To the south east, the development consists of a Part 5 and Part 7 mixed use building at 214 – 238 Anzac Parade and is adjoined by an 8-storey mixed use building at 240-266 Anzac Parade. The development to the direct east consists of single storey attached dwellings and retail premises. Three attached two storey shop top housing developments are located on the corner of Anzac Parade and Darling Street and are designated as being heritage contributory buildings. The development to the west comprises low to medium scale dwellings. To the immediate west lies a three-storey town house development which abuts the site. The development further westward along Villiers Street consists of two storey dwellings and three storey 'interwar' flat buildings.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for an integrated development application for demolition of existing structures, site remediation, and construction of a nine (9) storey mixed use development comprising ground floor commercial/retail premises and 142 dwellings on floors above, 2 levels of basement parking with vehicular access from Anzac Parade, tree removal, associated landscape and public domain works (variation to building height). Approval is required by Water NSW.

Specifically, the proposal involves:

- Demolition of all existing buildings and removal of certain trees;
- Site preparation works, bulk excavation and remediation;
- Construction and use of a mixed use residential flat building, including:
 - 142 apartments;
 - Ground level commercial and retail premises, including ground floor office space as part of 14 Soho apartments on the western interface;
 - Two (2) level basement containing 151 vehicle spaces;
 - A vehicular entrance driveway from Anzac Parade;
- Associated landscape, community infrastructure, and public domain works; and
- Extension and augmentation of physical infrastructure and utilities as required.

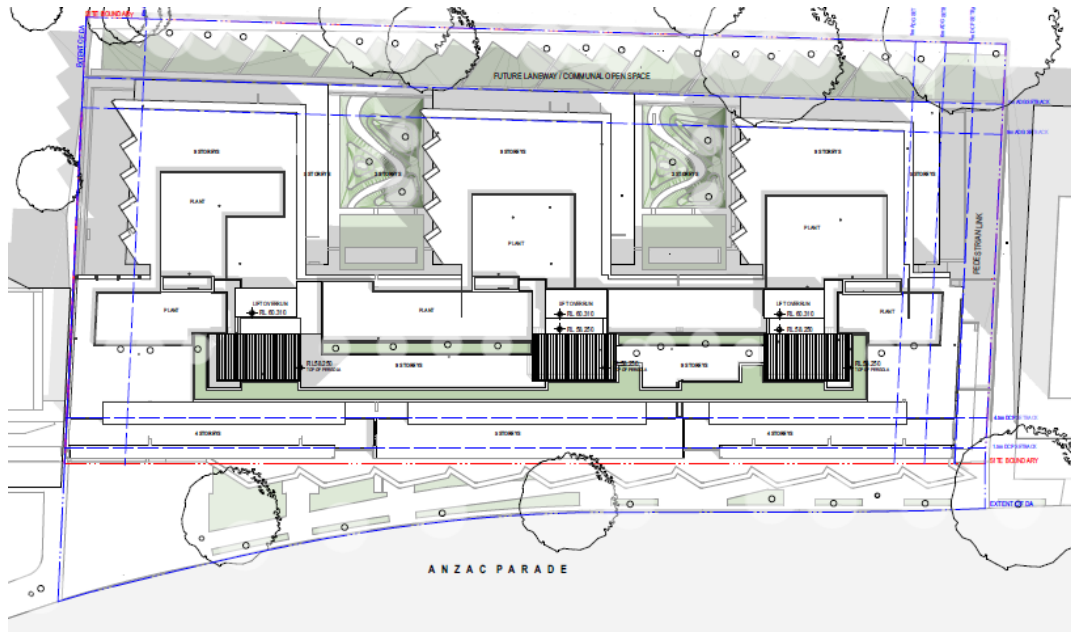


Figure 2 - Site Plan



Figure 3 – Perspective from Anzac Parade.



Figure 4 – Perspective from the west (Villiers Street)

The key development data is provided in **Table 1**.

Table 1: Development Data

Control	Proposal
Site area	3,914m ²
GFA	15,614.70m ²
FSR	3.99:1
Clause 4.6 Request	Yes – Height of Buildings (pursuant to clause 4.3 and 6.17 of RLEP 2012)
No. of apartments	142 (14 x SOHO; 19 x 1 bed; 78 x 2 bed and 31 x 3 bed)
Max Height	35.45m to lift overrun, 33.29m to roof top pergola structures.
Landscaped area	102% as per K2K RDCP 2013 (Part E6) Deep Soil areas - 14% (551m ²)
Car Parking spaces	151 car parking spaces comprising: <ul style="list-style-type: none"> • 116 resident; • 8 retail uses; • 4 for commercial uses • 21 residential visitors; and • 2 car share spaces. 158 Bicycle spaces. 13 Motorcycle spaces.
Setbacks	Anzac Pde – 1.5m-4.5m.

	Rear Boundary – 6m-9m. Side Boundaries – North: nil-6m, South: 3m-6m.
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2.2 Background

The development application was lodged on 22 December 2021. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
22 December 2021	DA lodged
20 January 2022	Exhibition of the application
29 December 2021	DA referred to external agencies
28 February 2022	DA referred to Council's Design Excellence Advisory Panel
8 April 2022	Amended plans provided to reflect preferred façade option of the DEAP and a response to the DEAP comments.
12 May 2022	Panel Briefing
22 May 2022	Amended plans provided in response to SECPP comments which provided a recessed roof element over the upper level balconies.
20 June 2022	Updated Letter of Offer provided.

2.3 Site History

The site has been used for the purpose of residential for an extended period of time. A search of Council's records revealed the following recent and/or relevant applications in relation to the subject site.

DA/428/2020

Development Application DA/428/2020 sought consent for an integrated development application for demolition of existing structures, site remediation, and construction of a 10 storey mixed use development comprising ground floor commercial / retail and 149 residential units, 2 level basement parking with vehicular access from Anzac Parade, tree removal, associated landscape and public domain works (variation to building height of the RLEP 2012). The application was appealed under Class 1 in the NSW Land and Environment Court. The appeal was dismissed on 01 October 2021. The application was primarily refused due to not exhibiting design excellence which was largely a result of the proposed street wall and the visual presentation and building mass of the Anzac Parade frontage. The proposed development is similar in concept, with revised elevations and street wall in an attempt to address the LEC refusal.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Randwick Local Environmental Plan 2012.*

The subject application was lodged on 22 December 2021. During the course of the assessment of the application, several SEPPs were consolidated into new SEPPs which came into force on 1 March 2022. The provisions of the previous SEPPs have generally been transferred over to the new SEPP, however where new SEPPs contain saving provisions, consideration of the previous and new SEPP will be undertaken in accordance with the provisions of 4.15 of the Act.

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021 (previously State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017)	Chapter 2 of the Biodiversity SEPP and Clause 7(1) of the Vegetation SEPP requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Consent for the removal of vegetation within the site is being sought under this DA.	Y
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Y
State Environmental Planning Policy (Housing) 2021	Part 3 – Retention of existing affordable rental housing.	N/A
SEPP 65	Clause 30(2) - Design Quality Principles - The proposal is consistent with the design quality principles contained within Schedule 1 of SEPP 65 and consistent with the objectives of the ADG.	Y
State Environmental Planning Policy (Planning Systems) 2021 (previously State Environmental Planning Policy (State and Regional Development) 2011)	Clause 2 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011: General Development over \$30million. Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: General Development over \$30million.	Y

SEPP (Resilience & Hazards) (previously SEPP 55 – Remediation of Land)	<p>Clause 7 of SEPP 55 – Remediation of Land</p> <p>Resilience SEPP 2021</p> <ul style="list-style-type: none"> Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 <p>Contamination and remediation has been considered and the proposal is satisfactory subject to conditions.</p>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)	<p>Infrastructure SEPP 2007</p> <ul style="list-style-type: none"> Clause 85(2) – Development adjacent to rail corridors Clause 86(4) – Excavation in, above, below or adjacent to rail corridors Clause 104 and Schedule 3 – Traffic-generating development <p>Transport and Infrastructure SEPP 2021</p> <ul style="list-style-type: none"> Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.97 – Development adjacent to rail corridors Section 2.98 – Excavation in, above, below or adjacent to rail corridors Section 2.121 and Schedule 3 – Traffic-generating development 	Y
LEP	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives Clause 4.3 – Height of Buildings Clause 4.4 – Floor Space Ratio Clause 6.11 – Design Excellence Clause 6.17 – Community infrastructure height of buildings and floor space at Kensington and Kingsford town centres Clause 6.18 – Affordable housing at Kensington and Kingsford town centres 	Y

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Biodiversity and Conservation) 2021
(previously *State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017*)

The Biodiversity and Conservation SEPP came into force on 1 March 2022. The new Biodiversity and Conservation SEPP shall replace the SEPP (Vegetation in Non-rural Areas) 2017, with Chapter 2 of the new Biodiversity SEPP applicable to the proposed development.

The proposed development requires the removal of nine (9) trees to facilitate the proposed development. Several of the trees proposed for removal are considered to be of low value, low significance, unstable or not worthy of retention. Conditions of consent shall be imposed to ensure trees identified for retention, or those on adjoining land, can be safely retained. Council's Landscape Officer raised no objection to the proposed tree removal subject to recommended conditions of consent. A detailed assessment of the proposed tree removal can be found in Attachment D under the referral comments.

The provisions of the Vegetation SEPP have generally been transferred over to the new Biodiversity and Conservation SEPP with particular regards to when a permit from Council is required to remove vegetation and the considerations for Council when granting consent to

remove vegetation. As such, it is considered that the proposed development would remain consistent with the provisions of the new Biodiversity and Conservation SEPP, noting the comments and justification above.

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

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 1109001M_05, dated 20 December 2021 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

The site at 137 Anzac Parade comprises an existing residential flat building which will be demolished as part of the proposed development. The RFB is under single ownership and has not been subdivided. As the proposal involves the demolition of a RFB, the provisions of Part 3 of the State Environmental Planning Policy (Housing) 2021 would be applicable to this component of the development in relation to the potential loss of affordable housing.

A request for information was sent to the Applicant to request the rental records for the property for the period commencing 5 years before the day on which the development application was lodged, being 22 December 2021. The Applicant advised that the property at 137 Anzac Parade has been utilised as part of Toga's Corporate Social Responsibility program in connection with the Addisons Project. The Addisons project provides supportive accommodation for youths and people in need, with the accommodation provided at the former Addisons Hotel, located at 141-151 Anzac Parade. The Addisons project is operated by a combination of My Foundations Youth Housing and Jewish House. My Foundations Youth Housing is a nationally registered Community Housing Provider, and Jewish House is a not-for-profit organisation who assist and provide rental accommodation to those in need.

The applicant has advised that the property at 137 Anzac Parade was utilised as part of the Addisons project initiative with the units providing shelter for people in need or otherwise vacant. As such it is considered that the subject property has not been rented within the general rental market.

Pursuant to clause 46(2) of the Housing SEPP, Part 3 does not apply to a building "owned by, or under the care, control and management of, a social housing provider". The Dictionary contained within the Housing SEPP defines a social housing provider as follows:

"social housing provider means the following—

- (a) the Secretary of the Department of Communities and Justice,*
- (b) the Land and Housing Corporation,*
- (c) a registered community housing provider,***
- (d) the Aboriginal Housing Office,*
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,*
- (f) a local government authority that provides affordable housing,*

(g) a not-for-profit organisation that is a direct provider of rental housing to tenants.”

The operators of the premises, being My Foundations Youth and Jewish House are considered to be social housing providers in accordance with the above definition. As such, it is considered that the provisions of Part 3 do not apply in this instance, and no further assessment of the loss of affordable housing is required.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The proposed development comprises a mixed-use development including a residential flat building that is eight (8) storeys, containing one hundred and forty-two (142) dwellings, therefore SEPP 65 is applicable to the proposed development.

In accordance with Clause 28 of SEPP 65, the development was referred to Council's Design Excellence Advisory Panel ("DEAP") who assessed the development against the design quality principles of SEPP 65 (refer to Attachment D). The DEAP advice was considered and amended plans provided to reflect the preferred design options of the development. A response and justification was also provided in relation to concerns raised by the Panel in relation to the deviations from the building envelope, potential amenity impacts upon neighbouring properties, the residential amenity of the proposed development and the provision of additional residential entrances. The amended proposal and justification is considered to have satisfactorily addressed the DEAP comments, subject to conditions, and therefore re-referral to the Panel was not considered necessary in this instance. The amended development is assessed as being in accordance with the design quality principles of SEPP 65.

An assessment has also been carried out against the design criteria of the Apartment Design Guide ("ADG") (refer to Attachment B). In summary, the development complies with the majority of the design criteria with the exception of the building separation (with regards to visual privacy), the depths of the open-plan living areas, and maximum number of apartments off circulation cores. The proposed variations are assessed as part of the Key Issues section or within the ADG compliance table and are supported as the development achieves the objectives of the criteria and the design guidance.

Clause 30 of SEPP 65 provides standards that cannot be used as grounds to refuse development consent, which include:

- (1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:
 - (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,

Assessment Officer comments:

Council's Development Engineer has advised that compliant car parking is provided in accordance with the minimum requirements stipulated under the ADG which state that the lesser rate of the DCP or Guide to Traffic Generating Developments is applicable.

- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

Assessment Officer comments:

The proposed development is compliant with the minimum internal areas specified by Part 4D of the ADG, with several of the apartments exceeding the minimum requirements.

- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Assessment Officer comments:

The proposed development comprises a mixed-use development with retail and office premises on the Ground Floor level and residential dwellings above. AN internal ceiling height of 4m is provided for the retail on the Ground Floor level. The First Floor level provides a floor-to-floor height of 3.7m which is adequate to accommodate a minimum internal ceiling height of 3.3m. Levels 02-08 provide floor-to-floor heights of 3.15m which is considered adequate to ensure minimum ceiling heights of 2.7m are provided.

- (2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:
 - (a) the design quality principles, and
 - (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

Assessment Officer comments:

Adequate regard has been given to the SEPP 65 design quality principles and the ADG design criteria as a design verification statement was submitted prepared by a registered architect stating that the design quality principles and ADG design criteria are generally achieved.

- (3) To remove doubt:
 - (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and
 - (b) the design criteria specified in subclause (1) are standards to which section 79C (2) of the Act applies.

In view of the above, the proposed development is considered to be consistent with the provisions of SEPP 65 and the ADG, and development consent can be granted in this instance.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')
(previously *State Environmental Planning Policy (State and Regional Development) 2011*)

State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP') applies to the proposal as the development is identified as being regionally significant development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 7 of the SRD SEPP, in which the proposal is development with a CIV over \$30 million.

Subsequently, the proposal is also identified as being *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning

Systems SEPP. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with both these Policies.

State Environmental Planning Policy (Resilience and Hazards) 2021
(previously *State Environmental Planning Policy No. 55 – Remediation of Land*)

Chapter 4: Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* ('SEPP 55') and Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Clause 7(1) of SEPP 55 and Section 4.6 of the Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A Remedial Action Plan (RAP) was submitted with the subject application in relation to the use of the adjoining site as a service station. However, there was no detailed site Investigation submitted for the proposed site. Council's Environmental Health Officer has reviewed the submitted documentation and it is recommended that a detailed site Investigation is undertaken and submitted to Council prior to the construction certificate being issued. Following the DSI, a revised RAP is to be developed and reviewed by a NSW EPA site auditor. While no DSI has been provided, in response to concerns raised by Council regarding the investigation of the subject site, an updated draft RAP was provided. The updated draft RAP has undertaken an investigation of the subject site, including a site history of the previous uses, in order to address data gaps and identify potential risks. The updated draft concludes that subject to proper implementation of the RAP and validation reporting, DP considers that the site can be made suitable for the intended use of the site, and therefore Council can be satisfied that the provisions of the resilience SEPP are met. Should the application be approved, the proposal is considered to be consistent with SEPP 55 and Chapter 4 of the Resilience SEPP, subject to the imposition of relevant conditions of consent.

State Environmental Planning Policy (Transport and Infrastructure) 2021
(previously *State Environmental Planning Policy (Infrastructure) 2007*)

The subject site is located adjacent to the light rail corridor and as such the proposed development requires an assessment and concurrence under Clause 85 and 86 of the Infrastructure SEPP, and Section 2.97 and 2.98 of the Transport and Infrastructure SEPP 2021. The proposal also requires referral to Transport for NSW pursuant to Clause 104 of the Infrastructure SEPP/Section 2.121 of the Transport and Infrastructure SEPP. A response was received from TfNSW who granted their concurrence to the proposed works, subject to a series of conditions. The proposal is considered to comply with the provisions of Infrastructure SEPP and Transport and Infrastructure SEPP 2021.

Randwick Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Randwick Local Environmental Plan 2012* ('the RLEP 2012'). The aims of the RLEP 2012 include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to foster a liveable city that is accessible, safe and healthy with quality public spaces and attractive neighbourhoods and centres,*
- (b) *to support a diverse local economy and business and employment opportunities for the community,*

- (c) *to support efficient use of land, vibrant centres, integration of land use and transport, and an appropriate mix of uses,*
- (d) *to achieve a high standard of design in the private and public domain that enhances the quality of life of the community,*
- (e) *to promote sustainable transport, public transport use, walking and cycling,*
- (f) *to facilitate sustainable population and housing growth,*
- (g) *to encourage the provision of housing mix and tenure choice, including affordable and adaptable housing, that meets the needs of people of different ages and abilities in Randwick,*
- (h) *to promote the importance of ecological sustainability in the planning and development process,*
- (i) *to protect, enhance and promote the environmental qualities of Randwick,*
- (j) *to ensure the conservation of the environmental heritage, aesthetic and coastal character of Randwick,*
- (k) *to acknowledge and recognise the connection of Aboriginal people to the area and to protect, promote and facilitate the Aboriginal culture and heritage of Randwick,*
- (l) *to promote an equitable and inclusive social environment,*
- (m) *to promote opportunities for social, cultural and community activities.*

The proposal as amended and subject to recommended conditions is considered consistent with the aims of RLEP 2012 for the following reasons:

- The mixed-use nature of the development shall support the business use of the site while providing additional housing stock in accordance with Council's long term strategy.
- The development shall provide adaptable and affordable housing to meet the needs of the community.
- The location of the site in close proximity to public transport, including the light rail, shall promote *sustainable transport, public transport use, walking and cycling*.
- The proposal shall not result in any detrimental impacts upon the environmental heritage of the surrounding area.
- The proposal is considered compatible with the desired future character of the Kensington Town Centre.

Zoning and Permissibility (Part 2)

The site is located within the B2 Local Centre Zone pursuant to Clause 2.2 of RLEP 2012.

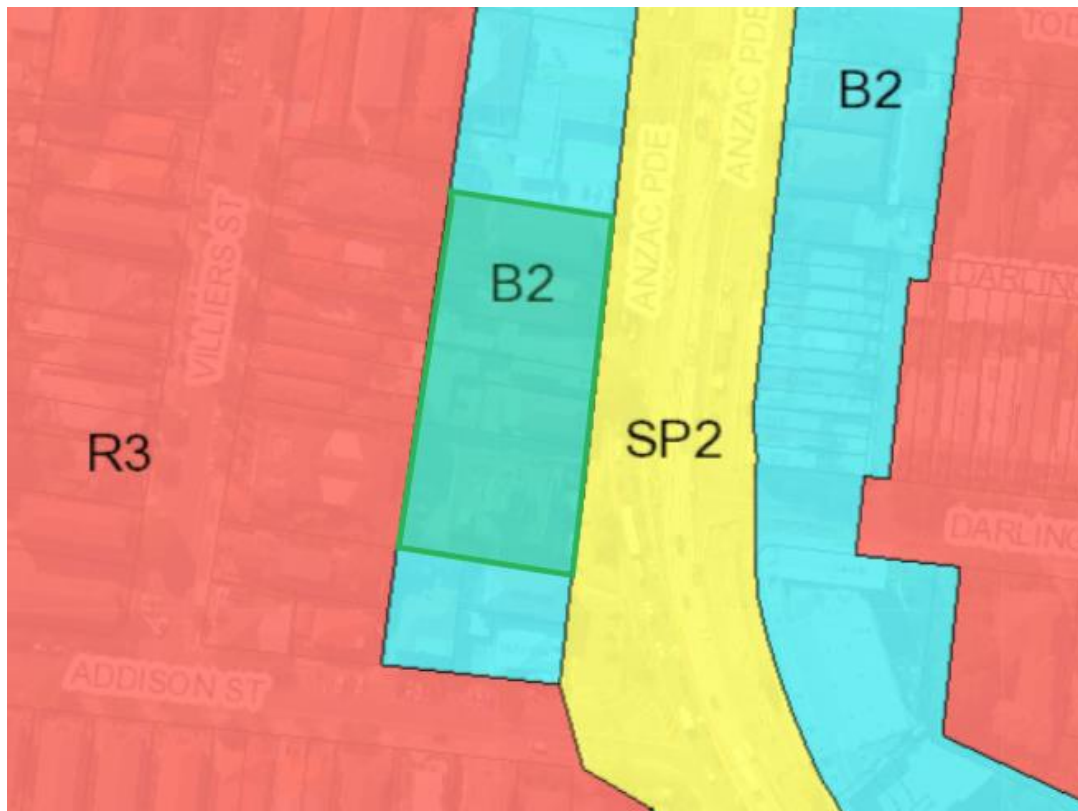


Figure 5: Zoning map of the subject site and surrounds

The proposed development comprises a mixed-use development, incorporating ground floor retail and office premises and residential dwellings above in the form of a Residential Flat Building. The subject site is zoned B2 Local Centre. Clause 6.14 of RLEP 2012 relates to development of certain residential accommodation in business zones, including the B2 zone. The intention of the clause is to prevent the construction of sole residential accommodation in business zones, with the exception of enabling an existing dwelling house or RFB to be retained. As such the construction of a RFB on the subject site is only permissible pursuant to clause 6.14. As the proposed development involves residential dwellings above ground floor retail premises, it is considered that the proposed development is appropriately defined as “shop-top housing” which is a permissible land use within the B2 zone. The provision of office premises at the rear of the Ground Floor level ensures that commercial premises are provided at the Ground Floor level with residential dwellings located above the ground floor of the building. As such, the proposed mixed-use development comprising retail and office premises, and residential dwellings is considered to be permissible with development consent.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The mixed-use nature of the development shall ensure a range of retail and business uses in the form of retail and office premises at the site, providing for employment opportunities.
- The proposed use also provides residential development that is well-integrated with and compliments the business function of the zone.
- The proposed pedestrian and share way links, and upgrading of the public domain along Anzac Parade shall provide a good urban design outcome and improve pedestrian amenity.
- While it is acknowledged that the proposed development shall result in adverse amenity impacts upon the adjoining properties, the area is considered to be undergoing transition and the proposal is not inconsistent with a level of built form anticipated for the site. As such, the proposal is not considered to result in any unreasonable impacts upon the neighbouring residential properties.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

The proposal does not comply with the development standards in Part 4 and Part 6 of RLEP 2012, being Clauses 4.3 and Clause 6.17 in relation to building height, accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height development standards.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (Cl 4.3(2) and 6.17(4))	31 metres pursuant to clause 6.17 and the provision of community infrastructure.	35.45m to the lift overrun.	No
FSR (Cl 4.4(2) and Cl 6.17(4))	4:1 pursuant to clause 6.17 and the provision of community infrastructure.	3.99:1 or 15,614.70m ²	Yes
Stormwater Management (Cl 6.4)	Development designed to manage stormwater and avoid adverse impacts of stormwater run off.	The proposal shall involve stormwater infrastructure to appropriately manage stormwater at the site.	Yes
Design Excellence (Cl 6.11)	For buildings at least 15m in height, design excellence must be exhibited.	The proposal is considered to exhibit design excellence. See Key Issues for further comment.	Yes
Community infrastructure height of buildings and floor space at	Alternative building height and FSR where the development includes community	A letter of offer has been provided to enter into a VPA for the provision of CIC.	Yes

Kensington and Kingsford town centres (CI 6.17)	infrastructure on the site.		
Affordable housing at Kensington and Kingsford town centres (CI 6.18)	A contribution for affordable housing equating to 3% of the total floor area of the development intended for residential purpose.	A letter of offer has been provided to enter into a VPA for the provision of affordable housing to be dedicated as housing stock.	Yes

The proposal is considered to be generally consistent with the LEP.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation

The proposal seeks to vary the following development standards contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 6.17: Building height (max)	31m	35.45m	4.45m	14.3%

The maximum height of the proposed development shall be 35.45m above the existing ground level to the lift overrun. The following structures are also sited above the 31m height limit:

- Pergolas on the roof top areas (to a maximum height of 33.39m);
- Enclosed access stairs to the roof terrace (to a maximum height of 32.9m);
- Screening around the perimeter of the plant areas (to a maximum height of 32.44m);
- Balustrades around the perimeter of the roof terrace (to a maximum height of 31.54m).

Preconditions to be satisfied

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to CI 4.6(4)(a) – this includes matters under CI 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (CI 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to CI 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the height of buildings development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the height of buildings standard are set out in Clause 4.3 (1) of RLEP 2012 with the objectives of the alternative building height set out in Clause 6.17.

The objectives of clause 4.3 are as follows:

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality*
- (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- (c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

Assessing officer's comment:

The Applicant argues that the provisions of the K2K DCP and RLEP 2012 identify the desired future character to consist of high-density, mixed-use development with a greater built form to that which exists in the current streetscape. The proposal only seeks to vary the height standard to deliver an additional area of communal open space on the roof. The variation relates to the associated structures, being the lift, stairs and pergolas as well as plant screening. The proposed structures are well setback from the outer building alignment and shall not be visible from the public domain, and shall appear as a compliant building height as viewed from the street. The proposal is consistent with the maximum number of storeys, with the roof area providing for additional amenity.

The development is not within a conservation area nor identified as a heritage item. There are no heritage items within the vicinity of the site, however there are contributory facades on the adjacent buildings on the eastern side of Anzac Parade. The application was referred to Council's heritage planner who raised no objection to the proposed development subject to recommended conditions.

The proposed area of non-compliance shall not give rise to additional amenity impacts beyond a fully compliant development. In this regard, the proposed roof top structures shall not result in any unreasonable impacts upon adjoining properties in relation to visual bulk, privacy, overshadowing and views.

The objectives of clause 6.17 are as follows:

- (a) to allow greater building heights and densities at Kensington and Kingsford town centres where community infrastructure is also provided,*
- (b) to ensure that those greater building heights and densities reflect the desired character of the localities in which they are allowed and minimise adverse impacts on the amenity of those localities,*
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.*

Assessment Officer's comments:

Community Infrastructure shall be provided on site via a Voluntary Planning Agreement. A letter of offer has been provided in which the applicant agrees to enter into a VPA. A deferred commencement condition shall be imposed for the VPA to be finalised and endorsed by Council before the consent becomes operative.

The provision of the communal open space on the roof shall ensure that adequate COS is provided for occupants of the development should the rear western share way be implemented at a future date. The location of the roof top structures shall ensure that they are not readily visible from the public domain or adjoining residential properties, and the nine (9) storeys nature of the development shall ensure consistency with the future character of the area. The setback of the structures shall also not give rise to any unreasonable amenity impacts upon surrounding properties.

The proposed development complies with the FSR specified for the site, which permits a higher density in response to the location of the site and proximity to public transport. The proposed roof top structures do not contribute to any additional GFA, and therefore does not increase the density of the development, and the land use and level of development is considered to be consistent with that anticipated for the site and the capacity of the infrastructure.

In conclusion, the applicant's written request has adequately demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case.

Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the height development standard as follows:

- The non-compliant height and roof top areas are in response to the site's constraints and the ability to provide a compliant scheme due to the narrow allotment.
- The site provides a pedestrian link to the north and an area for the purpose of a future share way/laneway to the west which compromises the future use of the communal space at the ground floor levels.
- The roof top terrace and associated structures provides for an additional communal open space area for occupants, with the roof area considered most suitable to minimise privacy and view impacts.
- The proposed non-compliance does not result in any adverse environmental planning impacts.

Assessing officer's comment:

The ability to provide communal open space on the site is constraint by the required links to the north and west, and it is considered that communal roof terrace will provide increased amenity for occupants with negligible impacts upon adjoining properties and the public domain. The proposal also provides apartment sizes in excess of the minimum requirements to ensure a high level of amenity which results in an increased floor plate and reduction to open space and therefore the roof terrace is considered warranted. As such, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the height of buildings standard and B2 zone is undertaken.

As discussed under the zoning and permissibility heading of the report, the proposal is considered to be consistent with the objectives of the B2 zone, and as outlined above, the proposed development is also found to be consistent with the objectives of clause 4.3 and clause 6.17 in relation to building height, and therefore the development will be in the public interest.

Concurrence of the Secretary

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum height of buildings standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the height of buildings development standard.

(b) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Randwick Development Control Plan 2013* ('the DCP')
- *Randwick Kensington and Kingsford Town Centres DCP 2020* ("K2K DCP 2020")

The DCP provides guidance for development applications (DAs) to supplement the provisions of the Randwick Local Environmental Plan (RLEP). The K2K DCP 2020 has specific controls applicable to the proposed development at the subject site, including a building envelope for the site.

The areas of non-compliance with the DCPs are considered in further detail under the Key Issues section of the report. The assessment concludes that the variations are supported on merit in this instance.

Contributions

S7.12 Contributions

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *S7.12 Development Contributions Plan (Randwick Section 94A Development Contributions Plan 2015)*

This Contributions Plan has been considered and applied accordingly.

Affordable Housing Contributions and Community Infrastructure Contributions

As detailed below, additional contributions are applicable in relation to affordable housing and community infrastructure in accordance with clause 6.17 of RLEP 2012, the Community Infrastructure Plan for the Kensington and Kingsford town centres, and the Kensington and Kingsford Town Centres affordable housing plan. Appropriate conditions of consent are recommended for the inclusion of the above.

(c) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

The applicant has offered to enter into a draft planning agreement under Section 7.4 of the EP&A Act, with a letter of offer provided with the subject application in relation to the provision of affordable housing and community infrastructure contributions.

Community Infrastructure

The letter of offer is required to be made to Council to satisfy the provisions of Council's Community Infrastructure Contributions Plan which provides for the delivery of infrastructure through the means of a Voluntary Planning Agreement. The proposed development seeks to benefit from the alternative height and floor space ratio provisions applicable by providing community infrastructure contributions in accordance with the provisions of clause 6.17 of Randwick Local Environmental Plan 2012. The letter of offer confirms the Applicant's offer to Council to enter into a VPA to provide the community infrastructure. Should the application be approved, the letter of offer would form the basis of a deferred commencement condition requiring a formal Voluntary Planning Agreement to be publicly exhibited and subsequently agreed to by Council. Further, the infrastructure items in the letters of offer would be subject of further detail in terms of scope, design and specification. Should it become apparent that the works are not feasible or cannot be conducted at a reasonable cost to the applicant, or if Council requires a superior standard of works than proposed by the Applicant, then an equivalent monetary payment is to be made.

Affordable Housing

The Kensington and Kingsford Town Centres affordable housing plan aims to ensure that lower income households continue to live and work locally within Randwick LGA, to facilitate a socially diverse and inclusive community; and to support the economic functions of the Randwick Education and Health Strategic Centre. The letter of offer contains the affordable housing contributions which will also be subject to applicable conditions in the consent. It is intended that the dedication of housing stock equating to a total area of 528m² would be dedicated to Council rather than as a monetary contribution.

The proposal is consistent with the required Planning Agreements as discussed in this report.

(d) Section 4.15(1)(a)(iv) - Provisions of Regulations

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. The relevant provisions can be addressed through conditions of consent if an approval is forthcoming.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.

The proposed development is consistent with the dominant character in the locality.

The proposal will not result in detrimental social or economic impacts on the locality.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed. The referral responses are detailed in Attachment C.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Transport for NSW	Section 138 of the Roads Act 1993	Concurrence granted subject to conditions.	Y

	Clause 85(2) of the SEPP (infrastructure) Clause 86(4) of the SEPP (infrastructure) Clause 104 of the SEPP (infrastructure)		
Referral/Consultation Agencies			
Sydney Airport Corporation	RLEP 2012 S186 of the Airports Act 1996 Regulation 8 of the Airport Regs	No objection raised.	Y
Ausgrid	Clause 45 of the SEPP (infrastructure)	No objection, concurrence granted.	Y
Design Review Panel	CI 28(2)(a) – SEPP 65 Clause 6.11 of RLEP 2012. Advice of the Design Excellence Advisory Panel ('DEAP')	The advice of the DEAP has been considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report.	Y
Integrated Development (S 4.46 of the EP&A Act)			
Water NSW	Section 89 of the Water Management Act 2000 Section 90 of the Water Management Act 2000	Water NSW has issued concurrence to the proposed development subject to conditions/general terms of approval.	Y

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Development Engineer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Y
Traffic	Council's Development Engineer reviewed the proposal and raised no concerns in relation to traffic generation and car parking.	Y
Building	Council's Senior Building Surveyor reviewed the proposal and considered that there were no objections subject to conditions.	Y
Health	Council's Environmental Health Officer reviewed the proposal and raised no objections subject to conditions.	Y
Waste	Council's Development Engineer reviewed the proposal and raised no concerns in relation to waste management, subject	Y

	to conditions requiring the implementation of an automated waste collection system.	
Heritage	Council's Heritage Officer reviewed the proposal and raised no concerns subject to conditions.	Y

Detailed referral comments are provided in Attachment D.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 20 January 2022 until 18 February 2022. The notification included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties (approximately 89 properties);
- Notification on the Council's website.

The Council received a total of five (5) unique submissions, comprising four (4) objections and one (1) submission in favour of the proposal. One (1) submission was made on behalf of all property owners within a RFB, and one (1) submission appendix a pro-forma/petition signed by fifty-one (51) persons. The issues raised in these submissions are considered in **Table 7**.

Table 7: Community Submissions

Issue	No of submissions	Council Comments
<u>Solar access</u> Concerns regarding loss of light. Concerns regarding overshadowing and loss of winter sunlight, noting that the dwellings along the eastern side of 17-21 Villiers Street only receive a minimum of 3 hours of sunlight which shall be completely lost. Inconsistencies with the objectives of SEPP 65. The future overshadowing impact of the redevelopment of	2	The proposed development shall result in additional overshadowing impacts upon the adjoining properties, with particular regards to the residential properties to the west and south. See Key Issues for further discussion.

the adjoining sites should not be relied upon.		
<u>Building Height</u> Non-compliance with the building height and adverse impacts.	3	The proposed development seeks a variation to the maximum height of 31m. A clause 4.6 written request has been submitted for the contravention of the height standard which is supported. See Key Issues and Clause 4.6 assessment for further detail.
<u>Built Form</u> Concerns regarding non-compliance with the DCP building envelope and an alternative building design.	1	The deviation from the building envelope control is considered in detail within the Key Issues section of the report. The proposed density of the development is not considered to be excessive, noting compliance with the FSR provisions.
<u>Visual Privacy</u> Concerns regarding overlooking from the proposed development to the rear properties along Villiers Street. Concerns regarding overlooking from landscaped roof area to the south to 7 Addison Street. Non-compliance with the ADG in relation to the different zonings with the western properties and an increased setback of 3m. The existing building at 17 Villiers Street is only 5.1m resulting non-compliance with the required 12m + additional 3m spatial separation. Concerns regarding	4	The proposal is considered to be largely consistent with the spatial separation requirements under the ADG, with privacy measures imposed where there is a non-compliance with the minimum requirements. Additional privacy measures have been imposed where appropriate. It is considered that even if the rear share way is to be achieved in the future, the provisions of the K2K DCP envisage landscaping to be incorporated into the laneway, and therefore screen planting shall be retained along the rear of the site. The proposal is not considered to result in any unreasonable privacy impacts upon adjoining properties. See Key issues for further discussion.

<p>overlooking from the living rooms, balconies and COS on the western elevation. Concerns regarding future loss of planting along the rear boundary and privacy impacts. Request for translucent glazing to be provided on western windows.</p>		
<p><u>Traffic and Parking</u> Concerns regarding traffic generation as a result of the proposed development. The submitted Traffic and Parking assessment is based on an outdated public bus network, including no direct bus service to Bondi Junction or Eastlakes. Concerns regarding the accuracy of the number of vehicle trips. Inaccuracies in the required number of parking spaces. Use of the redundant TfNSW guidelines. Concerns regarding the number of parking spaces.</p>	3	<p>The proposed development results in a minor shortfall in parking as required under the K2K DCP 2020. A total of 156 spaces would be required under the K2K parking provisions. The proposed development shall provide a total of 151 parking spaces, including 2 car share spaces in order to compensate for the minor shortfall. While the changes to the bus services are noted, the subject site is still well serviced by public transport, including the light rail. Given the minor non-compliance with the parking requirements, and the proposed car share spaces, the proposal is not considered to result in any unreasonable impacts with regards to traffic and parking.</p> <p>Council's Development Engineer has reviewed the proposal and raises no objections to the proposed traffic generation or parking. See Attachment D for detailed comments.</p>
<p><u>Acoustic and Noise impacts</u></p>	4	<p>The provisions of clause 14 of the K2K DCP 2020 generally aim to achieve specific noise criteria within the proposed dwellings, and to control noise impacts</p>

<p>Concerns regarding generally noise impacts from the development.</p> <p>Concerns regarding noise from the roof top COS.</p> <p>Concerns regarding noise from the vehicle access, ramp and carpark, noting that the western wall comprises louvres and an open structure rather than masonry wall.</p> <p>Concern regarding the placement of plant or mechanical venting on the western façade.</p> <p>Concerns regarding the acoustic assessment and absence of consideration of the western adjoining properties.</p> <p>Concerns regarding noise from the balcony areas to the west and the adverse amenity impacts upon adjoining properties.</p> <p>The acoustic assessment does not consider noise from COS areas.</p>		<p>from commercial spaces within mixed-use developments, as well as from plant etc. The NSW Environmental Protection Authority's Noise Policy for Industry provides criteria and guidance for the assessment of commercial type development as well as building services noise levels. The K2K DCP 2020 does not specify any requirements or acoustic criteria for the assessment of noise resulting from the use of the residential occupancies, including the external COS areas, nor are there any other relevant policies or guidelines which address this. The acoustic report submitted with the application does not raise any concerns with regards to noise impacts from the proposed development upon neighbouring properties with regards to the Noise Policy for Industry. It is considered that the use of the COS areas would result in similar noise levels to that of other residential uses and would be governed by the Protection of the Environment Operations Act 1997, associated Regulations, Guidelines and Policies to ensure the use of the site does not cause any public nuisance. Conditions of consent shall be imposed in accordance with the above.</p>
<p><u>Landscaping and Tree impacts</u></p> <p>Concerns regarding the proposed excavation and</p>	2	<p>Conditions of consent shall be imposed to ensure that there is no damage or subsidence of the existing trees on neighbouring land as a result of the proposed works. Detailed conditions shall require a qualified Arborist to oversee any works in proximity to the trees, with tree protection measures put in place.</p>

dewatering works and potential impacts upon the existing tree at 7 Addison Street. Concerns regarding the landscaping provisions within the rear of the site and loss of landscaping should a future laneway be implemented.		The proposed area identified for future laneway forms part of the subject site. As discussed in the Key Issues section, the laneway would be reliant on the redevelopment of the properties to the north and south, noting that the proposed laneway is not required to provide vehicular access to the subject site. The intention of the laneway is to be a share way for both pedestrian and vehicular access. The objectives of the laneway control aim to provide “leafy, green and usable laneways” and the control requires the provision of landscaping within the laneway. As the laneway relies on the redevelopment of the adjoining sites, in which no timeframe or grantee is provided, it is unclear at what stage a laneway may be implemented. The proposed area forms part of the subject site and it would be unreasonable for Council to exclude this area.
<u>Heritage</u> Concerns regarding impacts upon heritage listed items on Villiers Street at 4, 14 and 16. The submission also raises concerns regarding the identification of these properties on Council's website.	1	Schedule 5 and the Heritage Conservation map contained within RLEP 2012 identifies the sites at 4, 14 and 16 Villiers Street as being local heritage items. The application was referred to Council's Heritage Planner who considered the proposed development in the context of the surrounding heritage items and contributory items. Council's Heritage Planner raised no objection to the proposed development subject to recommended conditions. See detailed Heritage comments in Attachment D for further discussion.
<u>Public Access Laneway</u> Concerns regarding the proposed western laneway for use as communal open space and landscaping.	2	See Key Issues for further discussion.
<u>Precedent</u> Concerns regarding the approved of the roof terrace and setting a precedent.	1	Each application is assessed on its own merits. The provision of a roof terrace is not prohibited under the planning controls and is dependant on the associated adverse impacts. The proposed roof terrace is not considered to result in any unreasonable privacy, visual bulk or overshadowing impacts and is supported in this instance. It is not considered that the proposed roof terrace would set an undesirable precedent.

<u>Stormwater Management</u> Concerns regarding reliance on the rear laneway area for the purpose of stormwater management.	1	Council's Development Engineer has reviewed the proposal and raises no objections to the proposed stormwater management, subject to the imposition of relevant recommended conditions of consent which requires the submission of detailed stormwater plans to Council for approval. As discussed within the report, the rear laneway forms part of the subject site and therefore infrastructure within this section of the site is not unreasonable.
<u>Water Extraction</u> Concerns regarding noise and vibration impacts from water extraction, and the request for pumps to be provided to Anzac Parade. Groundwater to be monitored for toxins and heavy metals.	1	Appropriate conditions of consent shall be imposed to ensure no adverse impacts upon adjoining properties during works, including water extraction.
<u>Sewage Infrastructure</u> Concerns regarding the capacity of the existing sewage system to accommodate the proposed development. Concerns regarding possible subsidence of sewer pipes during works.	1	The application shall require approval from Sydney Water to ensure the proposal shall not impact upon any waste water or sewer, or if any future requirements need to be met.
<u>Insufficient Information</u> Concerns regarding the plans and the location of adjoining properties to determine building separation.	1	While the proposed plans do not identify the adjoining properties, adequate information was provided to Council to undertake the assessment of the application.

5. KEY ISSUES

The key issues with the proposed development are in relation to deviations from the building envelope controls, non-compliance with the maximum height and amenity impacts upon neighbouring properties, with particular regards to visual privacy. Despite the non-compliances, it is considered that the proposed development is not inconsistent with the relevant provisions and objectives of the RLEP 2012, RDCP 2013, K2K DCP 2020 and the B2 zoning of the site.

Design Excellence

Clause 6.11 of RLEP 2012 requires development to exhibit design excellence where the building will be at least 15m in height. The proposed development shall be greater than 15m in height, with a proposed maximum height of 35.45m. As such the provisions of clause 6.11 are applicable. Furthermore, the proposed development includes a residential flat building of eight (8) storeys and therefore SEPP 65 is applicable to the proposed development. Clause 28 of SEPP 65 requires the consent authority to take into consideration advice obtained from any Design Review Panel in determining the application.

In view of the above, the subject application was referred to Council's Design Excellence Advisory Panel ("DEAP") who considered the design and architectural merits of the proposal in relation to design excellence and assessed the development against the design quality principles of SEPP 65. See Appendix X for detailed comments from the DEAP.

The Applicant provided a series of different options for the treatment of the eastern elevation fronting Anzac Parade. The DEAP considered the options and provided the following comments:

This proposal envisages a three-part podium of four and five-storey elements, the higher element in the middle. The panel supports the additional height of the central element as it provides variety within the long block and relates to contemporary buildings close to the north and south of the site, which have podiums ranging from 4–6 storeys. In addition, the options show varying degrees of change in façade modulation above the four-storey street wall, providing emphasis beyond that offered by the required setbacks.

The panel supports the emphasis on the street wall portions (podium element widths) in the same colour or with the vertical colour change. I.e options 02 and 04 as they tend to break the block up into three distinct buildings. Option 03 also does this to a lesser extent.

The panel recommends further modulation of parapet heights and receding of top level balconies to emphasise the three separate sections to the building.

As such, the architectural plans were amended to reflect the feedback from the DEAP and the preferred architectural style and composition, being option 02. The amendments also involved receding of the upper level balcony roofs to further modulate the parapet. The amended plans are the subject of the assessment.

The DEAP also acknowledged that the overall built form was largely consistent with the precinct and site-specific controls, noting that the allowable density is difficult to reconcile within the height controls whilst achieving a good urban design and amenity outcome, however did raised concerns regarding the non-compliance with the DCP building envelope at the rear which impacts upon both occupants' and nearby residents' amenity. The DEAP noted that the building should conform with the DCP and ADG rear setbacks.

Notwithstanding the Panel's support regarding the architectural design and elevations, with particular regards to the Anzac Parade frontage, additional concerns were raised by the DEAP which are addressed as follows:

- The building would benefit from individual entry point to each of the three (3) lift cores, and the hallways to the lifts could be made more inviting.

While separate entries would be beneficial, this recommendation was not adopted by the Applicant. The Ground Floor level fronting Anzac Parade comprises retail premises in accordance with the K2K DCP requirements, and allows for activation of the streetfrontage. As originally proposed, the retail spaces were large open areas to allow flexibility in the future tenancies. Imposing three (3) separate entries would limit the use and functionality of these areas and restrict ongoing flexibility and longevity for the use of the retail spaces. The proposed design with one formal entry allows retail pedestrian entries along the entire frontage, and large areas of commercial space which can be broken up and utilised determined by market demand. The one formal residential entry also addresses accessible access, facilitating DDA compliant access. The site is subject to flooding and therefore the ground floor levels are raised above the footpath. Additional entry points would have to be designed around the accessibility requirements, involving ramps and/or lift access at the streetfrontage, which would further impact upon the extent of retail/commercial space available fronting Anzac Parade. In response to the DEAP concerns, the internal Lobby area was amended to relocate the mail room to the exterior of the entrance, and allow for a more open style and inviting entry and Lobby space, including a waiting/lounge area within the Lobby. It is considered that the proposed one (1) entry is an appropriate response to the site.

- The width and spacing of the rear wings do not comply with the DCP envelope, and the residents' amenity suffers accordingly. The rear neighbours amenity is also impacted, particularly regarding views of sky and privacy.

The DEAP noted that the overall bulk and scale was supported, however did raise concerns regarding the deviation from the K2K DCP building envelope. The DEAP noted that the subject site comprises approximately 75% of Block 21, which provides for three (3) rear wings across the entire block. Due to the site not acquiring the southern properties, the Applicant has proposed three (3) rear wings for the development for their site rather than adopt a two (2) wing approach. The Applicant advised that massing studies were undertaken which investigated the feasibility of both a two (2) and three (3) wing approach. The study identified that a two (2) wing design would not facilitate compliant natural cross-ventilation in accordance with the ADG and would compromise the amenity of the apartments. The three (3) wing design would permitted compliance with the cross-ventilation requirements, shall break up the building mass at the rear and provide greater articulation as viewed from the neighbouring properties to the west, without resulting any significant adverse amenity impacts compared to a compliant DCP envelope.

The Block 21 controls do acknowledge the western portion of the development may result in a variation to the building envelope specified by identifying this area as a flexible zone, permitting up to nine (9) storeys across the rear western portion of the site. Given that the applicant has not acquired the southern sites, alternative design options must be considered to determine the best design solution for the proposal. The proposal is largely consistent with the Block 21 building envelope with regards to the number of storeys and the intention of the break in built form at the rear. Given the negligible impacts associated with the proposed three (3) wing design with regards to neighbouring amenity, and that the proposed design provides a greater level of articulation and break in the building mass, the proposal is supported in this instance.

- The proposal's density compromises sustainable aspects such as solar access and cross ventilation. The provided metrics are skewed by the two lowest levels of apartments rebranded as offices and SOHOs but are planned as separate domiciles.

The Block 21 building envelope provides for one (1), four (4) and eight (8) storeys at the rear, however provides for a flexible zone of up to nine (9) storeys across the entire rear western portion of the built form. The proposed development provides one (1) storey, two (2) storey and nine (9) storeys at the rear. The predominant two (2) storey base which extends across the majority of the site has been designed in response to the zoning of the site, which requires retail/commercial uses to be provided at the Ground Floor level. As such office spaces are provided on the Ground Floor level fronting the western future share way, with connecting Studio apartments above. Given that the activation of the office/business spaces is reliant on the redevelopment of the adjoining sites and completion of the laneway and pedestrian link, it is not considered unreasonable to allow the office space to be in conjunction with a dwelling, which shall ensure the ongoing use of the spaces until such time as the future laneway is achieved. The two (2) storey component is setback 6m from the western boundary in accordance with the requirements of the ADG and is not considered to result in any unreasonable amenity impacts upon the adjoining properties to the west. The proposed design allows for apartments to achieve compliance with the provisions of the ADG with regards to solar access and natural ventilation.

Assessment of the proposed built form against the provisions of Clause 6 (Built Form) and the Block 21 building envelope are considered in detail further in the report. In consideration of the DEAP comments, and the justification provided in relation to the concerns raised, it is considered that the proposed development is an appropriate design response to the site. The DEAP were generally supportive of the application with the exception of the variation to the building envelope which is warranted in this instance. As such, it is considered that Council can be satisfied that the proposed development exhibits design excellence in accordance with the provisions of clause 6.11 of RLEP 2012.

Building Height

- Clause 4.3 (Height of Buildings) of RLEP 2012
- Clause 6.17 (Community infrastructure height of buildings and floor space at Kensington and Kingsford town centres) of RLEP 2012
- Clause 6.1 (Built Form) of K2K DCP 2020

Pursuant to the height of buildings map under clause 4.3, the subject site has a maximum permissible building height of 25m. However, clause 6.17 of RLEP 2012 states that despite clause 4.3, additional height provisions are permitted for the subject site if the development includes community infrastructure on the site. A letter of offer has been submitted in which the Applicant agrees to enter into a Voluntary Planning Agreement for the provisions of community infrastructure contributions at the site in accordance with the CIC Plan. As such, pursuant to clause 6.17, the maximum permitted height for the development is 31m.

The maximum height of the proposed development shall be 35.45m above the existing ground level to the lift overrun. The following structures are also sited above the 31m height limit:

- Pergolas on the roof top areas (to a maximum height of 33.39m);
- Enclosed access stairs to the roof terrace (to a maximum height of 32.9m);
- Screening around the perimeter of the plant areas (to a maximum height of 32.44m);
- Balustrades around the perimeter of the roof terrace (to a maximum height of 31.54m).

As such the proposed development is numerically non-compliant with the development standards under clause 4.3 and clause 6.17 of RLEP 2012, with the proposal sited a maximum of 4.45m above the maximum height limit. Quantitatively, the Applicant seeks to vary the development standard by approximately 14.3% and a Clause 4.6 exception to vary the development standard is required. See assessment of Clause 4.6 in relation to the contravention of the maximum height.

The proposed development is a maximum of nine (9) storeys in accordance with the provisions of clause 6.1(b) in relation to building height, with the proposed height breach relating to roof top structures only. The proposed structures are primarily to provide access to the roof which includes a roof terrace to form additional communal open space for the development. The proposed pergolas provide necessary shading to the roof areas to increase the usability of the COS. It is considered that the proposed structures on the roof provide additional amenity for the occupants without comprising the amenity of the neighbouring properties or public domain, noting that the proposed roof top structures shall not be readily visible from the wider public domain given the generous setbacks of the structures. A detailed assessment of the contravention of the height has been undertaken in accordance with the provisions of clause 4.6 and the proposed height is supported in this instance.

Built Form

Street walls

Clause 6.1 of K2K DCP 2020 specifies that buildings must be designed with a street wall height of four (4) storeys. The proposed development provides a varied street wall height of four (4) and five (5) storeys, with the five (5) storey element provided to the central portion of the building.

The subject site has a significant frontage width to Anzac Parade of approximately 91m. As such, the proposed development has provided a varied street wall height in order to break up the building mass and provide suitable articulation of the eastern building façade. The application was referred to Council's Design Excellence Advisory Panel who were supportive of the variation in wall height and provided the following comments:

The DCP allows for a nine-storey building on the subject block and 18 storeys on the adjacent K4 site in this Kensington Town Centre precinct. A four-storey podium wall height control is critical in uniting these disparate elements and creating a cohesive streetscape.

This proposal envisages a three-part podium of four and five-storey elements, the higher element in the middle. The panel supports the additional height of the central element as it provides variety within the long block and relates to contemporary buildings close to the north and south of the site, which have podiums ranging from 4–6 storeys. In addition, the options show varying degrees of change in façade modulation above the four-storey street wall, providing emphasis beyond that offered by the required setbacks.

The relevant objectives of clause 6.1 aim to ensure that the built form is compatible with the desired future character of each centre, ensure that development reinforces the urban structure and street hierarchy, and ensure street walls provide a human scale in the public realm. As noted by the DEAP, the site to the north is a strategic node site. It is anticipated that the future development of this site shall incorporate a four (4) storey wall height with tower above in accordance with the building envelope specified. The site to the south benefits from a valid development consent for the construction of a mixed-use development. The approved development provides a four (4) storey street wall with two (2) recessed storeys above. It is noted that the four (4) storey height of the adjoining development would be comparable in height with the four (4) storey street wall of the proposed development. As such, the provision of four (4) storeys to the north and south on the Anzac Parade elevation shall ensure a consistent street wall and urban design outcome with the adjoining properties. While it is acknowledged that the five (5) storey street wall in the central portion does not comply, this is considered appropriate to break up the street elevation and the building mass, and it is considered that the five (5) storey element shall not detract from the overall streetscape character which shall adopt the four (4) storey street wall height. The proposed design

provides relief in the built form, with the overall street wall heights considered to provide a human scale. As such, the proposed variation is supported on merit in this instance.

Building setbacks

The provisions of clause 6.1 specify that the building setbacks should be consistent with the setbacks illustrated in the block controls under Part B of the K2K DCP 2020.

Eastern Setback

The subject site is identified as being within Block 21 of the block by block controls. The site plan for Block 21 requires a 1.5m setback to Anzac Parade for the first four (4) levels, and an additional 4m setback for the upper levels, requiring a 5.5m setback for levels 4-9. The proposed development provides a minimum setback of 4.5m above the four (4) and five (5) storey street walls which technically does not comply with the building setback specified. The main objective of the building setback control is to provide upper level building setback controls to reinforce the desired scale of buildings, minimise overshadowing of the street and other buildings and create a cohesive streetscape environment. The proposed setback of 4.5m has been considered in the context of the future character of the area as well as the approved built form at 153-157 Anzac Parade under development consent DA/900/2014. The approved development to the south provides a nil setback to the Anzac Parade boundary for the first four (4) storeys, a 4m setback to the external wall and 1.5m setback to the balcony on level 4, a 4m setback to the external wall and 2.65m setback to the balcony on level 5, and a 6m setback to the external wall and 4m setback to the balcony on level 6. As such, the predominant setback of the upper level of the adjoining building shall be 4m from the boundary. It is considered that the proposed setback of 4.5m would allow a suitable transition between the southern sites and the adjoining property to the north to create a cohesive streetscape outcome. Notwithstanding the above, even if the development to the south does not commence, the proposed variation of 1m for the upper level setbacks is not considered to warrant refusal of the application for the following reasons:

- It is considered that the proposed setback of 4.5m rather than 5.5m would not be discernible when viewed within the streetscape and adjoining buildings, particularly in consideration of the context of the eastern elevation in which the upper levels provide a series of balconies on the eastern elevation fronting Anzac Parade.
- The inclusion of the balconies on the eastern elevation ensure a high level of modulation, and the additional 1m depth is not considered necessary in this instance to break up the building mass which is achieved through the varied street wall heights and variation in materiality.
- The proposed balconies ensure an area of private open space is provided for each apartment. It is noted that if an increased setback of 1m was provided, the balconies would not comply with the minimum size specified in the ADG, and the reduction to the internal floor area would compromise the internal amenity of the apartments.
- The proposed setback of 4.5m does not result in any unreasonable overshadowing impacts upon the street or public domain. Compliance with the 5.5m would have negligible impact upon solar access to the street.

In view of the above the minor variation to the building setback for the Anzac Parade frontage is supported in this instance. The remaining building setbacks for Block 21 are considered below:

Northern setback

Required	Proposed	Compliance
3m at Ground Floor Level	3m at Ground Floor Level	Complies.

6m at Levels 01-03	3m for the eastern portion of the building, 6m for the western portion	Eastern portion does not comply, western portion complies.
9m at Levels 04-09	3m for the eastern portion of the building, 9m for the western portion	Eastern portion does not comply, western portion complies.

The proposal provides a 3m setback for all levels to the northern boundary at the eastern portion of the building. The proposed 3m setback is to a building length of 16m at Levels 01-03 and 13m at the upper levels. The proposed wall is primarily blank, with highlight windows provided on the northern elevation at Level 04 and above. As such, the proposed setback is not considered to result in any adverse privacy impacts. The adjoining site to the north is identified as a strategic node site with a higher density and height permitted, as such the proposed setback is not considered to prevent a scale transition between the buildings. Given the non-complaint portion is located to the north-eastern side, the proposed setback is not considered to result in any unreasonable overshadowing impacts upon the public domain or adjoining properties. The northern elevation adjoins a future pedestrian link which shall be formed in conjunction with the adjoining site to the north. It is recommended that additional treatment be provided to this portion of the elevation by way of a variation in material, public artwork or vertical landscaping in order to adequately articulate this façade given the highly visible nature of the elevation from the public domain. Subject to the above, the proposal is not considered to result in any adverse visual amenity impacts as a result of the 3m setback. In view of the above, the proposal can be seen to be consistent with the objectives of the control and the variation is supported in this instance.

Western setback

Required	Proposed	Compliance
6m up to four (4) storeys;	6m for Ground Floor level and levels 01-03	Complies.
9m above four (4) storeys.	9m for levels 04-08	Complies.

Notwithstanding the above, it should be noted that the western portion of the building envelope is identified as a flexible zone permitting up to nine (9) storeys, with varying setbacks. The proposed setbacks have been considered in the context of the building envelope of block 21 and the visual privacy spatial separation requirements under the ADG, with the proposed setbacks considered acceptable.

Southern setback

As the Block 21 envelope incorporates the sites to the south at 153-157 Anzac Parade and 7 Addison Street, no numerical setback is provided in relation to the proposed development. It is considered that to ensure a consistent streetscape a nil setback to the south fronting Anzac Parade would be envisaged. However, consideration has been given to the redevelopment of the southern sites and building separation requirements under the ADG. The proposed development provides a nil setback for the eastern portion of the building, and a setback of 6m for the western portion at Levels 01-03, and a 4.5m setback for the western portion at Levels 04-09. See detailed discussion under the visual privacy heading.

Building Depth

Clause 6.1 specifies a maximum building depth of 22m for residential development fronting Anzac Parade. The proposed development shall have a building depth of up to 35m (as measured from glass line to glass line). The note associated with the building depth clause states that the proposed building depth has “*significant influence on building circulation and configuration and impacts upon internal residential amenity such as access to light and air*”. While the proposal results in an overall building depth of 35m, this only relates to the central

portion of the development, where the configuration of the development provides apartments fronting the east and west with an internal circulation space. As the building depth provides for two (2) apartments across the depth, the actual apartment depths are generally limited to a maximum depth of 18m in accordance with the ADG. The proposed development ensures compliance with the minimum solar access and ventilation requirements stipulated under the ADG, and therefore it is considered that a reasonable level of residential amenity is achieved. The overall depth is also consistent with the building envelope identified in the Block 21 control. Given the level of compliance with the solar access and ventilation provisions, the proposed building depth is considered to be acceptable in this instance.

Block by Block Controls – Block 21 (Clause 10.3 of Part B of K2K DCP 2020)

Part B of the K2K DCP 2020 provides detailed building envelopes for development along the Kensington and Kingsford Centres. The block by block controls are broken up into individual blocks that are anticipated to be amalgamated or developed in conjunction with each other. The subject site is contained within Block 21. The building envelope stipulated by Block 21 can be seen in Figure 6 below:



Figure 6 – Block 21 Building Envelope

Clause 10.3 requires development to be consistent with the relevant block envelopes including heights, setbacks, street walls, mid-block links and laneways. Built form with flexible zones is to be compliant with the maximum building height pursuant to RLEP 2012 and the

requirements of the ADG. The desired future character of Block 21 aims to reinforce a nine (9) storey cohesive built form, with four (4) storey street wall. The flexible zone is included to enable built form to be suitably distributed across the site whilst achieving ADG requirements for building separation to the residential areas and minimising amenity, bulk and scale impacts. The control requires a pedestrian link to the provided to the north, a minimum width of 3m, and a shared way/laneway to the west with a minimum width of 6m allocated. The intention is for the share way to facilitate a direct connection from Todman Avenue to Addison Street once the subject block and adjoining block are fully developed.

As discussed within the report, the proposed development is largely consistent with the building envelope specified under Block 21. The subject site comprises approximately 75% of Block 21, with the three (3) sites to the south excluded. As such the proposed building envelope differs from that identified above in response to the unamalgamated site. The Applicant undertook a massing study to determine the best outcome for site with regards to the number of rear wings, and it was determined that the provision of three (3) wings to the west would provide a higher level of amenity with regards to solar access and cross-ventilation, without unreasonably impacting upon the residential amenity of the surrounding developments (when compared with a compliant building envelope), as well as break up the building mass as viewed from the adjoining properties to the west. The deviations from the building envelope with regards to setbacks, street wall height and overall building height have been considered in detail under the relevant headings and are considered to be warranted in this instance. Furthermore, the proposal is largely consistent with the provisions of the ADG with regards to building separation and ensuring no unreasonable privacy impacts occur. The proposal complies with the maximum FSR permitted for the site and despite the height non-compliance provides a nine (9) storey built form in accordance with the maximum number of storeys, ensuring that the bulk and scale of the development is not excessive. Given that amalgamation of the block sites is not achievable in all instances, flexibility in the application of the block building envelope is required. It is considered that the Applicant has demonstrated that the proposed envelope is an appropriate response to the site.

Solar Access

Concerns have been raised in submissions regarding overshadowing from the proposed development to the adjoining properties, with particular regards to the properties along Villiers Street to the west and No. 7 Addison Street to the south.

The submitted shadow diagrams demonstrate that the northern elevation of the existing building at 7 Addison Street shall maintained a minimum of 3 hours of solar access in the afternoon period in midwinter, with solar access to the northern windows gained from 12noon onwards.

Due to the north-south orientation of the site, the proposed development shall result in minor additional overshadowing impacts upon the northern windows of adjoining properties to the west at No.'s 1-15 Villiers Street from 8am to 9am, with no additional adverse impacts after 9am on 21 June, and no additional adverse shadowing impacts to the areas of POS after 10am. As such, the proposed development is not considered to result in any unreasonable impacts upon the adjoining properties with regards to solar access.

The submitted shadow diagrams identify that the proposed development shall result in additional overshadowing of the adjoining properties located to the south-east at 17-21 and 23 Villiers Street. Concerns have been raised by the property owners of 17-21 Villiers Street in relation to overshadowing. Of particular concern is the apartment located within the south-western corner of the building which currently receives sunlight in the morning period to a bedroom window on the eastern elevation which shall be completely lost as a result of the proposed development, resulting in no direct sunlight to the dwelling in midwinter. It should be noted that solar access to the majority of the apartments within the RFB 17-21 Villiers Street

shall not be unreasonably impacted by the proposed development, with any overshadowing to the northern elevation up to 10am, and no impact to the western elevation. There are six (6) apartments located on the eastern side of the RFB, two (2) per level, three (3) orientated to the south-east and three (3) orientated to the north-east. It is considered that adequate natural light shall be maintained to the north-western apartments, noting that the northern elevation shall be unimpacted for the majority of the day. The proposal shall result in loss of direct sunlight to the south-eastern apartments on the western elevation, however it is noted that these windows are to bedrooms and solar access to the southern living areas shall not be impacted by the proposal. It is considered that due to the orientation of the site and the level of development anticipated for the subject site, overshadowing of the neighbouring properties is inevitable and would be difficult to retain. While the proposed development breaches the maximum height, the non-complaint structures are well setback from the western building alignment and shall not contribute to any discernible overshadowing impacts, which would be similar to that of a compliant proposal. Furthermore, the design of the rear of the site, which proposes three (3) wings rather than two (2) would not result in any increase in solar access given the height of the proposal. The rear setbacks are consistent with that envisaged under the block 21 building envelope control. It is considered that the resultant overshadowing is a result of the high density nature of the development, in which any compliant nine (9) storey building would overshadow the subject windows. In view of the above, the resultant overshadowing is not considered to be unreasonable in this instance.

3F-1 Visual privacy

Concerns have been raised in submissions regarding visual privacy and overlooking from the proposed development, including non-compliance with the ADG requirements. Additionally, the sites to the south do not form part of the proposed development and therefore consideration has been given to the relationship between the proposed development and southern sites to ensure a reasonable level of privacy between properties can be achieved.

The ADG requires buildings to have adequate spatial separation to assist with privacy, outlook, solar access and ensuring adequate communal spaces can be provided. The building separation distances specified in the ADG are also reflected in the minimum spatial separation requirements under objective 3F in relation to visual privacy. Objective 3F-1 specifies the following minimum separation to ensure visual privacy is achieved:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Western Elevation

The western elevation provides a minimum setback of 6m from the western boundary for four (4) storeys, being the Ground Floor level and levels 01-03. Levels 04-08 provide a minimum setback of 9m from the western boundary. As such, the proposal results in numerical compliance with the minimum provisions. While the proposal numerically complies with the minimum distances, concerns have been raised by adjoining properties to the west regarding the proposed setbacks, noting that the ADG states that increased separation a distance of 3m should be provided when adjacent to a different zone which permits lower density residential development. While it is acknowledged that the sites to the west comprise a combination of RFBs and semi-detached dwellings, the zoning of the adjoining sites is R3 medium density residential. The R3 zone is intended for medium density housing and permits residential flat buildings up to three-four storeys. The proposed development is considered to provide a

transition in scale by setting back the upper levels of the development above four (4) storeys in accordance with the minimum requirements of the ADG. The proposal would still permit a minimum spatial separation distance of 12m between the proposed apartments and the adjoining RFBs which is not considered unreasonable. It should also be noted that due to the design of the development which incorporates architectural fins along the western elevation, the window line and balconies of the apartments are setback a further 1m at all levels.

The proposed roof terrace is located in excess of 25m from the rear western boundary and is not considered to result in any unreasonable privacy impacts upon adjoining properties.

There are two (2) areas of communal open space located to the west at the second floor level. Given the elevated nature of these areas and potential increase usage given they are communal spaces, it is recommended that a 1.6m high privacy screen be imposed along the western side of the courtyard areas to minimise overlooking impacts upon the adjoining rear properties.

Northern Elevation

The western portion of the building provides a minimum setback of 6m for four (4) storeys and a minimum setback of 9m for the upper levels 04-08 which complies with the criteria. The eastern portion of the building provides a setback of 3m for all levels of the development to the northern boundary. The proposed northern elevation with the 3m setback provides highlight windows on levels 04-08 only. As alternative privacy measures have been provided in the form of increased sill height, no adverse privacy impacts shall arise from the proposed setback to the adjoining property to the north. As outlined previously, it is recommended that this wall incorporate additional measures to provide visual interest and articulate the wall.

Southern Elevation

The southern elevation provides a nil setback for the eastern portion of the building fronting Anzac Parade. The nil setback is considered acceptable given that it is anticipated that a continual built form shall present to Anzac Parade. The western portion of the building provides a minimum setback of 6m at levels 01-03 to the southern boundary which complies with the criteria. The upper levels of the development at the eastern portion provide a minimum setback of 4.5m from the southern boundary which does not comply. To ensure a symmetrical design and adequate spatial separation internally between the proposed wings, the proposal provides a lesser setback of 4.5m to the south. However, the applicant has minimised privacy impacts through the design of the southern elevation which incorporates angled windows to obscure sightlines and ensure there is no direct overlooking into neighbouring properties. Given that privacy impacts from the southern elevation are mitigated through the design of the windows, it is considered that the proposed development shall not unreasonably impact the future redevelopment of the southern sites which shall be able to achieve adequate spatial separation between buildings. The landscaped roof area to the south shall not be accessible by the residents and therefore no privacy concerns are raised from this area.

Internal Elevations

Levels 01-03 provide a minimum spatial separation of 12m between windows which is consistent with the relevant criteria. Levels 04-08 provide spatial separation of approximately 13m, however as with the southern elevation, the windows to the south of each wing have been angled to minimise privacy impacts, and it is considered that a reasonable level of privacy shall be achieved.

4E – Private Open Space and Balconies

Objective 4E-1 of the ADG stipulates the minimum private open space areas for apartments. The provisions of 4E-1 require that Studio apartments are provided with a balcony a minimum area of 4m². The proposed Studio apartments are located on the First Floor level of the development, along the western side of the building. The proposed Studios shall be internally

connected to office spaces at the Ground Floor level, which can be utilised in conjunction with the dwellings or as a separate premises. The proposed Studio's do not provide any POS at the First Floor level, with the POS associated with the dwelling located on the Ground Floor level adjoining the office. Concerns were raised regarding the proposed location of the POS which is generally located off living areas. A response was submitted by the Applicant which argues that the proposed Studios can be defined as a two (2) level dwelling, comprising the living spaces at the upper level and the commercial space at the lower level. Furthermore, despite the commercial use at the Ground Floor level, the Applicant has advised that these dwellings and office space shall remain a single allotment within any future strata plan, and therefore should be assessed as one dwelling. Both the ADG and the landscaping provisions of K2K DCP 2020 encourage POS to be located at ground floor level and therefore the proposed POS can meet the requirements of the ADG and DCP in this regard. The applicant's statement also states that the addition of balconies at the first floor level would result in a poor design outcome and non-compliance with the setback controls and therefore would not be supported. Given that the proposed Studios and office space shall comprise one (1) allotment, it is considered that the dwelling would have reasonable access to the POS, and for the reasons outlined above by the Applicant, the proposed POS does not warrant refusal of the application. Furthermore, the proposal provides for areas of outdoor communal open space throughout the building in excess of the minimum requirements which is consistent with the guidance of the ADG.

Public Access Laneway/Share way

Concerns were raised in submissions regarding the proposed public access/laneway to the west of the site, and the intended use of this area. Of particular concerns is the future use of the laneway, which is believed to be for vehicular access in accordance with the RTA requirements regarding access off Anzac Parade. The submission notes that the proposed laneway was required at 6m to ensure vehicular access can be provided along the laneway. Concerns are raised regarding the Applicant's assumption that this area will be for pedestrian access only which would be in contradiction to the objectives of the K2K DCP 2020 in relation to the provision of laneways/share ways.

Concerns are also raised regarding the legalities of the proposed future laneway, who the owner of the laneway would be, and the legal status of the laneway. The submission considers that the proposed use of the laneway is for private land, and utilised this area to ensure compliance with the provisions in relation to landscaping, communal open space and stormwater management.

The requirements of clause 8.1 and 10.3 of the K2K DCP 2020 involve the provision of a rear laneway/share way along the western boundary of the subject site. The future laneway is to be a width of 6m. Due to the site not acquiring the properties to the south, the subject site is an isolated site with a frontage to Anzac Parade. The original intention of the laneway is to facilitate vehicular and pedestrian access from Todman Avenue to Addison Street and provide a through link. The future laneway is solely reliant on the redevelopment of the adjoining sites to the north and south to facilitate the through link. At this time there is no guarantee if or when the adjoining sites will be developed. Due to the subject site having a frontage to Anzac Parade only, vehicular access has been proposed and endorsed on Anzac Parade by Transport for NSW (formally RMS). As such, the proposed future laneway is not required in this instance to facilitate vehicle access to the site. The area identified for a future laneway is contained within the site boundaries and forms part of the subject site. As the area is the applicant's land and given the uncertainty of the future development of the neighbouring sites, it is appropriate for the area to be proposed as and attribute to landscaping and communal open space. The provisions of clause 8.1 require the laneway to be landscaped, and as such even if the laneway is achieved at a later date, it is considered that the area would still contribute to the landscape character of the site. Furthermore, in accordance with the ADG, communal open space does not have to be private open space and can comprise public open

space. The future laneway would be a share way for public access and remain an area of public open space. A condition of consent shall be imposed for an easement on the property title to ensure that the rear 6m area and 3m northern area is to be utilised for public access.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The proposed development provides a high density mixed-use development up to nine (9) storeys in height, consistent with that anticipated under the new K2K DCP 2020 and relevant standards contained within RLEP 2012. The proposed development results in a variation to the maximum building height, however is consistent with the maximum number of storeys permitted for the site, with the height breach in relation to roof top structures and not contributing to any floor space. The proposal deviates from the specified building envelope under the block to block controls due to the inability to amalgamate with the southern sites, however the built form is largely consistent with the overall envelope and the proposed envelop is considered to be an appropriate response to the site. The overall architectural design of the development is supported by Council's Design Excellence Advisory Panel. As discussed in detail within the report, the proposal is not considered to result in any unreasonable impacts upon the residential amenity of surrounding and neighbouring properties and as such the development is supported in this instance. The proposal satisfies the relevant objectives contained within RLEP 2012 and the relevant requirements of RDCP 2013 and K2K DCP 2020, and is consistent with the design principles as required by SEPP 65.

It is considered that the key issues as outlined in Section 6 been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Sydney Eastern City Planning Panel, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/810/2021 for at 137-151 Anzac Parade, Kensington, subject to the draft conditions of consent contained within Attachment X.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Tables of Compliance
- Attachment C: External Referral Comments
- Attachment D: Internal Referral Comments
- Attachment E: Architectural Plans
- Attachment F: Clause 4.6 Request