

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-243 / DA/477/2022
PROPOSAL	Partial demolition of existing structure and construction of a Part 3 and Part 18 storey mixed use development over 1 level of basement comprising retail, commercial, and 285 Co-Living (Student Accommodation) rooms with associated indoor and outdoor communal space and landscaping (variation to building height).
ADDRESS	277-291 Anzac Parade, Kingsford Lot's 1-10 SP 52836 [277-279 Anzac Parade] Lot 3 DP 129966 [281 Anzac Parade] Lot 11 DP 716333 [283 Anzac Parade] Lot 12 DP 716333 [285 Anzac Parade] Lot A DP 394221 [287 Anzac Parade] Lot B DP 394221 [289-291 Anzac Parade]
APPLICANT	The trustees for Iglu Property Trust No. 215
OWNER	Iglu Property Trust No. 215 Pty Ltd
DA LODGEMENT DATE	15 September 2022
APPLICATION TYPE	Development Application (DA)
REGIONALLY SIGNIFICANT CRITERIA	Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : General Development over \$30 million.
CIV	\$52,690,000.00
CLAUSE 4.6 REQUESTS	Clause 4.3 and 6.17 of RLEP 2012 (Building Height)
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021; • Randwick Local Environmental Plan 2012; and • Part E6 of Randwick Development Control Plan Kensington and Kingsford Town Centres 2020.

TOTAL & UNIQUE SUBMISSIONS	Four (4) in objection: solar access and overshadowing, construction impacts and traffic and parking implications.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Architectural Plans (Combined DA Set - Updated 30/05/23); • Landscape Plans (Issue C); • Statement of Environmental Effects; • Clause 4.6 Variation; • Traffic Impact Assessment. Construction Traffic Management Plan and Green Travel Plan; • Remediation Action Plan; • Operational Plan of Management; • Arborist Report; • Heritage Report; • ESD NCC Section J, Green Star and NABERS Reports; • Acoustic Report; • Geotechnical Report; • Wind Impact Assessment; • Structural Assessment; • Access Report; • BCA Report; and • VPA Letter of Offer.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Deferred Commencement
DRAFT CONDITIONS TO APPLICANT	N/A
SCHEDULED MEETING DATE	10 August 2023
PLAN VERSION	Combined Set - Revision A to E (02/08/22 to 30/05/23)
PREPARED BY	Ferdinando Macri – Assessment Officer
DATE OF REPORT	3 August 2023

EXECUTIVE SUMMARY

The development application (DA/477/2022) seeks consent for the partial demolition of existing structure and construction of a Part 3, Part 18 storey mixed use development over 1 level of basement comprising Retail, Commercial, and 285 Co-Living (Student Accommodation) rooms with associated indoor and outdoor communal space and landscaping ('the proposal') at the subject site. The proposed development will accommodate up to 300 residents, 830m² of retail space and 745m² of commercial office and indoor recreation space.

The site is located on the western side of Anzac Parade. The site comprises of six (6) separate lots and is collectively known as 277-291 Anzac Parade, Kingsford with a total consolidated site area of 1,575m². The consolidated site is occupied by a range of two and three storey shop top housing developments, with several existing period shopfront facades identified as contributory built form elements. The site is an irregular shaped corner allotment with three (3) road frontages including Anzac Parade to the east, Strachan Street to the south and a sole rear lane vehicular access from Houston Lane to the west.

The site is located within the E2 Commercial Centre zone and the proposed development is permitted with consent, being defined as a mixed use development comprising podium retail and commercial with co-living student accommodation dwellings above. The site is located in an area of transition from the high density and multi use buildings of the Kingsford Town Centre as a part of the Kensington and Kingsford DCP 2020. As a result of this context, the proposal is surrounded by buildings typically ranging from three (3) to (9) Storeys, compared with the predominantly low to medium density residential development area which surrounds the site to the west (1-2 storeys).

The principal planning controls relevant to the proposal include State Environmental Planning Housing 2021, 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 was referred to the following agencies for concurrence pursuant to Section 4.13 of the EP&A Act:

- A referral to Transport for NSW pursuant to s138 of the Roads Act 1993, and Section 2.98 of the (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 of RLEP 2012 was sent and no objections were raised by the authority.
- A referral to Ausgrid pursuant to Section 2.48 of the SEPP Transport and Infrastructure 2021, was sent and no objections were raised subject to recommended conditions.
- A referral was sent to the Randwick Design Excellence Advisory Panel (DEAP) pursuant to clause 6.11 of the RLEP and the advice provided by the Panel has been satisfied through plan amendments.

The application was placed on public exhibition from 6 October 2022 to 20 October 2022, with a total of four (4) submissions received by way of objection.

The submissions received raised issues relating to solar access and overshadowing, height, built form, traffic congestion and access points, parking, noise, and construction impacts. These issues are considered further in this report and have been addressed where relevant through plan amendments and consent conditions.

The Sydney Eastern City Planning Panel (SECPP) is the consent authority for the Development Application pursuant to Section 4.7, of the Environmental Planning and Assessment Act 1979 and Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, as the development has a capital investment value over \$30 million and is defined as Regionally Significant Development.

A briefing was held with the Panel on 13 April 2023 where key issues were discussed, including the non-compliance with the building height, design excellence and façade design, the incorporation of an automated waste system and the lack of onsite parking.

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 landscaping, ground floor activation and visitor bicycle storage. The applicant has provided amended plans to adequately address the areas of concern raised by the Panel. 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 60m for the subject site pursuant to clause 6.17. The proposal is seeking a maximum height of 61.88m to the lift overrun, with roof top structures in relation to stair access and plant enclosures also situated above the 60m height limit. The proposed variation primarily relates to the provision of a roof top terrace and the associated structures to provide additional amenity for occupants. As such the proposal shall remain consistent with the maximum number of storeys permitted on the site of eighteen (18) storeys. A Clause 4.6 variation request is provided with the application, and the variation is considered supportable.
- *Built Form* – The proposed development is generally consistent with the building envelope and street wall specified in the K2K DCP 2020. The building heights of 18 storeys to Anzac Parade and 3 storeys along Houston Lane accords with the block controls, except for the rear portion that was permitted up to 5 storeys along this frontage. The development will incorporate a reduced storey height at the rear to improve the interface with lower density properties further to the west. Further, the proposed setbacks align with the intended transitions to all frontages except for minor podium and tower level encroachments (partial) related to façade articulation zones on Anzac Parade, Strachan Street and Houston Lane, which are considered acceptable on merit and were supported by the design excellence panel. Notwithstanding, the overall built form is largely consistent with the built form and envelope envisaged for the site under Block K6 and the desired future character of the locality. Where non-compliances occur, the applicant has demonstrated that there shall be no adverse built or environmental impacts due to the alternate design and the deviations will provide better modulation of the building mass.
- *Solar Access and Overshadowing* – The proposal is generally consistent with the anticipated level of development under the Kensington and Kingsford RDCP 2020, noting the area is under transition, and the relevant amenity provisions within the DCP. The rear podium has provided a reduced 3 storey height to improve solar access afforded to lower density residential properties further to west, which will also retain adequate levels of solar amenity during the afternoon period.
- *Carparking* – Concerns were raised by Council’s Development Engineer during the preliminary assessment due to the lack of onsite parking provided to support the nexus

of 1:1 commercial floor space accommodated in the development. The applicant has submitted amended plans over the course of assessment to increase the onsite parking provision to 14 car stacker spaces in accordance with the required rate for retail, commercial and indoor recreation premises under the K2K DCP 2020.

Other issues include the inadequacy of the Acoustic Report, Automated waste management system, and the Contamination documentation for the site. Amended documentation has been submitted over the course of assessment, which has been supported by Council's Development Engineer and Environmental Health Officer, subject to consent conditions.

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.

A detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act* has been undertaken, and DA/477/2022 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 277-291 Anzac Parade, Kingsford and is occupied by several historic and modern shop top housing and mixed-use developments typical of the surrounding Kingsford town centre context.

The site is comprised of the following allotments:

- Lot's 1-10 SP 52836 (277-279 Anzac Parade);
- Lot 3 DP 129966 (281 Anzac Parade);
- Lot 11 DP 716333 (283 Anzac Parade);
- Lot 12 DP 716333 (285 Anzac Parade);
- Lot A DP 394221 (287 Anzac Parade); and
- Lot B DP 394221 (289-291 Anzac Parade).

The site is an irregular shaped allotment with a combined primary frontage of approximately 38.6m to Anzac Parade to the east, a secondary frontage of approximately 52m along Strachan Street to the south and includes rear vehicular access (west) from Houston Lane. The subject site has a total area of 1,575m².

The site is relatively flat with a minor fall exhibited from the north western corner to the intersection of Strachan Street and Anzac Parade. Currently occupying 277-279 Anzac Parade is a three storey shop top housing development with a commercial use at ground level. The remainder of the site (281-291 Anzac Parade) accommodates a range of two storey historic shop top housing developments fronting Anzac Parade with rear lane parking access and a detached single storey commercial conversion on Strachan Street. Each of these historic shopfronts are highly intact and have retained period features and detailing.

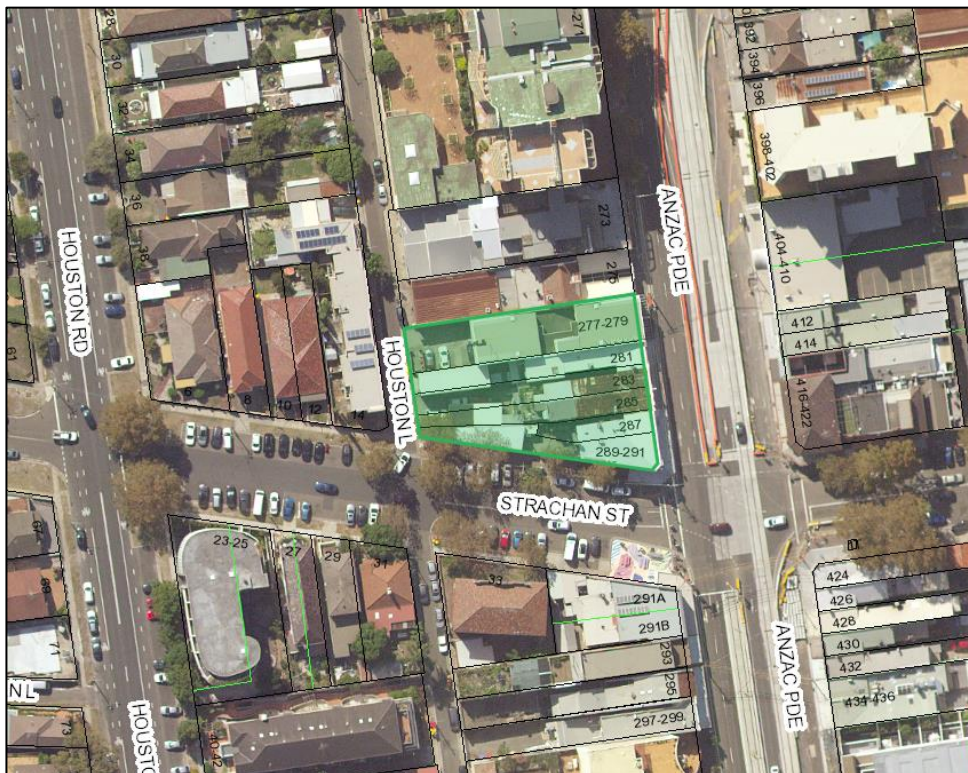


Figure 1 – Subject site identified in green.



Figure 2 – Image illustrating existing Anzac Parade frontage

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 E2 Commercial Centre zoning. The surrounding development is varied, consisting of inter-war period shop top buildings and contemporary mixed use residential developments. The site is bounded by three road reserves with Anzac Parade to the west, Houston Lane to the East and Strachan Street to the south.

Adjoining the site to the north is a single storey attached commercial building. Further to the north and west is a number of mixed use developments ranging from predominantly two to nine storeys in height. Beyond this lies the intersection of Barker Street and Anzac Parade.

To the immediate south the development directly adjoins Strachan Street, with a three storey residential flat building and two to three storey shop top housing development forms accommodated on the opposite side of the road reserve. Further southward, approximately 60m from the proposal site is the Kingsford Light Rail Station.

The development to the east opposite Houston Lane consists of lower density residential development, including single and two storey attached and detached dwellings.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for the partial demolition of existing structure and construction of a Part 3 and Part 18 storey mixed use development over 1 level of basement comprising Retail, Commercial, and 285 Co-Living (Student Accommodation) rooms with associated indoor and outdoor communal space and landscaping (variation to building height)

Specifically, the proposal involves:

- Demolition of all existing buildings and removal of onsite vegetation;
- Site preparation works, bulk excavation and remediation;
- Construction and use of a Part 18 and 3 storey mixed use development, including:
 - 285 Student accommodation rooms for 300 residents on Levels 2 to 17;
 - A communal area, courtyard and commercial office Level 1 and an indoor recreation facility and communal terraces on Level 2.
 - Ground level commercial, retail premises and student accommodation lobby;
 - A rear vehicular entrance for loading, servicing and parking for 13 vehicles from Houston Lane;
 - Communal roof terrace cinema, BBQ and plant facilities;
 - One basement level containing service areas, bicycle storage, end of trip and plant facilities;
 - Two building identification signs on the Anzac Parade frontage;
- Associated landscape, community infrastructure, and public domain works; and
- Extension and augmentation of physical infrastructure and utilities as required.

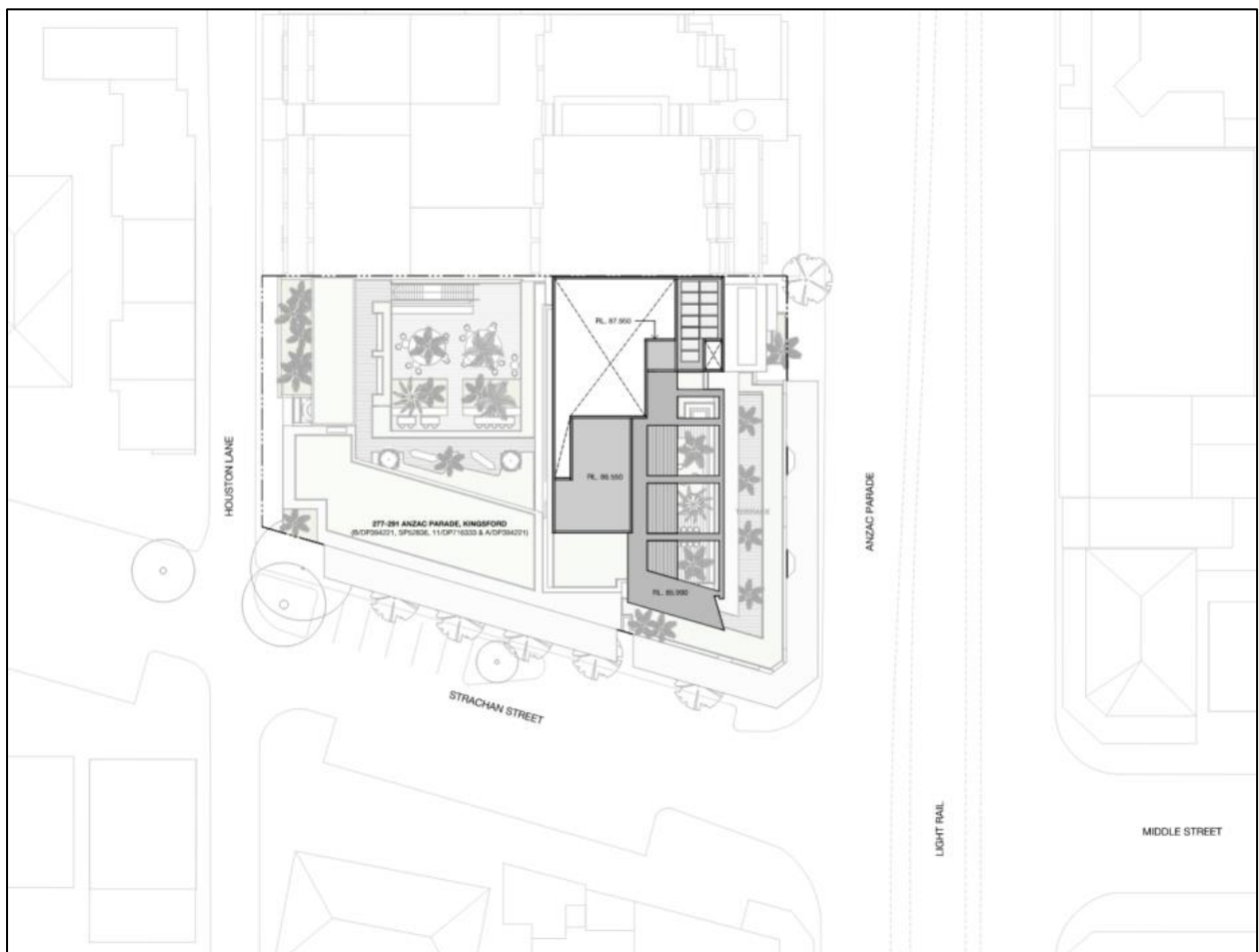


Figure 3 - Site Plan



Figure 4 – Perspective from Anzac Parade.



Figure 5 – Perspective from Student Accommodation Entrance

Table 1: Development Data

Control	Proposal
Site area	1,575m ²
GFA	Total - 8663m ² Residential – 7,088m ² Commercial – 1,575m ²
FSR (retail/residential)	5.5:1 Overall 4.5:1 Residential 1:1 Commercial
Clause 4.6 Requests	Yes – Clause 4.3 (Building height)
No. of rooms	285 Co-living (300 residents)
Max Height	60m - Max height 61.88m - Proposed (Variation request submitted for roof terrace, plant and lift overruns).
Landscaped area	100% provision as per DCP. Planting areas and green walls adjacent to ground plane and on structure.
Car Parking spaces	13 car spaces for commercial uses Including 1 Disabled space via consent condition.
Bicycle Storage	90 storage racks
Setbacks	<u>Podium</u> Anzac: Nil to 3m Strachan: Nil Houston: 1.5m – 3m <u>Tower</u> Anzac: 6m Strachan: 1.5m – 2.8m Houston: 27m

2.2 Background

The site was subject to a previous Design Competition from February to April 2022, where the design concept was generally supported by the jury in terms of streetscape character, envelope massing, façade materiality, sustainability, communal open space, and landscaping.

A pre-lodgement development application PL/24/2022 for proposed works was lodged in May 2022. As a part of this process a pre-lodgement meeting was held with planning, engineering, and heritage staff in July 2022. The meetings held during this period included consultation with the Randwick Design Excellence Advisory Panel on 1 August 2022. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Parking shortage – onsite parking provided for commercial development from Houston Lane in accordance with DCP rate.

- Urban Design – building detailing and articulation amendments. Additional ground plane activation and design development of ground servicing areas.

The development application was lodged on **15 September 2022**. 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
15 September 2022	DA lodged
4 October 2022	DA referred to external agencies and internal specialists.
6 October 2022 to 27 October 2022	Exhibition of the application
12 December 2022	Design Excellence Advisory Panel meeting held.
15 December 2022	External agency responses received.
11 January 2023	Request for Information from Council to applicant
13 April 2023	Panel briefing on Design excellence review and provision of onsite parking.
1 June 2023	Amended plans lodged to provide marking and address design changes of design excellence panel related to visitor bicycle parking, landscape design and ground plane activation accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation').

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),*
- that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
 - (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 not considered to be development 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 (Housing) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Randwick Local Environmental Plan 2012;*

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	Chapter 2: Vegetation in non-rural areas 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

State Environmental Planning Policy (Housing) 2021	Chapter 3: Diverse Housing Part 3 Co-Living Housing Section 67 – permissibility Section 68 – non-discretionary development standards Section 69 – standards for co-living Section 70 – no subdivision	Y
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage <ul style="list-style-type: none"> • Section 3.1 - objectives • Section 3.6 – granting consent to signage • Section 3.11(1) – matters for consideration • Schedule 5 – assessment criteria 	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises general development over \$30million. 	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	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 <p>Application reviewed by TfNSW and subsequently supported subject to consent conditions.</p>	Y
Proposed Instruments	No compliance issues identified.	Y
Randwick LEP 2012	<ul style="list-style-type: none"> • Clause 2.2 & 2.3 – Permissibility and zone objectives • Clause 4.3 – Height of Buildings • Clause 4.4 – Floor Space Ratio • Clause 6.1 - Acid sulfate soils • Clause 6.4 - Stormwater Management • 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
Randwick Development Control Plan Kensington and Kingsford Town Centres 2020	<ul style="list-style-type: none"> • Part A – Design, Built form and Heritage • Part B - Block Controls • Part C – Internal and External Amenity • Part D – Public Domain 	Y

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity SEPP is applicable to the proposed development. The proposed development requires the removal of four (4) trees along the Strachan Street frontage to facilitate the proposed development. The loss of these tree emplacements will be suitably offset through the replanting of six new street and one additional onsite planter along the Strachan Street frontage. In addition, consent conditions shall be imposed to ensure trees identified for retention, or those within the adjoining road reserve island, can be safely retained. Council's Landscape Officer raised no objection to the proposed tree removal along Strachan subject to recommended conditions of consent that secure replacement street tree planting and public domain improvements. A detailed assessment of the proposed tree removal can be found in **Attachment D**.

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

State Environmental Planning Policy (Housing) 2021

Chapter 3 of the Housing SEPP is applicable to the proposed development, given that the application seeks consent for construction of 285 co-living rooms and communal areas intended to facilitate additional student accommodation in the vicinity of educational establishments and training facilities within the wider Kingsford locality. The proposal has satisfied the provisions for co-living housing permissibility, FSR, communal living areas and open space, internal room sizes, minimum lot size, support facilities and solar access. In addition, the proposal does not include any residential subdivision as a part of the application scope. A detailed compliance checklist assessment is provided in Attachment B.

Accordingly, it is considered that the proposal has met the requirements and development standards of the Housing SEPP.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3: Advertising and Signage

The provisions of chapter 3 have been considered in the assessment of the two (2) proposed building identification emplacements fronting Anzac Parade at the ground accommodation entrance and parapet levels. Under Section 3.6 - Granting of consent to signage, the consent authority must take into consideration the objectives of the chapter and the assessment criteria. The proposed building identification and entrance signs are considered to satisfy the Section 3.1 Objectives in accordance with the following provisions:

- the design is compatible with the desired amenity and visual character of the Kingsford centre and adequately offset from sensitive residential receivers by locating both signs to the main commercial frontage;
- the proposed configuration provides effective communication in suitable locations of the primary street frontage and adjacent to the pedestrian entrance and building parapet in accordance with surrounding development; and
- the proposed emplacements are typical of the design and finishes anticipated for mixed use development exhibited within the commercial locality.

An assessment against the Schedule 5 assessment criteria is outlined below.

1 Character of the area

The proposed signage configuration and emplacements are not considered contrary to the existing or desired future character of the Kingsford commercial centre and will facilitate building identification and wayfinding for the student accommodation use.

2 Special areas

Both sign emplacements are affixed to the Anzac Parade frontage to mitigate amenity impacts to surrounding residential receivers to the west of the site. All signs will comply with relevant Australian standards to regulate curfews and lighting levels as a consent condition.

3 Views and vistas

All sign emplacements are affixed to the eastern building facade and will not protrude from building envelopes. As such, it is not considered that signage design would obscure views or dominate the skyline.

4 Streetscape, setting or landscape

The proposed scale of signs would remain in proportion to the proposed 18 storey mixed use building and have been rationalised to provide building identification and wayfinding information to the site's main street frontage. It is therefore not considered that the proposal will result in visual clutter or detract from the predominantly commercial nature of the immediate locality directly opposite each sign.

5 Site and building

The proposal has adequately integrated signs as a part of building facades design. Accordingly, the signage emplacements will not obstruct views to building features and are not considered excessive in size.

6 Associated devices and logos with advertisements and advertising structures

Student accommodation operator name and logo included within identification signs.

7 Illumination

The proposed illumination can be conditioned to comply with relevant Australian standards for lighting levels and curfews.

8 Safety

Signs are located affixed to façade in a flush wall configuration and would not obscure sight lines for motorists and pedestrians. In addition, all illumination components will comply with relevant standards to mitigate potential impacts for road safety.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is for general development over \$30million. Accordingly, the Sydney Eastern City Planning Panel (SECPP) is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of 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. Section 4.6 of 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. In order to consider this, a Detailed Site Investigation ('DSI') and draft Remediation Action Plan (RAP) has been prepared for the site.

Council's Environmental Health Officers have reviewed the development application and it is considered that subject to the recommendations of the submitted reports and further onsite investigations, the site can be made suitable for its intended purpose. Relevant conditions of consent shall be imposed should the application be approved.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The subject site is located adjacent to the light rail corridor and as such the proposed development requires an assessment and concurrence under Section 2.97 and 2.98 of the Transport and Infrastructure SEPP 2021. 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:

- (a) *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 residential accommodation for students in accordance with Council's long term strategy.
- The development shall provide for affordable housing and community infrastructure to meet the needs of the community via Council's contributions framework and augmentation works in the immediate locality.
- The location of the site near 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 Kingsford Town Centre.

Zoning and Permissibility (Part 2)

The site is located within the E2 Commercial Centre Zone pursuant to Clause 2.2 of RLEP 2012.



Figure 6: Zoning map of the subject site and surrounds

The proposed development comprises a mixed-use development, incorporating podium level retail, indoor recreation and office premises and residential dwellings above in the form of a

co-living student accommodation rooms. The subject site is zoned E2 Commercial Centre. The development comprises the provision of commercial premises at lower levels with residential dwellings located above the ground floor of the building. As such, the proposal constitutes a mixed-use development comprising an indoor recreation facility, retail, and office premises, and co-living residential dwellings, which is considered 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 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 indoor recreation, student accommodation, retail, and office premises at the site, providing for employment opportunities.
- The proposed use also provides residential accommodation that is well-integrated with and compliments the business function of the zone.
- The upgrading of the public domain along all frontages provides an improved urban design outcome and pedestrian amenity.
- While it is acknowledged that the proposed development shall result in adverse amenity impacts upon the adjoining properties, the area is 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 (CI 4.3(2))	60 metres pursuant to clause 6.17 and the provision of community infrastructure.	61.88m to the lift and plant overrun.	No

FSR (CI 4.4(2))	5:1 pursuant to clause 6.17 and the provision of community infrastructure. 10% FSR bonus afforded to Co-living housing under SEPP, increasing maximum to 5.5:1	5.5:1 or 8,663m ²	Yes
Heritage (CI 5.10)	The site is not mapped as a heritage item or within a conservation area. Notwithstanding, the existing traditional shopfronts are identified as a contributory built form element. A heritage item I152 is also located to the south-east of the subject site, known as O'Dea's corner shop top development group.	Council's Heritage Officer reviewed and supported the proposal subject to consent conditions. Noting that the proposed Anzac Parade façade has incorporated the original shopfronts as a part of the podium and amenity impacts to the adjacent heritage item are consistent with the envelopes envisaged under the Kensington and Kingsford Block control plan.	Yes
Flood Planning (CI 5.21)	Localised flooding impacts mapped along Anzac Parade frontage.	Proposed pedestrian entrances and floor levels along Anzac Parade have been reviewed and supported by Council's Development Engineer.	Yes
Acid sulphate soils (CI 6.1)	Mapped - Class 5	Site not subject to acid sulphate soils.	Yes
Stormwater Management (CI 6.4)	Development designed to manage stormwater and avoid adverse impacts of stormwater run off.	Council's Development Engineer has reviewed the stormwater concept and supported the proposed configuration subject to conditions, should the application be approved.	Yes
Design Excellence (CI 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 Kensington and Kingsford town centres	Alternative building height and FSR where the development includes community infrastructure on the site.	A letter of offer has been provided to enter into a VPA for the provision of CIC by way of works-in-kind.	Yes

(CI 6.17)			
Affordable housing at Kensington and Kingsford town centres (CI 6.18)	A contribution for affordable housing equating to 5% 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 via an equivalent monetary contribution.	Yes
Non-residential floor space ratios at Kensington and Kingsford town centres (CI 6.19)	Site mapped with 1:1 non-residential floor area requirement – 1,575m ²	1:1 floor area provided within podium through the incorporation of retail tenancies, commercial office, and indoor recreation facility.	Yes

The proposal is considered 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)	60m	61.88m	1.88m	3.13%

The maximum height of the proposed development shall be 61.88m above the existing ground level to the lift overrun. The following structures are also situated above the 60m height limit:

- Enclosed access stairs to the roof terrace (to a maximum height of 60.56m); and
- Plant facilities enclosures (to a maximum height of 60.56m)

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 the ability to grant development consent for a development that contravenes the development standard 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 and stairs as well as plant screening. The proposed structures are well setback from the outer building alignment and shall not be visually prominent from the public domain and shall appear as a compliant building height when viewed from the street perspective. The proposal is consistent with the maximum number of storeys, with the roof area providing for additional amenity and accommodating essential building services.

The development is not within a conservation area nor identified as a heritage item. There is a heritage item to the south-east of the site known as the O'Dea's corner, which was considered in the recommended incentive height for the proposal and as such the scheme does not result in any additional environmental impacts compared with DCP compliant envelope. In addition, the existing onsite structures includes contributory facades along the Anzac Parade frontage, which have been incorporated through adaptive reuse as a part of the redevelopment to ensure consistency is retained with the 2 storey podium height of adjacent heritage items. 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 (COS) on the roof shall ensure that additional COS is provided for occupants through the utilisation of the available roof space to increase the diversity of recreational offerings and facilities afforded to tenants. 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 eighteen (18) storey nature of the development is consistent with the desired 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, the proximity to public transport and the proposed co-living accommodation use. 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 consistent with that anticipated for the site and the capacity of infrastructure within the immediate locality.

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 have demonstrated consistency with the objectives of the development standard and the E2 zone.
- The roof top terrace and associated structures provides for an additional communal open space area for occupants.
- The proposed non-compliance does not result in any adverse environmental planning impacts.

Assessing officer's comment:

The communal roof terrace will provide increased amenity for occupants with negligible impacts upon adjoining properties and the public domain. The proposal also provides for a complaint 1:1 commercial floor area and back of house servicing within the podium that limits the availability of communal open space and therefore the provision of the roof terrace is considered warranted in the circumstances of the site. 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?

In order to determine whether the proposal will be in the public interest, an assessment against the objectives of the height of buildings standard and E2 zone is undertaken.

As discussed under the zoning and permissibility heading of the report, the proposal is considered consistent with the objectives of the E2 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?

The 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

Based on 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)(ii) - Provisions of any Proposed Instruments

The proposal is not inconsistent with any proposed instruments.

(c) 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 and the Attachment B compliance table. 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 and 6.18 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 delivery of community infrastructure and affordable housing.

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

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.

The letter of offer includes an affordable housing levy monetary contribution which will form part of the development consent for payment prior to the issue of a construction certificate. The calculation of the affordable housing contribution is determined by multiplying the contribution rate of \$625.00 per sqm (applicable until 31 December 2023) with the approved total residential floor area, which is approximately 8,974m².

Section 7.12 Development Contributions

The Plan applies to development on land that is subject to a development consent or a complying development certificate within the Kensington and Kingsford town centres. A condition requiring the applicant to pay a levy based on the proposed cost of carrying out the development (i.e. 2.5% levy for cost of development greater than \$250,000) has been included within the development consent.

The total cost of development is \$52,690,000 and the applicable Section 7.12 contributions levy to be paid to Council would be \$1,317,250. The applicant has indicated the intention to provide for the monetary via works-in-kind, subject to the negotiation against contribution infrastructure items as a part of the future VPA secured as deferred commencement condition. These include works in relation to the undergrounding of overhead power lines and multi-functional/smart poles.

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

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

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. The relevant provisions have been addressed through conditions of consent, including considerations related to the demolition of existing structures and the Section 62 consideration of fire safety.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

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. It is noted that the proposal will also deliver public domain improvements and augmentation of infrastructure adjacent to the site. In addition, no concerns were raised by service providers as a part of their review. Minimal impacts are anticipated to the local road network noting the 13 parking spaces proposed and the measures that will be secured to manage traffic, noise and vibration impacts during the construction phase as a part of the development consent. Concerns for contamination related to the previous history of the site have been addressed via consent conditions recommended by Council's Environmental Health team to secure the implementation of the endorsed remediation action plan.

The proposed development is consistent with the dominant mixed use character in the locality and the desired future character for development anticipated by the Kensington and Kingsford DCP 2020. The scheme includes a provision of commercial facilities within the podium to facilitate additional retail, commercial and indoor recreation uses within the Kingsford centre in accordance with the floorspace composition requirements in the Randwick LEP 2012 and will increase the onsite provision of commercial offerings available to the community.

The proposed scale, massing and form is consistent with the block and building envelope controls of the DCP. The resultant amenity impacts in terms of comparative visual bulk, solar

access and privacy are considered consistent with the incentive height and FSR controls under 6.17 and 6.18 of the Randwick LEP 2012. The development has incorporated the historic shopfronts as a part of the Anzac parade podium and the proposed adaptive reuse was supported by Council's Design Excellence Advisory Panel and Heritage Planner.

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

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

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

The site is in proximity to local services and public transport, with the Kingsford light rail stop, Kensington Park and services located within walking distance. The site has sufficient area to accommodate the proposed land use and associated structures and is in keeping with the high density residential and commercial nature of the immediate Kingsford locality. 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. The scheme is consistent with the controls identified for increased density and height under the Kensington and Kingsford DCP 2020. The proposal includes the implementation of ESD measures and compliance with relevant provisions under Section J of the NCC and the Green Star rating system. On balance, the proposal is considered in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for concurrence and 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.

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 2.98(3) - <i>State Environmental Planning Policy</i>	The proposal involves the excavation of ground to a depth of at least 2m below ground level	Y

	(Transport and Infrastructure) 2021	(existing) on land within, below or above a rail corridor. Concurrence has been granted.	
Referral/Consultation Agencies			
Ausgrid	Section 2.48 – State Environmental Planning Policy (Transport and Infrastructure) 2021 Development near electrical infrastructure	No objection raised by authority in relation to electrical infrastructure.	Y
Transport for NSW	Section 2.97 – State Environmental Planning Policy (Transport and Infrastructure) 2021 Development land that is in or adjacent to a rail corridor.	The proposal is adjacent to Eastern Suburbs Light Rail and Kingsford Light Rail Stop on Anzac Parade. Proposal supported subject to conditions.	Y
Sydney Airport Corporation	Clause 6.8 of the Randwick Local Environmental Plan, s186 of the Airports Act 1996 and Regulation 8 of the Airports (Protection of Airspace) Regulations 1996	Proposal includes a height, which penetrates the prescribed airspace of Sydney Airport. Controlled activity approval issued, subject to conditions.	Y
Design Review Panel	CI 6.11 – RLEP Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the referral Section and the Key Issues section of this report. All concerns raised by the Panel in relation to landscaping, street activation and bicycle storage have been addressed via plan revisions.	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 Engineering Officer has provided recommended conditions based upon the deferred commencement revisions to onsite car and motorcycle parking.	Y (Refer to Key Issues above)
Landscaping	Council's Landscaping Officer reviewed the arborist report and landscaping design and raised no concerns due to the proposed increase of onsite planting and public domain	Y (Conditions)

	improvements as a part of the scheme. The proposal was supported subject to conditions.	
Building	Council's Building Surveyor reviewed the submitted BCA assessment report and Fire Engineering Statement and concurred with the recommended design specifications. Conditions were also recommended for inclusion within the consent.	Y (Conditions)
Health	Revised information sought in relation to contamination, air quality and acoustic compliance as a part of Council's RFI. The addendum documentation was reviewed and supported by Council's Health Officer, subject to consent conditions.	Y (Conditions)
Heritage	Council's Heritage Officer reviewed the submitted Heritage Impact Statement ('HIS') prepared for the applicant and concurred with the conclusion of the HIS that there would not be any adverse impacts on heritage values arising from the proposal. It was also recommended that conditions are to be imposed on any consent issued regarding the salvage of materials and building elements, the retention and maintenance of the historical building elements, provision of a photographic archival recording and the preparation of a heritage interpretation strategy, archaeological assessment, and material schedule. Standard archaeological finds conditions were also included within the consent.	Yes (conditions)

4.3 Community Consultation

The proposal was notified in accordance with Council's Community Participation Plan from 6 October 2022 until 27 October 2022. The notification included the following:

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

The Council received a total of 4 unique submissions, which were all in objection of the proposal. The issues raised in these submissions are considered in **Table 7** below.

Table 7: Community Submissions

Issue	No of submissions	Council Comments
-------	-------------------	------------------

Solar access and overshadowing Impact to adjoining properties and solar panels.	3	The proposed development shall result in additional overshadowing impacts upon the adjoining properties, with regards to the residential properties to the west and south. See Key Issues for further discussion, noting that the proposed envelope is generally consistent with incentive height and block plan anticipated under the Kensington to Kingsford DCP and that solar access will be retained in the afternoon for lower density properties to the east of the site. In addition, the western portion of the podium has adopted a lower 3 storey height when compared with the 5 storey massing permitted under DCP block controls to further improve solar access to adjoining residential properties opposite the south-western corner of the site.
Lack of onsite parking	2	Agreed, amended plans were received to also address concerns raised by Council's Development Engineering team and ensure that 13 off street parking spaces were provided to support commercial tenancies in accordance with the requirement of the Kensington to Kingsford DCP 2020. Refer to Key issues section below for further discussion.
Cumulative Traffic Generation	3	The proposal has been reviewed by Council's Development Engineering and no concerns were raised in terms of traffic generation. Particularly noting the available public transport options (bus and light rail) within walking distance of the proposal site and the minor number of off-street parking spaces incorporated within the development.
Intended use of the rear laneway	3	The existing development included multiple driveways and parking areas with access from the rear laneway. This is now proposed to be consolidated to one vehicular crossing for off-street parking and loading access. Accordingly, the proposal will continue to utilise Houston Lane as per the original site configuration.
Built form and building height	2	The proposed development seeks a variation to the maximum height of 61.88m. 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.
Limited natural internal ventilation	1	Each studio, twin share and DDA accessible room is provided with an external operable window for ventilation. The proposed rooms have also demonstrated compliance with the requirements for co-living development under the Housing SEPP 2021. Refer to Attachment B for full compliance table assessment.

Traffic impacts during construction damaging properties and obstructing access	3	<p>The proposal was accompanied by a draft construction traffic management plan (CTMP), which recommended that any vehicles entering the site from Houston Lane will only be permitted to load / unload onsite. The final CTMP will be reviewed by Council's Traffic team to ensure that the proposed access configuration does not impact adjoining residents as a consent condition prior to the release of any construction certificate.</p> <p>A consent condition has also been recommended for the preparation of a dilapidation report of adjoining properties and infrastructure prior to the commencement of any works.</p>
Lack of additional residential accommodation for families	1	It is noted that the site is in the proximity of UNSW and several other educational establishments within the Randwick LGA and will provide synergies through additional accommodation for students.
Oversupply of student accommodation	1	This is not a matter for consideration under Section 4.15 of the Act.
Need for a major supermarket in Kingsford	1	The original proposal included a metro style supermarket retailer. However, the southern ground floor tenancy has been altered to provide for additional retail due a lack of feasibility in terms of available site area and operator interest. Council's Strategic Planning team has acknowledged the potential need for additional supermarkets within the precinct. However, these larger retailers require a floor plate of at least 2,000m ² , which exceeds the area available within the subject development site.
Comments on the façade design	1	The design of the development was subject to a successful design competition and supported in the multiple reviews by the Randwick Design Excellence Advisory Panel.
Dust, air and noise pollution during construction	3	Consent conditions have been recommended to regulate construction hours, amenity impacts and sediment and erosion control measures in the aim of mitigating temporary impacts to adjoining residents.
Geotechnical and structural issues resulting from excavation	3	The proposed single level of basement excavation and geotechnical report has been reviewed by Council's Development Engineer and supported subject to conditions for structural support of surrounding properties during excavation.
Loss of property values	2	This is not a matter for consideration under Section 4.15 of the Act.

5. KEY ISSUES

The key issues with the proposed development are in relation to non-compliance with the maximum building height, deviations from the K2K DCP block controls, amenity impacts upon neighbouring properties and the provision of onsite car parking. 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.

5.1 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 61.88m. As such, the provisions of clause 6.11 are applicable.

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. See **Appendix C** for detailed comments from the DEAP.

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

- *Active frontages are required to Anzac Parade, Strachan Street and preferred at Houston Lane. This has been achieved for the most part, but the treatment to Houston Lane and the corner of Houston and Strachan Street remains problematic.*

Amended plans were submitted to address the lack of activation on the corner of Strachan Street and Houston Lane, through the incorporation of a larger open to sky planter, an increased level 1 setback, and the relocation of the substation away from Strachan Street frontage. In addition, the Houston Lane frontage has also incorporated additional activation and landscaping as a part of the communal courtyard and communal open space access stair.

- *The main façade fronting the internal courtyard should be developed as a vertical rain collector, feeding water into the gardens and planting elements within the courtyard.*

The revised design has incorporated additional planting zones adjacent to the western tower façade and green wall features as a part of the tower and courtyard, which will benefit from rainwater absorption. The proposed design has also satisfied relevant performance criteria for Green Star rating, NABERS and Section J of the NCC.

- *The Panel feels that the required areas should be deployed productively, and creatively, to enhance the quality, atmosphere and interactivity of the common spaces in the building. Consideration should be given to vertical planting, green screens and inhabitable productive gardens integrated into the architecture of the building and incorporated within its habitable spaces.*

- *As much design attention needs to be paid to the internal facades of the upper-level courtyard, incorporating more viable landscapes beyond ground level planters.*

A revised landscape package was submitted as a part of the RFI response to increase the provision of landscaping incorporated within the ground plane and communal open space zones. Further details of green wall features within the central courtyard and roof terrace were also provided in accordance with the Panel's recommendations. It is considered that the proposed measures are an appropriate response to the high-density site context.

- *The rubbish room occupies valuable ground floor space directly adjacent to the entry foyer, while all bicycle parking is confined to the basement, requiring access to and from this area via the passenger lifts. The bicycle parking should not be considered as inaccessible storage, but rather a dynamic and active part of the public spaces – part of this could take the place of the rubbish room, and be open directly to the lobby, making cycling movement as integral as pedestrian movement.*

As per the advice of Council's Development Engineer, the development has removed the conventional waste rooms and adopted an automated waste management system as required by Council's waste management guidelines for the Kensington to Kingsford precinct. The conversion of the waste management system has enabled additional space within the residential accommodation lobby for visitor bicycle parking in accordance with the Panel's recommendation.

- *The operational connection between student housing and the space noted as a potential gym is not clear, though this may be a product of leasing uncertainties.*

The Applicant's RFI response has clarified that the commercial gym will be accessible to both residents of the student accommodation and members of the public. As such access has been facilitated from the public domain and the residential component of the development.

Assessment of the proposed built form against the provisions of Clause 6 (Built Form) and the Block K6 building envelope are considered in detail further below. In consideration of the DEAP comments, and the plan amendments made to address 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 apart from amendments related to ground floor activation, bicycle storage and landscape design that have been satisfied through submitted plan amendments. 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.

5.2 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 24m. 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 54m along Anzac Parade and 19m along Houston Lane. In addition, the proposal has also undergone a design competition, which permits a further 6m height bonus under Clause 6.21 of the LEP, resulting in a maximum height of 60m along Anzac Parade and 25m along Houston Lane.

The maximum height of the proposed development shall be 61.88m above the existing ground level to the lift overrun. The following structures are also situated above the 60m height limit:

- Enclosed access stairs to the roof terrace (to a maximum height of 60.56m); and
- Plant facilities enclosures (to a maximum height of 60.56m)

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 1.88m above the maximum height limit. Quantitatively, the Applicant seeks to vary the development standard by approximately 3.1% 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 in the above LEP section.

The proposed development is a maximum of eighteen (18) 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 the provides additional communal open space for the development and further plant facilities that cannot be accommodated on lower levels due to the requirement to provided 1:1 commercial floor area and street activation as a part of the podium.

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 setbacks of the structures from the tower curtain wall. 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.

5.3 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 two (2) storeys to Anzac Parade and three (3) storeys to all other frontages.

The proposed street wall is generally lower than the maximum anticipated under the controls for the podium and is supported in this instance for the following reasons:

- The proposal has incorporated a compliant 1:1 commercial floor space, communal open space provision and adequate off-street parking to support commercial uses within the podium.
- The rear portion of the development was permitted up to 5 storeys along the Houston Lane frontage, with the scheme incorporating a reduction of two storeys to improve the interface with lower density properties further to the west in terms of visual mass and comparative overshadowing.
- The podium design has retained the contributory façade of the shopfronts along Anzac and has included articulation and landscaping features as a part of the façade design.
- The application was referred to Council's Design Excellence Advisory Panel, who were generally supportive of the façade design.

Accordingly, it is considered that the proposed built form is compatible with the desired future character of the Kingsford centre and generally consistent with the urban structure anticipated under Clause 6.1.

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 (Anzac Parade)

The subject site is identified as being within Block K6 of the block by block controls. The site plan for Block K6 requires a part nil (contributory facades) to 2.5m setback to Anzac Parade for the first four (4) levels, and a 6.5m setback for upper levels 3 -18. The proposed development provides a compliant minimum setback on lower levels and predominantly complies with the 6.5m requirement, except for Level 2 that accommodates articulation zones ranging from 2.5m to 6m from Anzac Parade.

Notwithstanding, the proposed modulation of the level 2 indoor recreation facility and student accommodation lobby void is supported for the following reasons:

- The proposed variation is limited to one level and does not significantly alter the overall scale or environmental amenity impacts associated with the predominantly compliant development form.
- Each area will enable the provision of additional communal floor space or improved internal amenity within the student accommodation lobby with improved floor to ceiling clearance and natural lighting.
- The subject areas are generally recessed behind the retained contributory facade and are not visually prominent from the streetscape.
- This lower-level articulation zone facilitates additional façade modulation and varied materiality to assist in segmenting the overall tower building mass.

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 K6 are considered below:

Southern setback (Strachan Street)

Required	Proposed	Compliance
Nil Setback at Ground to Levels 2 – 4	Nil	Complies.
3m above Levels 4 - 17	1.5m - 3m resulting from partial breach in western corner of tower floor plate.	Western portion does not comply, eastern portion complies.

The proposal provides a part 1.5m to 3m tower setback that results from the modulated design of the floor plate. The proposed encroachment is only related to a corner of the floor plate and is not a contiguous breach of the control. The setback is related to the secondary street frontage and is not considered to result in adverse visual privacy impacts. The tower floor plate and depth are also considerably less than the 600sqm and 22m requirements respectively and will retain a consistent 18 storey building height envisaged under the block controls. The proposed setback is not considered to result in a scale that is incompatible with the desired future character for the locality or excessive amenity impacts in terms of overshadowing or adverse visual outcomes. Further, the proposed partial encroachment does not result from an inappropriate design and was supported by the Randwick Design Excellence Advisory Panel.

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 (Houston Lane)

Required	Proposed	Compliance
2m up to four (4) storeys	2-3m for Ground Floor level 1.5-2m for Level 1 2-5m for Level 2	No partial breach on Level 1.

Minor encroachment on Level 1 related to landscape planter overhang, which will provide screening of sight lines from the communal open space courtyard towards low density residential further to the west of the site. The façade element overhang is not anticipated to result in additional amenity impacts and will improve the interface with adjoining properties by providing larger planter beds to support mature tree planting.

The proposed setback to Houston Lane is predominantly compliant or exceeds the minimum requirement. As such, the proposed setback configuration is considered acceptable on balance, given the high levels of façade modulation incorporated.

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 ranging from 16-18m, which will remain below the control maximum. The overall depth is also

consistent with the building envelope identified in the Block K6 control, providing for a floor plate of 500sqm that is less than the 600sqm limit.

Block by Block Controls – Block K6 (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 K6. The building envelope stipulated by Block K6 can be seen in **Figure 7** below:

Site K6



Figure 7 – Block K6 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. As discussed within the report, the proposed development is largely consistent with the building envelope specified under Block K6. The subject site comprises the eighteen (18) storey portion of Block K6, with the two (2) sites to the north subject to a nine (9) storey height limit excluded from the proposal for separate redevelopment.

The desired future character of Block K6 aims to deliver an eighteen (18) storey built form, with four (4) storey street wall. The proposal is generally consistent with the parameters established under the Block controls, except for the building height variation, the reduction of the street wall height and partial setback breaches to street frontages.

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 warranted in this instance. Furthermore, the proposal is largely consistent with the provisions of the Housing SEPP 2021 and the K2K DCP to ensuring that no unreasonable privacy impacts occur.

The proposal complies with the maximum FSR permitted for the site and despite the height non-compliance provides an eighteen (18) storey built form in accordance with the maximum number of storeys to ensure that the bulk and scale of the development is not excessive. It is considered that the Applicant has demonstrated that the proposed envelope is an appropriate response to the site.

5.4 Solar Access

Concerns have been raised in submissions regarding overshadowing from the proposed development to the adjoining properties, with regards to the properties along Houston Lane to the west of the site.

The submitted shadow diagrams demonstrate that the northern aspect of the existing buildings along Houston Lane will maintain a minimum of 3 hours of solar access in the afternoon period in midwinter, with solar access attained by each of these properties from 12noon onwards.

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 a compliant proposal. It is considered that the resultant overshadowing is a result of the high density nature of the development, in which any compliant eighteen (18) storey building would result in some degree of overshadowing impact.

The concerns raised in submissions have been considered in the context of the anticipated level of development under the Kensington and Kingsford RDCP 2020, noting the area is under transition, and the relevant amenity provisions within the DCP. As such, the proposed development is not considered to result in any unreasonable impacts upon the adjoining properties with regards to solar access.

5.5 Carparking and Waste Management

Concerns were raised by the Council's Development Engineer and the Randwick Design Excellence Advisory Panel in relation to the implementation of a conventional waste management system as a part of the original scheme. In response, the applicant has amended their design to incorporate an automated waste management storage rooms and kerbside set down zone. Accordingly, the amended design has satisfied the requirements of Council's technical specialists and has provided a waste management system that complies with the *Design and Implementation Guidelines for automated waste collection systems November 2022*. An additional condition has also been recommended by way of deferred commencement to confirm the detailed design specification of the waste vehicle loading point and waste transfer piping.

Similarly, preliminary concerns were also identified by Council's Development Engineer in relation to the provision of nil onsite parking to support commercial

operations and the resultant non-compliances with rate specified under the Kensington to Kingsford DCP 2020. Over the course of design development, the applicant has removed the metro supermarket from the scheme, which has reduced the operational parking demands associated with the original proposal. The subject amendment has also afforded the increased allocation of floor area for onsite parking, which is able to accommodate a compliant 13-space commercial parking rate using car stacker systems. The proposed parking rate complies with relevant provisions of the DCP, noting that student accommodation is not required to provide for onsite parking due to the proximity of the site to public transport options within walking distance, including the Kingsford light rail station. Further, the proposed commercial car spaces are not considered to substantially alter the ongoing operation of Houston Lane or result in operational traffic generation impacts.

The onsite parking facilities have not catered for the requirement of 1 disabled car space and 57 motorcycle parking spaces required by the DCP and as such a consent condition is recommended to secure this requirement by way of deferred commencement. The condition will also refine the loading zone access and driveway configuration to meet relevant Australian standard requirements. Subject to this condition, Council raises no further concern in relation to the accommodation of onsite parking as a part of the proposal.

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 eighteen (18) 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 not contributing to any additional floor space.

Further, the proposal only deviates from the specified building envelope under the block controls to provide an additional communal roof terrace and a reduced rear podium height of 3 storeys to Houston Lane, which was permitted to accommodate up to 5 storeys in the DCP. As a result, the proposed scheme provides an improved environmental outcome for lower density properties to the west in terms of visual bulk and overshadowing.

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 development standards required by the Housing SEPP 2012.

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

7. RECOMMENDATION

That the Development Application DA/477/2022 for the partial demolition of existing structure and construction of a Part 3 and Part 18 storey mixed use development over 1 level of basement comprising retail, commercial, and 285 Co-Living (Student Accommodation) rooms with associated indoor and outdoor communal space and landscaping (variation to building height) at 277-291 Anzac Parade, Kingsford be APPROVED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

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