



Land and Environment Court New South Wales

Medium Neutral Citation:

Perpetual Corporate Trust Limited v Randwick City Council [2021] NSWLEC 1380

Hearing dates:

Conciliation conference on 5 March, 1 and 13 April, 5 and 17 May 2021

Date of orders:

29 June 2021

Decision date:

29 June 2021

Jurisdiction:

Class 1

Before:

Horton C

Decision:

The Court orders that:

- (1) The Applicant is granted leave to amend Development Application No DA/288/2020 and rely upon the following amended plans and documents contained at Annexure 'B';
- (2) The Applicant is to pay the Respondent's costs thrown away as agreed or assessed pursuant to s.8.15(3) of the Environmental Planning and Assessment Act 1979;
- (3) The Applicant's written request to vary the height of building standard in Clause 6.17 and floor space ratio standard in Clause 6.17 of the Randwick Local Environmental Plan 2012, prepared by Willowtree Planning dated March 2021 is upheld;
- (4) The appeal is upheld.
- (5) Development application no. DA/288/2020, as amended, for the construction of a mixed use development comprising a 308 room boarding house and commercial premises and associated parking at 182,186-188 and 190 Anzac Parade and 157 Todman Avenue, Kensington, is approved subject to the conditions contained at Annexure 'A'.

Catchwords:

DEVELOPMENT APPLICATION – mixed use development – affordable rental housing – community infrastructure contributions – conciliation conference – agreement between parties – orders

Legislation Cited:

Environmental Planning and Assessment Act 1979, ss 4.16, 8.7, 8.15
Environmental Planning and Assessment Regulation 2000
Land and Environment Court Act 1979, ss 34, 39
Randwick Local Environmental Plan 2012, cl 4.3, 4.4, 4.6, 6.2, 6.3, 6.4, 6.17, 6.18, 6.19, 6.20, 6.21
State Environmental Planning Policy (Affordable Rental Housing) 2009, cl 29, 30, 30A
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy No 55 – Remediation of Land

Cases Cited: Initial Action Pty Ltd v Woollahra Municipal Council (2018) 236 LGERA 256; [2018] NSWLEC 118
Mulpha Norwest Pty Ltd v The Hills Shire Council (No 2) [2020] NSWLEC 74

Texts Cited: Apartment Design Guide, NSW Department of Planning and Environment
Randwick Comprehensive Development Control Plan 2013

Category: Principal judgment

Parties: Perpetual Corporate Trust Limited (Applicant)
Randwick City Council (Respondent)

Representation: Counsel:
A Galasso SC (Applicant)
J Lazarus SC (Respondent)

Solicitors:
Mills Oakley (Applicant)
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File Number(s): 2020/288435

Publication restriction: No

JUDGMENT

1 **COMMISSIONER:** This class 1 appeal concerns a development application brought before the Court under s 8.7 of the *Environmental Planning and Assessment Act 1979* (EPA Act) following the deemed refusal by the Randwick City Council (the Respondent) of Development Application No. DA/288/2020 for the demolition of the existing structures and construction of a nineteen storey mixed-use development comprising basement/ ground floor/ first floor commercial, and a boarding house above to be used as student and key worker accommodation comprising 381 boarding rooms, provision

of a public plaza and two through-site links, basement parking, signage, landscaping, earthworks and excavation and associated works at 182-190 Anzac Parade and 157 Todman Avenue, Kensington (the site).

2 The site comprises the following allotments:

- Lot 1 in DP 331408, otherwise known as 182-184 Anzac Parade;
- Lot 2 in DP 331408, otherwise known as 186-188 Anzac Parade;
- Lot 1 in DP 130297, otherwise known as 190 Anzac Parade; and
- SP 45348, otherwise known as 157 Todman Avenue.

3 The Court arranged a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 5 March 2021, and at which I presided.

4 The proceedings commenced onsite, after which the parties continued conciliation discussions. During the conciliation conference, the parties reached an in-principle agreement on the matters in contention, subject to the resolution of a number of matters which the parties' advised me were capable of resolution. I adjourned the conference to allow the parties to continue to resolve those matters.

5 I further adjourned the conciliation conference on a number of occasions. On 25 May 2021 a signed agreement prepared in accordance with s 34(10) of the LEC Act was filed with the Court. This decision involved the Court upholding the appeal and granting conditional development consent to the development application.

6 The parties ask me to approve their decision as set out in the s 34 agreement before the Court. In general terms, the agreement approves the development subject to amended plans that were prepared by the applicant, and noting that the final detail of the works and plans are specified in the agreed conditions of development consent annexed to the s 34 agreement.

7 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the development application. There are jurisdictional prerequisites that must be satisfied before this function can be exercised.

8 The parties identified the jurisdictional prerequisites of relevance in these proceedings including the provisions of the following environmental planning instruments:

- Randwick Local Environmental Plan 2012 (RLEP),
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH),
- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55),

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

9 I am satisfied that the jurisdictional preconditions identified by the parties have been achieved for the reasons that follow.

10 The site is located within the B2 Local Centre zone pursuant to the RLEP, in which the uses proposed by the development application are permitted with consent, and wherein the objectives of the zone are as follows:

- 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.

11 The proposed development exceeds the height of buildings development standard shown on the height of buildings map at cl 4.3(2) of the RLEP on each of the lots described at [2], and the floor space ratio (FSR) standard at cl 4.4 of the RLEP on the lot known as 157 Todman Avenue.

12 Relevantly, cl 6.17 of the RLEP also provides objectives and standards in respect of building height and floor space ratio, in the following terms:

(1) The objectives of this clause 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.

(2) Despite clauses 4.3 and 4.4, the consent authority may consent to development on a site that results in additional building height or additional floor space, or both, in accordance with subclause (4) if the development includes community infrastructure on the site.

(3) In deciding whether to grant development consent, the consent authority must—

- (a) be satisfied that the development is consistent with the objectives of this clause, and
- (b) be satisfied that the community infrastructure is reasonably necessary at Kensington and Kingsford town centres, and
- (c) take into account the nature of the community infrastructure and its value to the Kensington and Kingsford town centres community.

(4) Under subclause (2), a building on land in any of the areas identified on—

- (a) the Alternative Building Heights Map—is eligible for an amount of additional building height determined by the consent authority but no more than that which may be achieved by applying the maximum height specified in relation to that area, and

(b) the Alternative Floor Space Ratio Map—is eligible for an amount of additional floor space determined by the consent authority but no more than that which may be achieved by applying the maximum floor space ratio specified in relation to that area.

- 13 In addition to the alternative height and floor space ratio (FSR) provisions at cl 6.17 of the RLEP, additional height is also permitted where a development exhibits design excellence, pursuant to cl 6.21 of the RLEP, and certain provisions are made at subcl (8) for the accounting of gross floor area where community infrastructure is provided.
- 14 The application is supported by a written request prepared in accordance with cl 4.6 of the RLEP by Willow Tree Planning dated March 2021 that identifies three development standards that are sought to be varied:
- (1) Firstly, the height of buildings development standard of 54m, applicable to a portion of the site identified as Area 'Y2' in the Alternative Building Heights Map at cl 6.17(4)(a) of the RLEP.
 - (2) Secondly, the additional height of 6m permitted by cl 6.21(7) of the RLEP where a building exhibits design excellence.
 - (3) Thirdly, the community infrastructure FSR in accordance with cl 6.17(2) of the RLEP which is expressed in the written request as 6.7:1 for the area marked 'Area Z' on the Alternative FSR Map at cl 6.17(4)(b) of the RLEP.
- 15 Relevantly to the written request is the proposal for community infrastructure in the development that is set out in a letter of offer for the purpose of a voluntary planning agreement dated 17 March 2021, including Annexures A, B and C ('the proposed VPA'), and which is consistent with the Kensington and Kingsford Town Centres Community Infrastructure Contributions that, in my view, satisfies cl 6.17(3) RLEP as to the necessity and value of the community infrastructure proposed by the development. The letter of offer has been accepted by the Respondent, a deferred commencement condition is proposed at Condition A1 for the parties to enter into such an agreement prior to the operation of the consent, and Conditions 5 and 6 address terms and conditions of the proposed VPA.
- 16 As shown by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 ("*Initial Action*"), for the Court to have the power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) of the RLEP requires that the Court be satisfied that:
- (1) The proposed development will be consistent with the objectives of the particular standard in question (cl 4.6(4)(a)(ii)), and
 - (2) The proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)),
 - (3) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)), and
 - (4)

The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)).

17 The Court must form two positive opinions of satisfaction under cl 4.6(4)(a) of the RLEP to enliven the power of the Court to grant development consent (*Initial Action* at [14]). I must be satisfied that:

- (1) the Applicant's written request has adequately addressed the matters required to be demonstrated by subcl (3); and
- (2) that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective of the zone in which the development is proposed to be carried out.

The height standard is exceeded

18 The extent of the variation from the height standard is 0.4m, which occurs at the lift overrun and stairs that provide access to the rooftop communal open space.

19 The written request asserts that compliance with the development standard at cl 6.17(2) and 6.17(4) of the RLEP is unreasonable or unnecessary because, firstly, the objectives of the standard are achieved notwithstanding the non-compliance and, secondly, because the underlying purpose would be defeated or thwarted if compliance was required.

20 I accept the grounds on which the written request asserts the objectives of cl 6.17 of the RLEP are achieved, including consistency with the desired future character of the Kensington town centre which is demonstrated by substantial consistency with the 3-dimensional 'block control' contained in Part E of the Randwick Comprehensive Development Control Plan 2013 ('the K2K DCP'), and integration of community infrastructure, in the form of a multipurpose space in the lower levels of the development, without imposing adverse impacts on the amenity of the local area.

21 On the basis of the Design Excellence statement prepared by Plus Architecture dated 10 February 2021, and the agreement of the urban design experts arising out of the amended plans at Condition 1 of the agreed conditions of consent, I also accept that the objective at cl 6.21 of the RLEP is achieved. In particular, I accept that the proposed development exhibits design excellence that contributes to the cultural and built character value of the Kensington town centre because of the suitability of the land for the development as identified in the K2K DCP, the mix of uses proposed on the site, including the community infrastructure identified in the proposed VPA and the improvements to the public domain likely to result.

22 I also accept the proposed development is consistent with the objectives of the height standard at cl 4.3 of the RLEP which 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.

- 23 The written request identifies the aspects of the K2K DCP with which the proposed development is consistent, and the steps taken to avoid adverse impacts on the contributory heritage building located to the south of the site at 208-212 Anzac Parade, the heritage item at 169 Todman Avenue, or the nearby Kensington Public School, assisted by the Heritage Impact Assessment prepared by Urbis dated 4 June 2020. I accept the podium provides a variable street wall height tailored to surrounding development, and that building separation distances set out in the Apartment Design Guide (ADG) are achieved to the east. Where those distances are not achieved, such as to the south, visual privacy is achieved by the placement of windows and orientation of view. I also note the shadow diagrams demonstrate adequate solar access is provided to adjoining and neighbouring land, notwithstanding the shadows cast. Finally, I accept that the amenity of the adjoining land is positively, and not adversely, impacted by the provision of public plaza and laneways within the area of the site.
- 24 As I am satisfied that the objectives of the standard are achieved notwithstanding the non-compliance, it is not necessary to consider whether the underlying purpose of the objectives would be defeated or thwarted if compliance was required.
- 25 I also accept that the written request demonstrates there are sufficient environmental planning grounds to justify the contravention of the height standards on the relevant portion of the site. In particular, I note the general consistency of the proposed development in the location of the exceedance with the 3-dimensional form of block control contained in Part E of the K2K DCP, and the minor departure from the height standard that does not, due to its location, impose a visual or overshadowing impact on surrounding properties.
- 26 I am satisfied that the written request adequately addresses those matters required of it in accordance with cl 4.6(4)(a) of the RLEP, and I accept and am satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the height standard, and the objectives of the B2 zone. In arriving at this conclusion, I note the particular mix of uses proposed on the site reflects the range of uses nominated in the zone, associated with which is the potential for employment on a site adjoining the light rail, and where use of public transport, and cycling are encouraged by the provision of 63 motorcycle spaces, and 95 bicycle spaces. I also accept that the provision of a public plaza and laneways, with easements for public access, will facilitate pedestrian amenity and contribute to a sense of place.
- 27 On this basis, I am satisfied in respect of those matters required of the Court at cl 4.6(4)(a)(ii) of the RLEP and I consider the numerical height exceedance to be minor and within the terms of the Secretary's concurrence to satisfy cl 4.6(5) of the RLEP.

The FSR standard is exceeded

The site is subject to the following FSR development standards, pursuant to cl 6.17 of the RLEP, and cl 29(1)(c) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH):

- 182-190 Anzac Parade – an FSR of 6:1, inclusive of the bonus FSR derived from the SEPP ARH.
- 157 Todman Avenue – an FSR of 4.8:1, inclusive of the bonus FSR derived from the SEPP ARH.

29 The written request seeks to vary the FSR of 6:1 that is applicable to 182-190 Anzac Parade and proposes an FSR of 6.7:1.

30 The written request determines the maximum permissible gross floor area (GFA) applicable to the site is 10,710m². The total proposed GFA is 10,685m², which is below that permitted by cl 6.17 of the RLEP and cl 29 of the SEPP ARH if a 'blended' approach is taken across the site area.

31 However, the written request sets out the relevant finding in *Mulpha Norwest Pty Ltd v The Hills Shire Council (No 2)* [2020] NSWLEC 74 that 'site area' is defined as that land to which the FSR standard is directed, and accordingly the GFA is apportioned across the site in Table 3 of the written request.

32 I am satisfied that the objectives of the FSR standards at both cll 4.4 and 6.17 of the RLEP are achieved, and so compliance with the numerical standards is unreasonable or unnecessary, on the basis of the grounds set out in the written request, and which are summarised as follows:

- Greater height and density is achieved in the town centre, where community infrastructure, in the form of a multipurpose space and public plaza, is provided.
- The proposed development is designed to achieve an environmental performance of 6-star Green Star.
- The height and density of the proposed development is generally consistent with the block controls for the site found in the K2K DCP, including the observing of the transition in height on the site at 157 Todman Avenue so that a material impact on the heritage item at 169 Todman Avenue is avoided.
- The proposed podium provides a variable street wall height tailored to surrounding development, and that building separation distances set out in the Apartment Design Guide (ADG) are achieved to the east. Where those distances are not achieved, such as to the south, visual privacy is achieved by the placement of windows and orientation of view.
- The shadow diagrams demonstrate adequate solar access is provided to adjoining and neighbouring land, notwithstanding the shadows cast.

33 The written request also asserts that the underlying objective of the FSR standard would be defeated or thwarted if compliance with the FSR standard was required, however I am satisfied for the reasons set out at [32] that the objectives of the FSR

standard are achieved by the proposed development, and so compliance with the numerical standard is unreasonable or unnecessary.

- 34 Next, I am satisfied that the written request demonstrates there are sufficient environmental planning grounds to justify the contravention of the FSR standards on a portion of the site because of the general consistency of the proposed development with the 3-dimensional form of block control contained in Part E of the K2K DCP, notwithstanding the under-allocation of floor space on the site at 157 Todman Avenue which, according to the written request, is a decision taken to ensure that the transition in height to 159 Todman Avenue as preferred by the K2K DCP is achieved.
- 35 I am therefore satisfied that the written request adequately addresses those matters required of it in accordance with cl 4.6(4)(a) of the RLEP, and I accept and am satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the height standard, and the objectives of the B2 zone. In arriving at this conclusion, and for reasons that are similar to those at [25], I note the particular mix of uses proposed on the site reflects the range of uses nominated in the zone, associated with which is the potential for employment on a site adjoining the light rail, and where use of public transport, and cycling are encouraged by the provision of motorcycle and bicycle spaces. Finally, when considered as a whole, I accept that the GFA on the total site area is marginally less than that permitted on the site and so generates an FSR that is less than the maximum FSR allowed for the site.
- 36 Clause 4.6(4)(b) of the RLEP requires that the concurrence of the Planning Secretary be obtained for development consent to be granted to development that contravenes a development standard.
- 37 The Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 that the Secretary's concurrence may be assumed for exceptions to development standards, subject to certain conditions contained in the notice.
- 38 That said, s 39(6) of the LEC Act gives the Court the power to grant development consent without obtaining the concurrence of the Secretary, although consideration ought to be given to the matters in cl 4.6(5) of the RLEP when exercising the power to grant development consent for development that contravenes a development standard.
- 39 I have considered whether the contravention of the FSR standard raises any matter of significance for State or regional environmental planning, and whether there is a public benefit of maintaining the development standard. I conclude that no matter of significance arises, and I consider there to be a public benefit served by upholding the written request for the reasons set out above.

Randwick Local Environmental Plan 2013

- 40 On the basis of the Preliminary Geotechnical Investigation prepared by JK Geotechnics dated 12 May 2020, the Geotechnical Opinion prepared by JK Geotechnics dated 28 January 2021 and the civil engineering plans prepared by Northrop Engineers, and the relevant proposed conditions of consent, I am satisfied that the proposed earthworks

and excavation will not have a detrimental impact on the soil stability of the amenity of the neighbouring uses or the adjacent light rail infrastructure, and I consider those matters at cl 6.2(3) of the RLEP to be appropriately addressed.

- 41 Clause 6.3(3) of the RLEP requires the consent authority, or the Court on appeal, to be satisfied that the development is compatible with the flood hazard of the land, will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, incorporates appropriate measures to manage risk to life from flood, will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. I have read the 'Stormwater and Floodplain Management report' prepared by Northrop dated 2 June 2020 and I note the conclusions which record substantial conformity with Council's requirements. I also note the proposed conditions of consent at Conditions 47-51 which are directly relevant and I am satisfied of those matters at subcl (3)(a)-(e) of cl 6.3 the RLEP.
- 42 For similar reasons, and having regard to the Civil Engineering plans prepared by Northrop dated 2 June 2020 and the conditions of consent at Conditions 51 and 52, I am also satisfied that the proposed development will incorporate appropriate measures to manage stormwater in accordance with cl 6.4 of the RLEP.
- 43 I consider the conditions of consent at Condition 8, being conditions advised by Sydney Airport, to satisfy the requirements of cl 6.8 of the RLEP in respect of airspace operations.
- 44 On the basis of conditions of consent and general terms of approval from authorities in respect of public utilities (condition 61), water (conditions 9, 21 and 113), electricity (condition 20), telecommunications (condition 22), sewage (condition 113), stormwater drainage (conditions 47-52), and suitable vehicular access (conditions 40-45), I am satisfied that adequate arrangements have been made to make essential services available for the site when required in accordance with cl 6.10 of the RLEP.
- 45 Consent for the erection of a building on land to which the Active Frontages provision at cl 6.20 of the RLEP applies must not be granted unless the consent authority is satisfied that all premises on the ground floor of the building facing the street are to be used for the purposes of commercial premises after the erection of the building. On the basis of Drawing SK-100 (Rev E), I am satisfied that the overwhelming proportion of the street frontage is active, and that the frontage otherwise allocated to building services and fire egress should not preclude the grant of consent.

State Environmental Planning Policy (Affordable Rental Housing) 2009

- 46 As the development the subject of the development application is for boarding house development, the provisions of the SEPP ARH apply.

Clause 29 of the SEPP ARH contains standards that, if met, cannot be used to refuse consent and I am satisfied that the standards are met, except for building height and FSR that are the subject of written requests considered at [11]-[39], and for car parking which seeks consent on the grounds of consistency with the K2K DCP.

- 48 Clause 30 of the SEPP ARH contains standards that must be achieved as a pre-requisite to the grant of consent. After careful consideration of the architectural drawings, and the planning summary prepared by Willow Tree Planning dated 20 April 2021, I am satisfied that the standards at subcl (1) have been achieved.
- 49 Clause 30A of the SEPP ARH requires the character of the local area to be taken into consideration prior to the grant of consent. The Kensington and Kingsford Town Centres are clearly the focus of significant change intended to be delivered through planning amendments adopted in 2020 and reflected in development standards at cl 6.17-6.21 of the RLEP, and Part E of the K2K DCP. On the basis of the transition in character for which provision is made in the planning framework, I am satisfied that the proposed development is, or will be, consistent with the future character that is distinct from the existing character evident in the local area today.

State Environmental Planning Policy No 55 – Remediation of land

- 50 Clause 7 of the State Environmental Planning Policy No 55—Remediation of Land requires a consent authority to consider whether the land is contaminated and requires remediation. On the basis of the Preliminary Stage 1 Environmental Site Assessment prepared by Environmental ai Investigation Services dated 2 June 2020, Site Suitability Statement prepared by JK Environments dated 31 March 2021 and proposed conditions of consent (conditions 24-30), I am satisfied that the site can be made suitable for the proposed development, prior to its intended use.

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

- 51 I am satisfied that the application is accompanied by a BASIX certificate (Cert No. 1111436M_03), prepared by Integral Group Consulting Engineers Pty Ltd dated 5 May 2021 in accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and the Environmental Planning and Assessment Regulation 2000.

Conclusion

- 52 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.
- 53 In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.

Orders

The Court orders that:

- (1) The Applicant is granted leave to amend Development Application No DA/288/2020 and rely upon the following amended plans and documents contained at Annexure 'B';
- (2) The Applicant is to pay the Respondent's costs thrown away as agreed or assessed pursuant to s.8.15(3) of the *Environmental Planning and Assessment Act 1979*;
- (3) The Applicant's written request to vary the height of building standard in Clause 6.17 and floor space ratio standard in Clause 6.17 of the *Randwick Local Environmental Plan 2012*, prepared by Willowtree Planning dated March 2021 is upheld;
- (4) The appeal is upheld.
- (5) Development application no. DA/288/2020, as amended, for the construction of a mixed use development comprising a 308 room boarding house and commercial premises and associated parking at 182,186-188 and 190 Anzac Parade and 157 Todman Avenue, Kensington, is approved subject to the conditions contained at Annexure 'A'.

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T Horton

Commissioner of the Court

[Annexure A \(2512976,.pdf\)](#)

[Annexure B \(89774,.pdf\)](#)

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Decision last updated: 29 June 2021