

# Randwick Local Planning Panel (Electronic) Meeting

Thursday 10 February 2022



## **RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)**

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held online via Microsoft Teams on Thursday, 10 February 2022

### **Declarations of Pecuniary and Non-Pecuniary Interests**

#### **Development Application Reports**

D2/22	45-63 Military Road Matraville (DA/213/2021) .....	1
D3/22	201 Coogee Bay Road Coogee (DA/378/2021) .....	61
D4/22	44 Milroy Avenue Kensington (DA/536/2021) .....	103

Kerry Kyriacou  
**DIRECTOR CITY PLANNING**

## Development Application Report No. D2/22

**Subject:** 45-63 Military Road Matraville (DA/213/2021)

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<b>Proposal:</b>	Remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works (Heritage Item).
<b>Ward:</b>	South Ward
<b>Applicant:</b>	Southern Metropolitan Cemeteries Trust C/- Urbis Pty Ltd
<b>Owner:</b>	Department of Lands
<b>Cost of works:</b>	\$5,128,200.00
<b>Reason for referral:</b>	The development involves demolition of a heritage item.

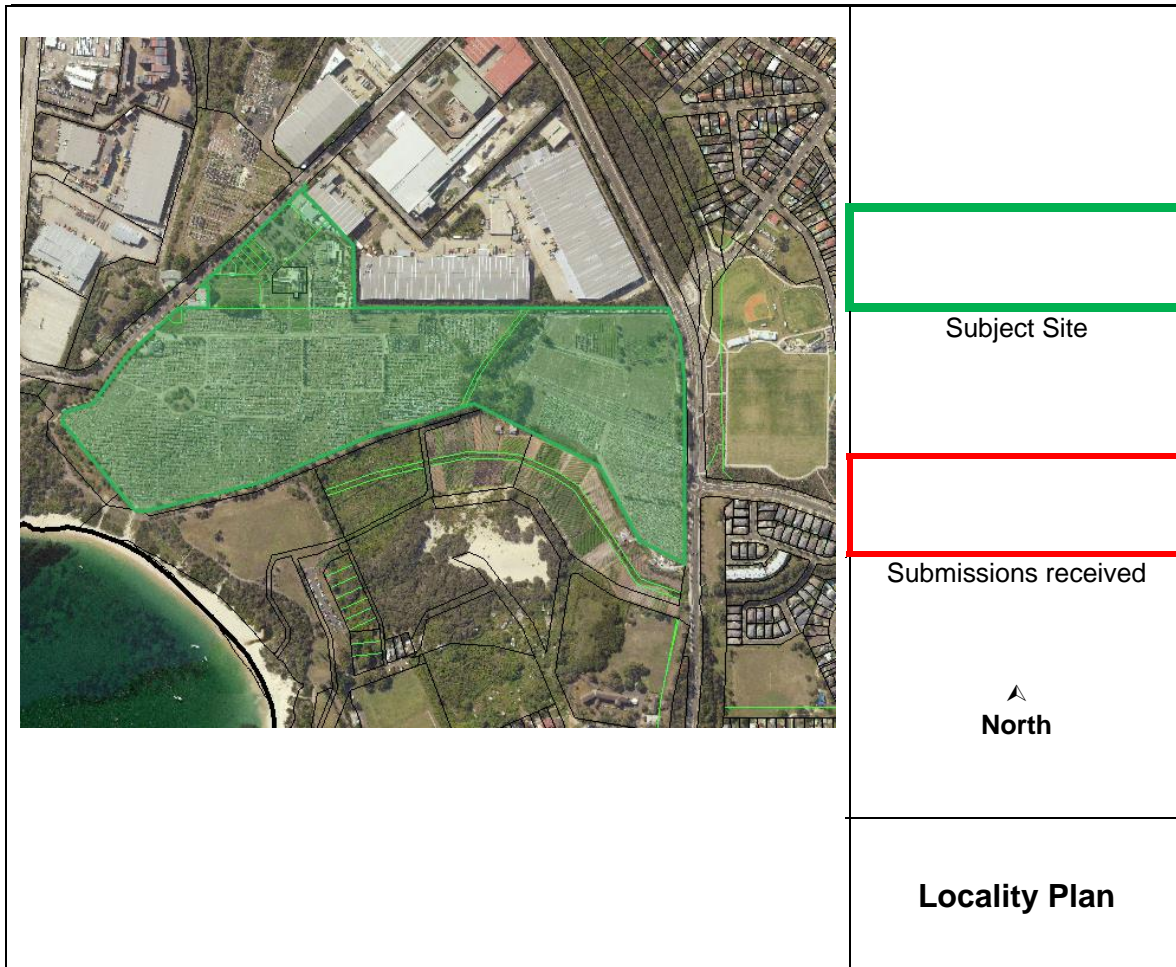
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### Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/213/2021 for remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works (Heritage Item), at No. 45-63 Military Road and 47 Military Road, Matraville subject to the development consent conditions attached to the assessment report.

D2/22

D2/22



## 1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as:

- The development involves demolition of a heritage item.

The proposal seeks development consent for the remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works.

The key issues associated with the proposal relate to the heritage significance of the site, with substantial works being undertaken (including internal demolition works) to the existing Chapel and Crematorium building, which is identified as being a local heritage item. The proposed development seeks to refurbish, renovate and upgrade the existing building and provide a new amenities building to ensure compliance with the current building and accessibility standards. The application is supported by Council's external Heritage Consultant subject to recommended conditions of consent in relation to the external treatment of the new building. The Applicant also seeks an exemption to the payment of s7.12 contributions which has been assessed against the exemption criteria within Council's s7.12 contributions Plan and the exemption denied in this instance.

The proposal is recommended for approval subject to non-standard conditions in relation to the heritage significance of the site, including minor amendments to the Amenities building and the submission of the Plan of Management for the site to Council, once endorsed by the Department of Planning and Minister.



## 2. Site Description and Locality

The subject site forms part of Eastern Suburbs Memorial Park which is addressed as 45-63 Military Road and 47 Military Road, Matraville. The overall site comprises several allotments of land which are legally described as follows:

- Lot 4807 in Deposited Plan 752015;
- Lot 2649 in Deposited Plan 752015;
- Lot 2650 in Deposited Plan 752015;
- Lot 2651 in Deposited Plan 752015;
- Lot 2652 in Deposited Plan 752015;
- Lot 2653 in Deposited Plan 752015;
- Lot 5244 in Deposited Plan 820345;
- Lot 7089 in Deposited Plan 1095135;
- Lot 7049 in Deposited Plan 1110708;
- Lot 7050 in Deposited Plan 1110708;
- Lot 7079 in Deposited Plan 1110709;
- Lot 7090 in Deposited Plan 1110711.

The site is identified as Crown Land and managed by Southern Metropolitan Cemeteries NSW who operate the Memorial Park. To the north and west of the subject site is a series of industrial developments. Yarra Beach and Reserve are located to the south of the site, with Chifley Sports Reserve and residential properties located to the east. The Memorial Park also extends onto the north-western side of Military Road at 12 Military Road, comprising additional burial grounds and gardens. The site adjoins Bayside Local Government Area to the far west and south.

The portion of the site relevant for the subject application is Lot 7050 and Lot 7049 in DP 1110708 which is located within the north-western portion of the Memorial Park. The north-western portion of the site comprises the Chapel and Crematoria building, the Ascension of Jesus Christ Mausoleum, vehicular and pedestrian entrances and internal access paths, and the carpark. The Chapel and Crematoria building is identified solely as no. 47 Military Road, Matraville with the remainder of the site known as 45-63 Military Road, Matraville.

The consolidated site has a total area of approximately 27,488m<sup>2</sup>. The site is irregular in shape being generally trapezoidal shaped. The site generally slopes from north to south, with higher areas of terrain within the southern portion of the site. The northern portion of the site where the proposed works are located is an overall flat terrain with a slight slope from the Chapel and Crematoria building down towards the burial grounds to the south. The subject site is zoned SP2 – Infrastructure for the purpose of a Cemetery. The subject site is identified in blue in Figure 1 below, with the area of the site in which the proposed works are located identified in yellow.

D2/22

D2/22



Figure 1 – Subject site and location of proposed works in yellow. (NearMap)

### 3. Relevant history

The site has been used for the purpose of a Cemetery, being the Eastern Suburbs Memorial Park for an extended period of time. The Applicant's Statement of Environmental Effects states that the cemetery has occupied the subject site since 1888. The site has been subject to several Development Applications. A search of Council's records revealed the following recent and/or relevant applications for the site.

#### DA/69/2008

Development Application DA/69/2008 for alterations & additions to administrative building at Eastern Suburbs Memorial Park including demolition of existing kiosk, conversion of the main building to a funeral home & the operation of a funeral home business between the hours of 8am - 5pm, Monday – Friday was approved by Council on 16/10/2008.

#### DA/680/2006

Development Application DA/680/2006 to demolish existing kiosk at 51-61 Military Road and construct a new single storey building at No 49 Military Road to include 3 condolence rooms, cafe, florist and associated amenities including new car parking spaces along Military Road at the Eastern Suburbs Memorial Park (Botany Cemetery) was approved by Council on 24/04/2007.

#### DA/258/1992

Development Application DA/69/2008 for building works associated with upgrading and modernising of the crematorium was approved by Council on 04/09/1992.

#### PL/57/2020

The proposed development was the subject of a Pre-lodgement meeting held on 28 January 2020 which raised a series of items to be addressed in any future application. The prelodgement meeting feedback and response is addressed in the Applicant's SEE.

#### **Subject Development Application**

The subject application was lodged with Council on 21/04/2021. The application was internally referred to Council's Landscape Officer, Environmental Health Officer, and Senior Building Surveyor. The application was externally referred to an external Heritage Consultant to undertake a heritage assessment of the proposed development.

A response from Council's Heritage Consultant was received by Council on 18 November 2021. The heritage assessment was generally in support of the proposed development with the exception of the proposed Amenities building. The referral response was forwarded to the Applicant for consideration and additional information was sought to address the concerns raised regarding the Amenities building.

On 14 December 2021, a meeting was held between Council, Council's Heritage Consultant and the Applicant to consider and discuss alternative design options.

On 22 December 2021, amended plans and additional information were submitted to Council in response to the heritage concerns raised which involved the following:

- An amended design for the Amenities building which involves the reorientation of the building and minor associated design changes;
- Amended/updated associated reports as follows:
  - Response to Heritage Referral;
  - Heritage Impact Statement;
  - Letter confirming the extent of excavation required in relation to the proposed Amenities building.

The amended plans were re-referred to the Heritage Consultant for consideration and assessment. A response was received on 19 January 2022.

#### **4. Proposal**

The proposal seeks development consent for remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works. Specifically, the proposal seeks development consent for the following works:

- Remediation and upgrade to the existing chapel and crematorium building. This will involve:
  - Removal of hazardous material.
  - Internal refurbishment of existing chapels, storage, columbarium and back of house areas.
  - Addition of PVC panels.
- Upgrade to external pedestrian and compliant access to the chapel and crematoria building in accordance with AS1428.1, specifically to the southern and western elevations.
- Demolition of existing information shelter.
- Provision of an external amenities building (6.84m x 9.5m, maximum height of RL26189) accommodating male, female and ambulant amenities. The amenities building is proposed to be located to the north of the existing chapel and crematorium building, adjacent to Chapel Avenue and the existing car park.
- Removal of four existing trees and associated new landscaping.

Further details regarding the extent of the proposed works are identified in the architectural drawings and within Section 4.1 of the SEE.

#### **5. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan. No submissions were received during the course of the assessment of the application.

##### **5.1. Renotification**

Amended plans in response to heritage concerns were submitted by the applicant on 22 December 2021. The amended plans involved amendments to the proposed Amenities building which primarily

involved the reorientation of the building in order to retain view corridors to the Chapel from the internal public areas.

The amended proposal is considered to be similar in bulk and scale to the original proposal, being approximately 30m<sup>2</sup>, and shall be lower in height than the original building. As such, it is considered that the development as amended would have a similar impact to that which was originally proposed. Furthermore, given the proximity of the proposed Amenities building to the neighbouring properties, being in excess of 60m and 90m to the north and west respectively, it was not considered that the proposal as amended would result in any significant impacts upon the neighbouring and surrounding properties. In view of the above, re-notification of the application was not considered necessary in this instance.

## **6. Statutory Considerations and Relevant Environment Planning Instruments**

### **6.1. Environmental Planning and Assessment Act 1979**

The subject site is Crown Land which is managed by Southern Metropolitan Cemeteries NSW who operate the cemetery. In accordance with section 4.33(1)(a) of the EP&A Act a copy of the draft conditions of consent were forwarded to the Applicant for approval. Acceptance of the draft conditions was confirmed by the Applicant on 31 January 2022.

### **6.2. SEPP (Vegetation in Non-rural Areas) 2017**

The Vegetation SEPP came into effect in NSW on 25 August 2017. The aims of the Vegetation SEPP are:

*“(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*

*(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.”*

Clause 7(1) 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.

#### Assessing officer's comment:

The proposed development requires the removal of four trees (4) in order to accommodate the new Amenities building. It should be noted that the original proposal only sought consent for the removal of two (2) trees, being the two (2) northern Brush Box trees. However, Council's Landscape Officer advised that the two (2) additional trees to the south of the proposed building would not be able to be safely retained and therefore removal of the four (4) trees was approved, noting that the trees are not considered to be significant and there is adequate landscaping within close proximity to the proposed building.

The amended proposal submitted on 22 December 2021 reorientates the Amenities building 90°, with the proposed building having a north-south orientation. As such, the amended proposal requires the removal of the four (4) trees as approved for removal by Council's Landscape Officer. Given that the Landscape Officer had already recommended removal of the subject trees, re-referral of the amended plans was not considered necessary in this instance. Furthermore, the proposed building, as amended, maintains the same alignment as the original proposal on the eastern side and therefore it is considered that the assessment of the trees to the east shall not be impacted.

Given that the subject trees are not significant species and sufficient landscaping is provided throughout the site, Council's raises no objection to the removal of the trees.

### **6.3. SEPP (Coastal Management) 2018**

A minor portion of the south-western corner of the subject site is identified as being within a Coastal Use Area and Coastal Environmental Area pursuant to SEPP Coastal Management 2018. The



provisions of clause 13 and 14 of SEPP Coastal Management state that development consent must not be granted on land that is within the Coastal Use Area and Coastal Environmental Area unless the consent authority has considered the impacts of the development in accordance with clauses 13 and 14. The proposed development relates to the existing Chapel and Crematorium building, the land to the north of the Chapel and the Ascension of Jesus Christ Mausoleum, which are all sited within the northern portion of the site, located in excess of 290m from the coastal use area and in excess of 380m from the coastal environment area. As such, the proposed development is not considered to be located on the area of land identified in the SEPP mapping. Notwithstanding, the proposed development shall not impact upon the coastal and natural environment, water quality, marine vegetation, foreshore access and public space, foreshore views, the visual amenity of the foreshore and the built environment heritage, and therefore is consistent with the provisions of the SEPP Coastal Management.

#### **6.4. SEPP 55 – Remediation of Land**

The proposed development seeks to remediate the existing chapel and crematorium building known to be contaminated with hazardous materials. A detailed assessment of the proposed remediation works, including the suitability of the site for the proposed development, has been undertaken by Council's Environmental Health Officer which is detailed in Appendix 1. No further investigation of the site is required in this instance and it is considered that the site is suitable for its intended and ongoing use as a cemetery, including the ancillary buildings and the proposed development. A series of conditions of consent have been recommended by Council's Environmental Health Officer which shall be imposed.

#### **6.5. Randwick Local Environmental Plan 2012 (LEP)**

The site is zoned SP2 – Infrastructure for the purpose of a Cemetery pursuant to the Land Use Table and Land Zoning Map within RLEP 2012.

The subject site comprises Eastern Suburbs Memorial Park and includes a cemetery and crematorium with associated ancillary uses. It is considered that the primary use of the site would be a "cemetery" which is defined as *"a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services"* pursuant to RLEP 2012, with the crematorium use ancillary to the primary cemetery use.

The proposed development involves the refurbishment of the existing Chapel and Crematorium building and upgrading of the external pedestrian access paths. The existing building is considered to be a type of development that is ordinarily or ancillary to the development for the purpose of a cemetery and therefore is permissible with consent pursuant to RLEP 2012. The subject application and proposed development seeks to improve the amenity of the existing buildings and structures, and upgrade the facilities in accordance with the current standards. As such, the existing use of the Chapel and Crematorium building shall not alter as a result of the proposed development. The proposed Amenities building shall comprise toilet and sanitary facilities in response to the internal reconfiguration of the Chapel building, and is considered to be ancillary to the primary use of the site.

The application also seeks to utilise the Ascension of Jesus Christ Mausoleum for memorial services during the refurbishment of the Chapel and Crematorium building. The use of the Mausoleum building for memorial services is considered to be an ancillary use to the primary cemetery use and therefore would be permissible with consent pursuant to RLEP 2012. However, it is considered that the permanent use of the Mausoleum for memorial services would likely result in an intensification of use on the site which could result in additional impacts in relation to traffic and parking, and BCA compliance etc which has not been considered in the subject application. As such, a condition of consent is recommended to ensure that the Mausoleum is not used for any memorial services after the issue of the Occupation Certification for the proposed development, and reverts back to its original use.

The objectives of the SP2 zone are as follows:

- *To provide for infrastructure and related uses.*

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To facilitate development that will not adversely affect the amenity of nearby and adjoining development.*
- *To protect and provide for land used for community purposes.*

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will allow the ongoing use of the site for the purpose of a cemetery and associated ancillary uses, shall continue the use of the land for community purposes, and the proposed development shall not result in any unreasonable impacts upon the amenity of adjoining and surrounding developments. Furthermore, the proposed development is considered to be compatible with and shall not detract from the heritage significance of the site, including views to the heritage items. As such the proposed development is considered to satisfy the relevant objectives of the SP2 zone subject to conditions.

There are no development standards applicable to the proposed development. The proposed height and FSR are considered below.

#### 6.5.1. *Clause 4.3 – Height of Buildings*

There is no maximum height specified for the subject site on the Height of Buildings Map. As such the proposed development is assessed on merit against the objectives of clause 4.3.

The objectives of Clause 4.3 are as follows:

- to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- 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.*

It is considered that the proposed development is consistent with the objectives of the height of building development standard for the following reasons:

- The proposal primarily relates to the Chapel and Crematorium building and involves the refurbishment of the existing building. There shall be minimal alterations to the existing external façade of the building and the overall height of the building shall not be altered as a result of the proposed development.
- The proposed Amenities building shall be a single storey, light-weight structure with a maximum height of approximately 3.4m and shall not attribute to excessive bulk and scale.
- The proposal was reviewed by Council's external Heritage Consultant who raised no concerns with the proposed bulk and scale of the development and it is considered that the resultant scale and character of the building shall not adversely impact on the heritage significance of the site.
- The proposed development is not considered to result in any unreasonable impacts upon adjoining properties with regards to visual amenity, privacy, overshadowing or view loss.

#### 6.5.2. *Clause 4.4 – Floor Space Ratio*

There is no maximum floor space stipulated for the subject site on Floor Space Ratio Map. As such the proposed development is assessed on merit against the objectives of clause 4.4.

The objectives of Clause 4.4 are as follows:

- to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- to ensure that buildings are well articulated and respond to environmental and energy needs,*
- to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

- (d) *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.*

It is considered that the proposed development is consistent with the objectives of the FSR development standard for the following reasons:

- (a) The proposed works to the Chapel and Crematorium buildings shall be contained within the existing built form, with internal reconfiguration and restoration works proposed to the existing building.
- (b) The proposed Amenities building shall replace an existing Information Shelter. The Information Shelter is an open structure and therefore the proposed Amenities building shall increase GFA on the site by approximately 30m<sup>2</sup>. Notwithstanding, the proposed building shall be similar in height to the existing shelter and has been designed as a light-weight structure to minimise the bulk and scale. As such, the size and scale of the proposed development is not considered to be incompatible with the existing and desired character of the cemetery.
- (c) Furthermore, the proposed Amenities building is considered to be appropriately articulated, given its small scale.
- (d) The proposed built form is considered to be compatible with the heritage significance of the site and is supported by Council's Heritage Consultant, with particular regards to the retention of Chapel views from the public areas of the cemetery.
- (e) Due to the location of the proposed development, which provides significant spatial separation from the surrounding residential properties, the proposal is not considered to result in any unreasonable impacts upon the residential amenity of neighbouring land with regards to visual bulk, privacy, overshadowing and view loss.

#### 6.5.3. *Clause 5.10 - Heritage conservation*

The objectives of Clause 5.10 are as follows:

- (a) *to conserve the environmental heritage of Randwick,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The subject site is listed as a heritage item pursuant to Schedule 5 of RLEP 2012, identified as "Eastern Suburbs Crematorium" at 45-63 Military Road, Matraville (Item No. 1238). The site also incorporates Item No. 1239, being Pioneers Memorial Park, Botany Cemetery, which is located within the far eastern side of the site. It is noted that the Information Shelter is not identified as a heritage item, nor is the Ascension of Jesus Christ Mausoleum, however the Mausoleum is ranked as having "moderate" heritage significance within the Eastern Suburbs Memorial Park Conservation Management Plan. The subject site is also located within the vicinity of a heritage conservation area, being located to the west and south comprising Bunnerong Power Station and Botany Bay National Park, and within the vicinity of heritage items being Yarra Bay Beach and Reserve and the Chinese Market Gardens. The site at Botany Bay National Park is also identified as being a State Listed Heritage Conservation Area.

A detailed assessment against the provisions of clause 5.10 has been undertaken by Council's Heritage Consultant which is provided in Appendix 1 of the report. The Heritage Consultant has recommended some minor design changes to the external fabric of the Amenities building which shall be conditioned and the architectural drawings updated prior to the issue of a Construction Certificate.

The proposed development involves alterations and additions to the existing heritage item, including the reconfiguration of the existing floor plan, demolition of internal walls and external openings and overall refurbishment of the building. It is considered that the proposed works are required to enable and the support the ongoing use of the cemetery and crematorium by upgrading the existing facilities, ensuring compliance with the current relevant standards, with particular regards to accessibility. As such, the proposed works are considered to be acceptable in this instance, subject to conditions to be placed on the consent which are detailed in the recommendation, and it is



considered that the overall heritage significance of the subject site shall be maintained and the proposed development is consistent with the objectives of clause 5.10.

#### 6.5.4. Clause 6.12 - Development requiring the preparation of a development control plan

As the subject site has an area in excess of 10,000m<sup>2</sup>, clause 6.12 of RLEP 2012 is applicable to the proposed development. The provisions of clause 6.12 generally require the preparation of a site specific development controls plan where no plan currently exists. There is no site specific DCP that has been prepared for the Eastern Suburbs Memorial Park site and therefore the provisions of clause 6.12 are applicable in this instance.

Subclause 6.12(3) states that “development consent must not be granted for development on land to which this clause applies unless.....(c) **the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated.**”

The proposed development **is** considered to be a substantial redevelopment of the existing building, given the extent of works proposed and the associated cost of works involved. The provisions of clause 6.12 aim to ensure that appropriate guidelines and controls are prepared for large sites, and essentially a masterplan in relation to the future development of the site is provided. While the proposed development involves substantial works to the existing Chapel and Crematorium building, the resultant built form shall not be significantly altered as a result of the proposed changes, noting that the works are predominantly sited within the existing building footprint. The additional built form on site shall be in the form of the new Amenities building which has a building footprint of approximately 30m<sup>2</sup>, equating to 0.1% of the total site area. As such, the existing site plan including the existing location of buildings and structures on the site shall be largely unchanged. In this regard, it is considered that for the purpose of the application of clause 6.12, taking into account the intention and objective of the clause, the proposed development can be considered minor in nature for this purpose in accordance with subclause 6.12(3)(c). As discussed in Section 6.4 of the report, the proposal is also found to be consistent with the objectives of the SP2 zone, and therefore the creation of a site specific DCP is not considered necessary in this instance.

Notwithstanding the above, concerns are raised regarding the cumulative impact of a series of minor applications for works to the subject site over a period of time, which in conjunction may ultimately alter the overall context and significance of the site. This concern is also raised by Council's Heritage Consultant regarding the “piece-meal” and incremental changes to the site and impact upon the heritage significance of the site. However, the Heritage Consultant notes that the response provided by the Applicant's Planner (Urbis) on 22 December 2021 in relation to these concerns identifies that a Plan of Management is currently being finalised for the site due to be endorsed this year, which shall assist in forming the future development of the site. As such, the Heritage Consultant has recommended a condition of consent for the POM to be submitted to Council once endorsed to ensure any future minor applications do not compromise the future plan for the site.

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

There is no specific DCP for the subject site, nor is there any provisions in relation to development for the purpose of a cemetery contained within RDCP 2013. The relevant and applicable Sections of RDCP 2013 are assessed below:

#### **Section B2 - Heritage**

A detailed assessment against the relevant provisions of Section B2 have been undertaken by Council's Heritage Consultant. See section 6.4.3 and Appendix 1 for further comment. The

proposed development is not considered to result in any adverse heritage impacts and the heritage significance of the site shall be maintained. As such, the proposed development is considered to be consistent with the provisions of section B2 and is supported on heritage grounds.

#### **Section B4 – Landscaping and Biodiversity**

The proposed development involves the removal of four (4) trees to accommodate the new Amenities building. The existing gardens surrounding the new structure shall be refurbished upon completion of the proposed works. The application was referred to Council's Landscape Officer who carried out a detailed landscaping assessment and raised no objection to the removal of the four (4) trees. See Appendix 1 for further comment. It is considered that the proposed development is consistent with the provisions of section B4 and is supported.

#### **Section B7 – Transport, Traffic, Parking and Access**

The proposed development involves the substantial redevelopment and refurbishment of the existing Chapel and Crematorium building and a new Amenities building containing toilet facilities. Concerns were raised at the Pre-lodgement meeting in relation to the subject site and proposed development regarding the intensity of use and potential impacts upon traffic and parking. The SEE states that the *"the proposed development does not seek to increase the intensity of use of the chapel and crematoria building, rather the purpose of the proposal is to refurbish and remediate the building to align with current standards and ensure the health and safety of occupants"*. Furthermore, section 5 of the SEE states that there shall be no increase in the number of memorial services which shall be maintained following the completion of the works. Given there shall be no change to the operation of the premises, with particular regards to the number or frequency of memorial services, it is considered that there shall be no additional traffic or parking demand.

As discussed in section 6.4 of the report, a condition of consent shall be imposed to ensure the temporary use of the Mausoleum for services shall cease once an Occupation Certificate has been issued for the development.

### **8. Environmental Assessment**

The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See section 7 of the report.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.

D2/22

Section 4.15 'Matters for Consideration'	Comments
natural and built environment and social and economic impacts in the locality	The proposed development is consistent with the dominant character in the locality, with particular regards to the existing character of the cemetery and the surrounding industrial developments and open space.  The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The subject development is for alterations and additions to the existing cemetery. The site is zoned for the purpose of a cemetery and as such the site is considered to be a suitable location for the development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received during the course of the assessment of the application.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

### 8.1. Discussion of key issues

#### Randwick City Council Development Contributions Plan

Part 7 of the EP&A Act 1979 permits Council to impose a condition of development consent requiring the payment of a monetary contribution. Randwick Council has developed a s7.12 Contributions Plan (known as Randwick Section 94A Plan 2015) which details when contributions are payable and how much contributions are payable. The Section 7.12 Plan stipulates that development contributions (levy) are applicable to all development with an estimated cost of over \$100,000. The percentage of the contributions varies depending on the estimated cost, being 0.5% for developments between \$100,001-\$200,000, and 1% for developments over \$200,000. The estimated cost of works for the proposed development is \$5,128,200.

The Applicant seeks an exemption to the payment of the levy subject to Section 13 of Section 7.12 Plan. The Applicant's justification for the exemption includes the use of the site for the purpose of a "place of worship", the Southern Metropolitan Cemeteries (being the land manager and operator of the cemetery) is a charitable organization, and that the applicant is a Crown authority and the development is for community services.

As the applicant seeks an exemption to the s7.12 contributions, the application was referred to Council's Strategic Planning Department for comment and/or recommendation who provided the following comments:

*"Council does not accept that the proposal is exempt from section 7.12 contributions because:*

- The Cemetery Trust does not fall into any of the specific land uses identified in the Plan namely "places of worship, public hospitals, police stations, fire stations, and other emergency services".*
- The works proposed to be undertaken by SMCC are not considered works to be undertaken "for charitable purposes" as they will support SMCC in the business of providing crematorium and cemetery services for a fee.*
- The proposed works are not considered to be small scale as the DA outlines extensive refurbishment and renovation of the existing Chapel and Crematorium building and surrounding external pedestrian areas, and a new Amenities facility amounting to a \$5 million total cost of development.*
- While the existing cemetery and crematorium provides a public benefit for such important services, the facility operates as a commercial business, and therefore the development is*

*undertaken with a commercial objective which facilitates the ongoing use of the site as a cemetery.*

- *The proposed works will have the ability to intensify the use on the site and increase the capacity of the Chapel and Crematorium building, given that it involves the upgrading of the building and access to current DDA and accessibility standards which will facilitate a greater number of persons to the site."*

Section 13.2 of the Randwick Section 94A Plan 2015 stipulates that exemptions from a levy under the Plan may be considered by the Council for the following development, or components of development:

*"(13.2.1) **places of worship**, public hospitals, police stations, fire stations, and other emergency services*

*(13.2.2) works proposed to be undertaken for charitable purposes by, or on behalf of, a not-for-profit charity (as defined by the ATO) but only in cases where the development is of a small scale, for example a retail outlet operated by the Salvation Army, St Vincent de Paul or similar organisations, and where the Council considers that there will not be an increase in the demand for public works or infrastructure as a result of the development which would warrant the payment of a Section 94A levy....."*

Furthermore, Section 13.3 states the following:

*"(13.3) Those applicants which seek exemption from a levy under this Plan must provide a comprehensive submission to the Council, which clearly demonstrates how the proposed development falls within one of the development types defined above, prior to the Council determining whether such an exemption applies. In considering any application for an exemption the Council will take into account:*

*(13.3.1) the extent to which the proposed development comprises or includes the provision, extension or augmentation of public amenities or public services that provide a public benefit, and/or*

*(13.3.2) whether the applicant is affected by any adverse financial circumstance which will impact on its ability to fund the payment of any levy which is imposed in accordance with this Plan."*

#### Place of Worship

The Applicant argues that while the broader use of the site is for the purpose of a "cemetery", an essential function of the cemetery is for the purpose of memorial services and religious worship, similar to that of a "place of public worship".

Pursuant to the Dictionary in RLEP 2012, a place of public worship is defined as follows:

***"place of public worship*** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training."

The primary use of the site is considered to be defined as a "cemetery" pursuant to RLEP 2012, with the ancillary uses being a "crematorium" and a "funeral home". While it is acknowledged that the site conducts services within the Chapel and Crematorium building, Council considers these to be a function of the overall use of the site as a cemetery, crematorium, and funeral home. The services held at the Memorial Park are not considered to be for general religious worship for a congregation or religious group but are in conjunction with the burials and/or cremations which occur on site. As such, while services including religious services are held at the site, the function of these services is not considered to be as a place of public worship, and therefore the Applicant's argument is not considered to be justified in this instance. Furthermore, it is clear from the exemption criteria specified in subsection 13.2.1 that the intention is to exclude those key uses which are fundamental to the health, safety and well-being of the general public, and places such as cemeteries and the like are not identified. In view of the above, the proposal is not considered to meet the criteria of subsection 13.2.1 of the s7.12 Plan.

### Charitable Organisation

As part of the application documentation, certification was provided by the Applicant confirming Southern Metropolitan Cemeteries as a registered charity, however it is noted that the certification is dated 03/12/2012.

The Australian Charities and Not-for-profits Commission (ACNC) is the national regulator of charities. A search of the Charity Register on the ACNC website revealed that “The Southern Metropolitan Cemeteries Trust” registration had been revoked, and the “Southern Metropolitan Cemeteries Land Manager” registration, as identified in the submitted charity certification, was voluntarily revoked in October 2021, with the status noting that the registration was “*voluntarily revoked Not Entitled to be a charity*”. The subject application was lodged in April 2021 and therefore at the time of the lodging the application the operator may have been a registered charity, however it is unclear whether that is still the case based on the information obtained from the ACNC website.

Notwithstanding the above, subsection 13.2.2 is only applicable for developments of “small scale”, and where Council considers that there will not be an increase in the demand for public works or infrastructure as a result of the development which would warrant the payment s7.12 contributions.

The proposed works are not considered to be small scale, proposing extensive refurbishment and renovation of the existing Chapel and Crematorium building and surrounding external pedestrian areas, and a new Amenities facility within an additional building. The extent of the works proposed, and scale of the development is reflected in the costs of works of the proposed development which is in excess of \$5million. No increase in the number of services is proposed under the subject application, however, it must be acknowledged that the proposed works will have the ability to intensify the use on the site and increase the capacity of the Chapel and Crematorium building, particularly noting the upgrading of the building and access to current DDA and accessibility standards which will facilitate a greater number of persons to the site, and the additional external toilet facilities. In view of the above, Council does not consider the proposed development to be of small scale and cannot be satisfied that the proposed development meets the provisions of subsection 13.2.2 for the purpose of an exemption.

### Crown Development

The Applicant also refers to the Department of Planning Circular D6 “Crown Development Applications and Conditions of Consent” stating that as the development is for community services and public purpose, no s7.12 contributions should be applied in this instance.

It should be noted that the Planning Circular D6 came into effect in 1995 and has not been superseded by any other relevant Circular. As per the Department of Planning website, the Circular is no longer current but provides historical information and advice. Part of Circular D6 relates to the imposition of conditions of consent with particular regards to Section 94 contributions (now s7.12 contributions). The Circular notes that in considering Crown DAs, Council’s should “*..distinguish between the activities of Crown authorities when they are clearly providing a public service or facility and when they are acting as a commercial developer*” and states:

*“Crown Activities providing a public service or facility lead to significant benefits for the public, in terms of essential community services and employment opportunities. Therefore, it is important that these essential community services are not delayed by unnecessary disputes over conditions of consent. These activities are not likely to require the provision of public services and amenities in the same way as developments undertaken with a commercial objective.”*

The Circular provides a matrix which can be utilised as a guide for Council on justifiable categories of s94 contributions for Crown developments that provide an essential community service, and outlines which s94 contributions are appropriate or inappropriate for Crown activities. The matrix lists the following Crown Activities:

- Educational Services;
- Law/Order Services;
- Health Services;
- Housing (SEPP 5 - aged and disabled persons, and medium density infill).



While it is acknowledged that there are additional Crown activities with the above uses, it is worth noting that the types of development identified in the matrix are largely consistent with the uses identified for exemption within subsection 13.2.1 of Council's s7.12 Plan.

Council accepts that the Memorial Park provides a community service, facilitating burials and cremations, however unlike a public school or police station, it is considered that the Memorial Park operates similar to that of a commercial business, and therefore the development is undertaken with a commercial objective which facilitates the ongoing use of the site as a cemetery. The Circular also acknowledges that not all Crown activities should be exempt with Councils to determine whether they are a clear public service or may act commercially.

In view of the above, Council cannot be satisfied that an exemption is appropriate in this instance and therefore a suitable condition is included requiring the payment of a section 7.12 contribution in accordance with the requirements of Council's plan.

## 9. Conclusion

That the application for remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works (Heritage Item) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the SP2 zone in that the proposed activity and built form will allow the ongoing use of the site for the purpose of a cemetery and associated ancillary uses, shall continue the use of the land for community purposes, and the proposed development shall not result in any unreasonable impacts upon the amenity of adjoining and surrounding developments.
- The proposed development is considered to be compatible with and shall not detract from the heritage significance of the site, including views to the heritage item.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

## Appendix 1: Referrals

### 1. Referral comments:

#### 1.1. Environmental Health Officer

##### **Proposed Development:**

*The development seeks consent for remediation and refurbishment of the existing chapel and crematoria building on site and for the construction of an external amenities building.*

*Specific consent is sought for:*

- *Remediation and upgrade to the existing chapel and crematorium building. This will involve:*
  - *Removal of hazardous material.*
  - *Internal refurbishment of existing chapels, storage, columbarium and back of house areas.*
  - *Addition of PVC panels.*
- *Upgrade to external pedestrian and compliant access to the chapel and crematoria building in accordance with AS1428.1, specifically to the southern and western elevations.*
- *Demolition of existing information shelter.*
- *Provision of an external amenities building (8m x 9m, maximum height of RL26641) accommodating male, female and ambulant amenities. The amenities building is proposed to be located to the north of the existing chapel and crematorium building, adjacent to Chapel Avenue and the existing car park.*
- *Removal of two existing trees (Brush-Box tree species), and provision of pot-planting located at the porte cochere and western entry.*

##### **Comments:**

*Contamination:*

*The proposed works seek to remediate the existing chapel and crematorium building known to be contaminated with hazardous materials. The proposed extent of the remediation is outlined in the Hazardous Materials Risk Assessment (Appendix G). The affected materials are to be removed under controlled conditions prior to commencement of the proposed refurbishment works.*

*These works will be conducted in accordance with the Code of Practice for the Safe Use of Synthetic Mineral Fibres, completed by an appropriately experienced contractor and where required a licensed asbestos contractor. It is noted that while the Hazardous Materials Risk Assessment has been prepared for the entire ESMP site, this application will only seek to remediate the chapel and crematorium building.*

*Greencap have prepared a Hazardous Materials Risk Assessment (Appendix G) and a Hazardous Materials Management Plan (Appendix F). Section 2 of the report contains a Hazardous Materials Register which identifies the hazardous materials identified at the site. This has been informed by a hazardous materials risk assessment undertaken at the site on 6 March 2019. Identified hazardous materials include:*

- *Presence of asbestos containing materials (non-friable) at the ground level and level 1 of the crematorium. This included cement sheeting products, electrical fuses and dust/ debris.*
- *Synthetic material fibre-containing materials at the sub-floor, ground level and level 1 of the crematorium. This included plant, equipment and insulation.*
- *Lead containing paint and dust at ground level and level 1 of the crematorium. This included surface dust and interior paint.*
- *Polychlorinated biphenyls at level 1 of the crematorium. This included PCB-containing capacitors within fluorescent light fittings.*

*This application proposes to safely remove and dispose of asbestos containing materials prior to the work commencing. Necessary licenses will be obtained prior to this removal to ensure the health and safety of contractors. Compliance with the management measures identified in the Management Plan and the standard conditions of development consent related to asbestos will also minimise asbestos exposure in the environment.*

*In accordance with Australian Standards AS 2601, a Hazardous Materials Demolition Survey will also be prepared prior to CC, to specify detailed work procedures.*



**Noise:**

The building currently accommodates are 1 memorial service per hour from 9am – 4pm Mon-Fri, and 9am – 12pm on Saturdays. The frequency of services will be maintained following the completion of the proposed works.

**Recommendation:**

Should the application be approved, it is recommended that the following conditions be included:

**REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000 and to provide reasonable levels of public health, safety and environmental amenity during construction.

1. Hazardous or intractable wastes arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:

- Work Health and Safety Act 2011;
- Protection of the Environment Operations Act 1997 (NSW);
- NSW EPA Waste Classification Guidelines (2014);
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Randwick City Council Asbestos Policy.

The works must not cause any environmental pollution, public health incident or, result in an offence under the Protection of the Environment Operations Act 1997 or Work Health & Safety Act 2011 and Regulations.

2. All recommended control measures and actions necessary to manage any hazardous material related risks provided in the hazardous material risk assessment report C123502 : J161233 should be followed where applicable.
3. Ensure to implement the hazardous materials management plan C123502: MC.

**OPERATIONAL CONDITIONS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

4. The operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

## 1.2. Landscape Officer

An application has been received for remediation & refurbishment of the existing Chapel & crematoria building including access upgrades, construction of a detached toilet facility, use of an existing mausoleum building for temporary Chapel services during works and other associated works (Heritage Item) at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by NBRs, dwg's DA-00-00 – 85-01, issue E, dated 15/04/21;
- Statement of Environmental Effects by Urbis, dated 16/04/21;
- Detail & Level Survey by AsBuilt, dwg A20010-SU01, Rev 3, dated 21/01/21.

### **Tree Management & Landscape Comments**

The submission details that the majority of works will be contained internally within the existing Crematorium Building, and while there are established trees around the perimeter of this structure, mostly along its southern elevation, they are all shown as being retained, with the gardens in these areas also to be improved and upgraded.

The only trees confirmed as being formally sought for removal are two 5-6m tall, semi-mature *Lophostemon confertus* (Brush Box) which are contained within a completely separate garden 'island', to the north of the Crematorium, along the southern edge of the existing free-standing bus shelter, so as to accommodate an entirely new amenities building.

There are a further two similarly sized Brush Box's just to the south of those described above, which while appearing to be shown for retention, this would not be possible, as when scaled off the plans, it has been confirmed that they would only be offset a minimal distance of between 500-800mm from the new amenities building, which would result in root damage during works, and then also cause maintenance issues into the future given their close proximity to this new building, and their capacity to get much larger.

Given how common this species is, as well as the fact that none are significant in anyway, no objections are raised to their removal, with the numerous other similar sized trees in the immediate vicinity to ensure that there is no loss of environmental amenity, with the benefits to be derived from this new facility seen to outweigh the need to retain these trees.

A series of recommended conditions have been imposed in the draft condition of consent.

## 1.3. Building Surveyor

### **Proposed Development:**

Remediation and refurbishment of the existing chapel and crematoria building with access upgrades, construction of detached toilet facility and use of the existing mausoleum building for temporary chapel services during works and associated works (Heritage Item).

### **Comments:**

Rise in storeys - 1  
Classification - Class 9 – assembly building  
Type B construction.

The applicant has provided a Regulatory Compliance Report prepared by Mackenzie Group, dated 12 March 2021, in relation to the proposed works and identified that the dimension of the exits to the south chapel does not comply with the DTS provisions and requires a Performance Solution.

*The Application also proposes the use of the existing mausoleum for temporary services while the works are being carried out. An examination of the floor plan of the mausoleum is attached to the report*

*Recommend approval subject to the recommendations of the Regulatory Compliance Report prepared by Mackenzie Group dated 12 March 2021.*

A series of recommended conditions have been imposed in the draft condition of consent.

#### **1.4. Heritage Consultant**

D2/22



City Plan Heritage P/L  
ABN 46 103 185 413

19 January 2022

Our Ref: H-21148

Mr David Ongkili  
Coordinator Strategic Planning  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031  
David.Ongkili@randwick.nsw.gov.au

Dear David,

**RE: DA ASSESSMENT - HERITAGE REFERRAL FOR DA 213/2021 - AMENDED  
45-63 MILITARY ROAD, MATRAVILLE NSW 2036**

City Plan Heritage (CPH) has been engaged by Randwick City Council to undertake a heritage assessment of the Development Application (DA/213/2021) for proposed works to the Eastern Suburbs Crematorium and construction of lavatory facilities located at 45-63 Military Road, Matraville NSW. The works are described in the development application as:

*Remediation & refurbishment of the existing Chapel & crematoria building with access upgrades, construction of a detached toilet facility, & use of an existing mausoleum building for temporary Chapel services during works, & associated works (Heritage Item).*

The following sections provide an assessment of the subject Development Application (DA) in relation to heritage matters incorporating assessment and comments on the amended design documentation submitted in December 2021 following the meeting with and verbal advice given to the Applicant during the meeting on 14 December 2021. The previous assessment has been kept in this referral as a background in order to maintain all relevant information associated with the assessment of DA/213/2021 in one document for future reference.

## 1. LOCATION

The works relate to the Eastern Suburbs Crematorium building and its immediate setting, and the Ascension of Jesus Christ Mausoleum, within the Eastern Suburbs Memorial Park. All buildings and settings affected by the application are located to the southeast of Military Road.

A section of the Eastern Suburbs Memorial Park site was dedicated as a cemetery in 1888 and the first interment was documented in August 1893. The area subject to this DA is located on the 'crematorium extension' component of the site that was completed between 1936-1948. This application relates to the existing crematorium and chapel building and the Ascension of Jesus Christ (AJC) Mausoleum, which are located on the eastern side of Military Road.

The Eastern Suburbs Crematorium and its setting are located on Lots 7049 and 7050 of Deposited Plan 1110708 (Parish of Botany, County of Cumberland). The site is located at 51 Military Road, Matraville within the Randwick Local Government Area. The Ascension of Jesus Christ Mausoleum is located on Lot 7089 of Deposited Plan 1095135, which although part of the broader Eastern Suburbs Memorial Park, is not identified as part of the heritage listing for the Eastern Suburbs Crematorium.

Level 6, 120 Sussex St, Sydney NSW 2000  
P +61 2 8270 3500

[CITYPLAN.COM.AU](http://CITYPLAN.COM.AU)

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Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

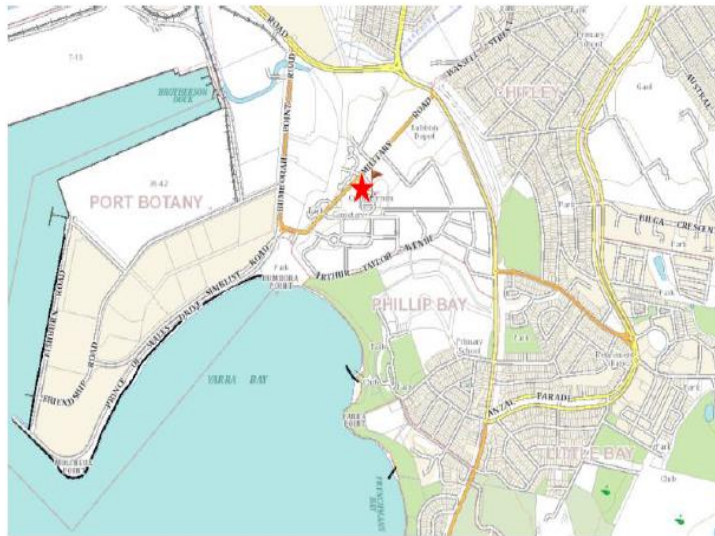


Figure 1 Map showing the location of the subject site, 88 Brook Street, Coogee NSW 2031. (Source: SIX Maps, <https://maps.six.nsw.gov.au/>)

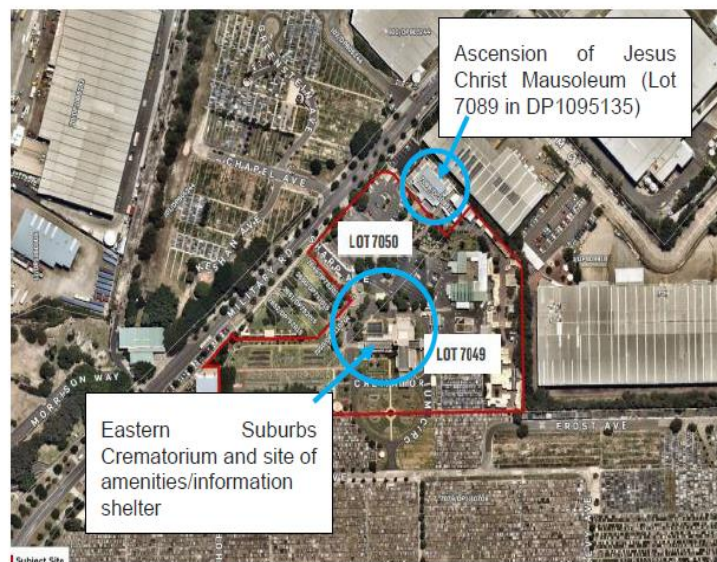


Figure 2. Aerial photograph showing the two lots (Lot 7049 and 7050) affected by the RLEP listing. Note the Ascension of Jesus Christ Mausoleum is part of the Eastern Suburbs Memorial Park but is not included in the LEP listing. (Source: Urbis, 16 April 2021, annotated by CPH)





Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

## 2. DESCRIPTION OF THE DEVELOPMENT SITE

This application proposes works to the Eastern Suburbs Crematorium (ESC), the Ascension of Jesus Christ Mausoleum and the construction of a new amenities and information shelter within the boundary of the Eastern Suburbs Memorial Park. The ESC building is a landmark building on the site, surrounded by gardens to the south and west, parking areas and the Ascension of Jesus Christ Mausoleum to the north and the Workers Compound and crypts to the east.

The Crematorium building opened on 8 May 1938, with alterations and additions undertaken during the 1950s and later. It is a rendered masonry structure designed in the Art Deco style comprising a south chapel and west chapel connected to the crematorium in the northeast section of the building, below a tower which conceals the chimneys. The Crematorium and Chapel building is surrounded by memorial gardens and columbaria. The formal garden setting around the building is an important contributor to its aesthetic significance. These gardens surrounding the building are in good condition and contain numerous ash memorial stones.

Internally, the chapels comprise simple but decorative art deco detailing. Side walls are articulated internally with recessed window surrounds and ceilings are coffered. Back of house spaces include the crematorium, comprising the ovens on the ground floor and chimney risers in the space above. It has associated offices, cool room, ash processing room, workroom and staff amenities.

## 3. HERITAGE STATUS AND SIGNIFICANCE

This assessment considers the potential impacts of the development on the subject site located at 45-63 Military Road, Matraville NSW, and heritage items located near the subject site. The site is not situated within a heritage conservation area.

The subject site is listed as a heritage item under Part 1 of Randwick Local Environmental Plan (LLEP) 2012 as 'Eastern Suburbs Crematorium', 43-65 Military Road, Matraville NSW 2036 (Item No. 1238).

The Statement of Significance included for the Eastern Suburbs Crematorium, located at 51 Military Road, Matraville in the NSW Heritage Inventory Database citation (Database No. 23103351) is given as:

*Good example of art deco architecture set in landscaped grounds with appropriate mature vegetation.*

*The Crematorium is of aesthetic significance as a fine example of an Inter-War Art Deco building, surrounded by formal memorial gardens appropriate to the building's site and purpose. The Crematorium is one of a group of the earliest crematoria in NSW and illustrates its age and purpose through its architectural style. This style is particularly evident externally; however there are also significant spaces and elements internally which include the south and west chapels.*

*This structure also provides an early example of technical innovation in funerary technology in New South Wales and is of state importance for the technical and social achievement of introducing cremation practises and technology into New South Wales.*

The above statement was updated by Heritage NSW in August 2021 to include the statement of significance for the Crematorium contained in the Heritage Impact Statement prepared by NBR Architecture (15 April 2021) submitted as part of Development Application DA/213/2021.

We note the Ascension of Jesus Christ Mausoleum is not identified as a heritage item under Randwick LEP. The mausoleum has been ranked as having 'Moderate' heritage significance within the Eastern

<sup>1</sup> NSW Heritage Inventory Online Database Citation NO. 2310335 accessed 16 November 2021.



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

Suburbs Memorial Park (Conservation Management Plan, NBR Architecture, December 2020) for the following reason:

*The building is of moderate significance for its contribution to the heritage of the overall cemetery site and Crematorium, due to its social and spiritual values and, through its purpose, ability to demonstrate the historical use of the site. All crypts are of social, religious and spiritual importance to individual families associated with that crypt.*

*The building also includes components of moderate aesthetic significance, including sculptures and statues.*

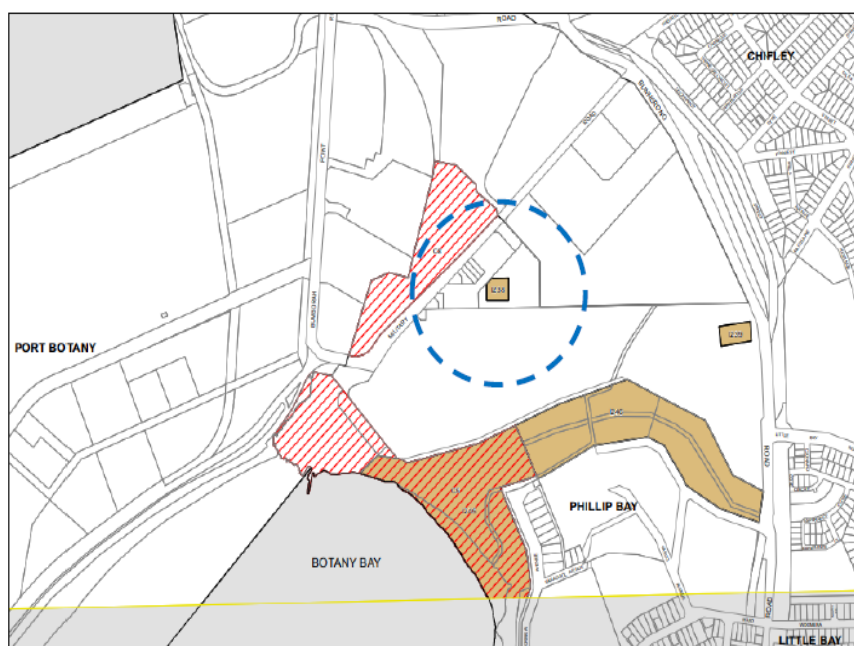


Figure 3. Extract from Heritage Map-Sheet HER\_004 attached to Randwick LEP 2012 showing heritage items in the vicinity of the Eastern Suburbs Crematorium. (Source: [https://eplanningdlprod.blob.core.windows.net/pdfmaps/6550\\_COM\\_HER\\_004\\_010\\_20121130.pdf](https://eplanningdlprod.blob.core.windows.net/pdfmaps/6550_COM_HER_004_010_20121130.pdf))

#### 4. THE PROPOSAL

This application proposes the adaptation of the Eastern Suburbs Crematorium building and its immediate setting to address conservation, non-compliance issues, and general refurbishment works to facilitate the ongoing use of the building as a Crematorium. The application includes minor work to the Ascension of Jesus Christ Mausoleum to facilitate its temporary use as a chapel while works are undertaken to the crematorium building. Works shown in the DA documentation submitted to Randwick Council include:

##### Eastern Suburbs Crematorium

- Replacement of roof sheeting and waterproof membranes.
- Repair of minor cracking and desalination of affected areas.





**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

- Repainting of facades in colour to match existing with the exception of the art-Deco motifs where original finishes will be investigated before repainting.
- Conservation of external handrails, balustrades and remaining original light fittings.
- Installation of new fixed glazing to protect leadlight windows and resolve waterproofing.
- Demolition of non-compliant ramps in south-western courtyard and replacement with compliant ramps.
- Modification to the South Chapel entrance and porte-cochere for the construction of ramp access.
- Addition of compliant handrails, tactile indicators and nosings to existing stairs.
- Internal alterations and refurbishment of the Cremator Hall and associated Control Room, Ash Processing Room and Work Room.
- New and refurbished staff amenities.
- Replacement of steel grilles to loading bay with windows.
- Refurbishment of Chapels (including paint, carpet, new pendant lights and furniture and acoustic treatment).
- Refurbishment of Concierge Office, Condolence Room and Columbaria.
- New mechanical services to Back-of House areas including replacement of suspended ceilings.

#### Setting

- Demolition of the existing non-heritage information shelter.
- Construction of a freestanding amenities building and information shelter containing public lavatory facilities, covered shelter and associated works, including trenching to connect to existing services (sewer, water, electricity).
- Removal of two trees and installation of hard and soft landscaping to suit the new lavatory structure.

#### Ascension of Jesus Christ Mausoleum

- Minor adaptation of northern door from one operable door leaf and on fixed door leaf as two operable door leaves.
- Temporary installation of fixtures and furniture to facilitate the use of the space as a chapel during construction works to the Eastern Suburbs Crematorium building.

#### **Amended design:**

Following the verbal advice given to the Applicant during the meeting on 14 December 2021, an amended design in relation to the proposed amenities building has been submitted on 22 December 2021 together with associated documents and noted in the submission section below. The following is the amendments to the original DA drawings:

- The re-orientation of the amenities/information shelter 90 degrees from its previously proposed orientation (in the location and orientation of the existing bus shelter).
- A reduction in the extent of the roof overhang and a minor reduction in height (from RL26.4 to RL26.18) to reduce the overall scale of the structure. The total area of the roof overhang has been reduced from 85.98sqm to 63.36sqm.
- Change in the proposed materiality from a predominately grey to a light-weight palette, with beige split face blockwork and timber.
- Additional pathways to access the shelter in response to the revised orientation.
- No change to the proposed remediation and refurbishment works, or the use of the existing mausoleum building for temporary Chapel services during construction.



**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

**D2/22**

## 5. BACKGROUND

No background research into the previous development applications for the property has been undertaken and is not considered necessary for the purposes of the assessment of the current DA.

Following assessment of the proposed development associated with DA/213/2021, heritage referral assessment was completed and provided to the Randwick City Council on 18 November 2021. The heritage referral undertaken by the undersigned, in summary, identified support for the proposed conservation, adaptation, and refurbishment works to the Eastern Suburbs Crematorium building and the Ascension of Jesus Christ Mausoleum; however, has raised concerns in relation to the form and location of the proposed amenities/information shelter. Subsequently, a meeting was held with the Applicant and its consultants on 14 December 2021 and verbal advice has been provided to guide amendments to the proposed design. The Applicant has provided a set of amended documentation on 22 December 2021 in response to the concerns raised accordingly.

## 6. SUBMISSION

The documentation submitted to Randwick City Council, and available online at <https://planning.randwick.nsw.gov.au/pages/xcc.track.advanced/SearchApplication.aspx?id=750793>, has been evaluated in this assessment of the proposed development:

Dwg	Title	Date	Issue
DA-00-00	Cover Sheet - 45-63 Military Road Matraville	15.04.21	E
DA-00-01	Notes & Abbreviations - 45-63 Military Road Matraville	22.03.21	D
DA-00-02	ESMP Site Plan - 45-63 Military Road Matraville	15.04.21	E
DA-00-03	Site Analysis Plan - Crematorium & Chapel - 45-63 Military Road Matraville	15.04.21	E
DA-00-04	Shadows Diagram - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-00-05	Survey Plan - 45-63 Military Road Matraville	22.03.21	B
DA-00-06	Site Construction Management - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	A
DA-00-10	Landscape Plan - 45-63 Military Road Matraville	22.03.21	B
DA-00-11	Signage Plan - Crematorium & Chapel - 45-63 Military Road Matraville	15.04.21	C
DA-01-01	Ground Level - Temporary Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-02-01	Conservation Works Schedule - 45-63 Military Road Matraville	22.03.21	D



**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

Dwg	Title	Date	Issue
DA-02-02	Ground Level Conservation Works - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-02-03	Roof Plan Conservation Works - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-02-04	Elevations Conservation Works - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-02-05	Elevations Conservation Works - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-10-01	Existing & Demolition Plan - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-10-02	Ground Level Floor Building Works Plan - 45-63 Military Road Matraville	06.04.21	F
DA-10-04	Ground Level Furniture & Finishes Plan - Crematorium & Chapel - 45-63 Military Road Matraville	06.04.21	E
DA-10-05	Roof Plan - Demolition - 45-63 Military Road Matraville	22.03.21	FC
DA-10-06	Roof Plan - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	D
DA-20-01	Ground Level RCP - Crematorium & Chapel - 45-63 Military Road Matraville	06.04.21	E
DA-56-01	Stair, Ramp & Balustrade Details - 45-63 Military Road Matraville	22.03.21	D
DA-70-01	Existing Demolition & Set-Out Amenities Block - 45-63 Military Road Matraville	22.03.21	D
DA-70-02	Ground Level Amenities Block - 45-63 Military Road Matraville	22.03.21	D
DA-70-03	Ground Level Amenities Block - 45-63 Military Road Matraville	22.03.21	D
DA-70-04	Typical Chapel Elevations - 45-63 Military Road Matraville	22.03.21	C
DA-85-01	Finishes Schedule - Crematorium & Chapel - 45-63 Military Road Matraville	22.03.21	B

This assessment has taken into consideration the following documents and statutory instruments:

- *Conservation Management Plan: Eastern Suburbs Memorial Park, 12 Military Road, Matraville*, NBRS Architecture, December 2020.



**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

D2/22

- *Heritage Impact Statement: Eastern Suburbs Memorial Park Crematorium*, prepared by NBRS Architecture, 15 April 2021.
- *Statement of Environmental Effects: Crematoria and Chapel Upgrade Works, Eastern Suburbs Memorial Park*, prepared by URBIS, 16 April 2021.
- *Survey: Crematorium and Surrounds Site Plan*, prepared by Asbuilt, Dwg no. A20010-SU01, dated 21.01.21 (Issue 3).
- *Randwick Local Environmental Plan 2012*.
- *Randwick Development Control Plan 2013*.

#### Amended design documentation submitted on 22 December 2021:

- Revised Architectural Plans prepared by NBRS Architecture dated 22/12/2021 incorporating the following drawings
  - ARC-ESMP-DA-00-06 / Revision B / Site Construction Management
  - ARC-ESMP-DA-00-10 / Revision C / Landscape Plan
  - ARC-ESMP-DA-00-11 / Revision D / Signage Plan
  - ARC-ESMP-DA-02-02 / Revision E / Ground Level Conservation Works
  - ARC-ESMP-DA-70-01 / Revision E / Existing Demolition and Set-out Amenities Block
  - ARC-ESMP-DA-70-02 / Revision E / Ground Level Amenities Block (Elevations & Floor Plan)
  - ARC-ESMP-DA-70-03 / Revision E / Ground Level Amenities Block (Sections & Roof Plan)
  - ARC-ESMP-DA-85-01 / Revision C / Finishes Schedule
- Addendum to Heritage Impact Statement by NBRS Architecture-Heritage dated 20 December 2021
- Design Information by Intrec dated 21 December 2021
- Response to Heritage referral by Urbis dated 22 December 2021

## 7. ASSESSMENT OF THE PROPOSED DEVELOPMENT

### 7.1 Original Assessment and Comments dated 18 November 2021

Following review of the documentation submitted as part of the current development application, we have assessed the proposed development for its impact on the heritage significance of the existing 'Eastern Suburbs Crematorium' and heritage items in its vicinity. The assessment is set out in tabular form responding to the heritage provisions and controls contained in the Randwick LEP 2012 and Randwick DCP 2013.

Randwick LEP 2012 Clause 5.10 Heritage Conservation	Discussion
<b>5.10 (2) Requirement for consent</b> <i>Development consent is required for any of the following -</i> <i>(e) erecting a building on land -</i> <i>on which a heritage item is located or</i>	<ul style="list-style-type: none"> <li>▪ A Development Application has been lodged with Randwick Council, by Southern Metropolitan Cemeteries NSW to obtain consent to undertake the works described in the documents listed above.</li> <li>▪ The site is Crown Land, and its management is vested with Southern Metropolitan Cemeteries NSW.</li> </ul>



**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

that is within a heritage conservation area	
<b>5.10 (5) Heritage assessment</b> <i>The consent authority may, before granting consent to any development -</i> <i>(a) on land on which a heritage item is located, or</i> <i>(b) on land that is within a heritage conservation area, or</i> <i>(c) on land that is within the vicinity of land referred to in paragraphs (a) or (b).</i>	<ul style="list-style-type: none"> <li>A Heritage Impact Statement (NBRS Architecture, 15 April 2021) was submitted as part of Development Application DA/213/2021 lodged with Randwick Council for the conservation, upgrading to address non-compliance issues, and refurbishment of the existing Chapels and crematoria'. The Eastern Suburbs Crematoria is identified as a heritage on Schedule 5 (Item No. I283) attached to Randwick LEP. It is located near the Bunnerong Power Station Heritage Conservation Area (C8), and the Pioneers Memorial Park, Botany Cemetery (I239).</li> <li>The Ascension of Jesus Christ Mausoleum is not identified as a heritage item attached to statutory heritage legislation. It has been assessed NBRS Architecture (CMP, December 2020), and ranked as having 'Moderate' heritage significance.</li> </ul>

The following table addresses the relevant controls of the Randwick DCP 2013.

Randwick DCP 2013 - Clause B2.2 Design and Character	Discussion:
<b>Controls</b> <b>All Development</b> <i>i) Development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area (as detailed in the statements of significance and key characteristics outlined in this section of the DCP).</i>	<ul style="list-style-type: none"> <li>The works have been informed by the Eastern Suburbs Memorial Park Conservation Management Plan prepared for by NBRS Architecture (December 2020).</li> <li>The conservation works, including adaptation of the crematorium building, generally reflect the policies and recommendations contained in the CMP.</li> </ul>
<i>ii) Common elements and features of the streetscape are to be identified in a streetscape analysis and incorporated into the design (e.g. view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations).</i>	<ul style="list-style-type: none"> <li>The streetscape presentation of the crematorium building would be retained. Roof replacement and conservation works, and the installation of photovoltaic panels would not be visible in views from ground level.</li> <li>Changes to existing steps, paving, and handrails, to address access to the building would be at low level and would not obscure significant views to the crematorium building.</li> <li>The bulk of the proposed information shelter and amenities building would be relocated southwards and would have a minor impact on views to and from the north entrance to the West Chapel.</li> </ul>
<i>iii) New development should be consistent with important horizontal lines of buildings in the streetscape, in</i>	<ul style="list-style-type: none"> <li>The works to the Eastern Suburbs Crematorium building would not alter the appearance of the</li> </ul>





Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

Randwick DCP 2013 - Clause B2.2 Design and Character	Discussion:
<i>particular ground floor levels and eaves lines, where appropriate.</i>	<p>building. Minor adaption of a door opening as a window would maintain the existing fenestration.</p> <ul style="list-style-type: none"> <li>▪ The replacement of roof finishes and installation of photovoltaic panels at roof level would be concealed from view by the existing parapet walls of the crematorium building.</li> <li>▪ Works to the Ascension of Jesus Christ Mausoleum would be limited to the adaptation of one fixed door leaf to an operable door within an existing opening, and the temporary adaption of a space for use as a chapel.</li> </ul>
<p><i>iv) Large blank areas of brick or rendered walls should be avoided. Where this is not possible in the design, contrasting building materials and treatments must be used to break up the expanse of wall.</i></p>	<ul style="list-style-type: none"> <li>▪ The architectural character of the exterior of the Eastern Suburbs Crematorium would be retained and conserved.</li> </ul>
<p><b>Heritage Items and Contributory Buildings</b></p> <p><i>v) Street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to minimise impact on the streetscape.</i></p>	<ul style="list-style-type: none"> <li>▪ No significant changes are proposed to the elevations of the crematorium building or the Ascension of Jesus Christ Mausoleum.</li> <li>▪ Minor external changes to the crematorium building are generally associated with addressing disabled access and the provision of stepless entrances.</li> <li>▪ The proposed amenities block would be partially visible in close- and medium-distance views looking southeast along Sharp Avenue towards the crematorium.</li> </ul>
<p><i>vi) The design of any proposed additions or alterations must complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/functions blurred.</i></p>	<ul style="list-style-type: none"> <li>▪ The proposed amenity building has been designed in a contemporary style. The materiality, design, and detailing of the structure draw on other recent amenities buildings within the Memorial Park.</li> <li>▪ The new amenities would be situated immediately to the south of the existing shelter. While the scale of the amenities structure is generally in keeping with other structures near the Crematorium, it would have an increased footprint, obscure views within the immediate area, and its south elevation would be prominent in views from the north door of the West Chapel.</li> <li>▪ The northeast and the southwest corners of the roof of the amenities block overhang roads within the memorial park.</li> </ul>
<p><i>vii) All new work and additions must respect the proportions of major</i></p>	<ul style="list-style-type: none"> <li>▪ The new amenities pavilion would be of contemporary design and would not draw on the materials or</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

Randwick DCP 2013 - Clause B2.2 Design and Character	Discussion:
<i>elements of significant existing fabric including doors, windows, openings and verandas.</i>	architectural detailing exhibited by the Eastern Suburbs Crematorium. Documentation indicates it is to be constructed with split-faced concrete block walls, a mono-pitched steel roof, and horizontally proportioned glass-louvre windows.
Randwick DCP 2013 - Clause B2.3 Scale & Form	Discussion:
<p><b>Controls</b></p> <p><b>All Development</b></p> <p><i>i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.</i></p>	<ul style="list-style-type: none"> <li>There is no consistent height of development within the Eastern Suburbs Memorial Park.</li> <li>The Eastern Suburbs Crematorium building has landmark qualities and is a prominent feature within the Cemetery. New lavatories are to be accommodated in a separate building to avoid an increase in the footprint or the height of the existing complex.</li> <li>External changes to the building generally relate to the adaptation of paving and steps to address statutory access requirements.</li> </ul>
<p><i>ii) Attic style additions may be permissible, but there should be no visible alteration to the front of previously unaltered buildings. Front dormer windows are especially discouraged where a building itself is a heritage item, or part of a relatively unaltered semi-detached pair or row</i></p>	<ul style="list-style-type: none"> <li>Not applicable; no attic addition is proposed.</li> </ul>
<p><i>iii) Dormer windows and skylights must not be located to street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style of the building.</i></p>	<ul style="list-style-type: none"> <li>Existing skylights will be replaced with new skylights compatible with new roof and roof plumbing as part of the re-roofing works.</li> </ul>
<p><b>Heritage Items and Contributory Buildings</b></p> <p><i>iv) Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings.</i></p>	<ul style="list-style-type: none"> <li>The new amenities block would be a single storey freestanding building. It would be of a small scale, designed in a contemporary style, and be recognisable as a new element within the setting of the 1938 Crematorium. The scale and bulk of the development would not visually dominate the existing building.</li> <li>The proposed location of the amenities block would partly block views from the main entrance in Sharp</li> </ul>





Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

Randwick DCP 2013 - Clause B2.3 Scale & Form	Discussion:
	Avenue looking towards the Eastern Suburbs Crematorium.
<i>v) Additions to heritage items must not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building.</i>	<ul style="list-style-type: none"> <li>No additions to the Eastern Suburb Crematorium or the Ascension of Jesus Christ Mausoleum are proposed.</li> <li>The proposed amenities block would be designed in a contemporary architectural style, similar to other facilities located in the north-west section of the memorial park (see section 3.7 of CMP). Detailing of the amenities block would not reference Art Deco detailing.</li> </ul>
<i>vi) Where single storey rear additions are proposed to dwelling houses, the addition must not compromise the integrity of the main roof and is to be lower in scale and secondary to it.</i>	<ul style="list-style-type: none"> <li>No single storey rear additions to the Eastern Suburb Crematorium or the Ascension of Jesus Christ Mausoleum are proposed.</li> </ul>
<i>vii) Upper floor additions to the main roof of any single storey dwelling house may be acceptable if contained wholly within the existing roof space without change to the roof pitch or eaves height.</i>	<ul style="list-style-type: none"> <li>No upper floor additions are proposed.</li> </ul>
<i>viii) Upper floor additions to the rear of any single storey dwelling house should preferably use pavilion-type forms, with a lower scale linking structure between the original building and any double storey addition.</i>	<ul style="list-style-type: none"> <li>No upper floor additions are proposed.</li> </ul>
<i>ix) If a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.</i>	<ul style="list-style-type: none"> <li>The HIS indicates the adaptation of existing lavatories within the footprint of the Crematorium were investigated and rejected as they could not be reconfigured to address statutory requirements. A new freestanding pavilion would be constructed to the north of the crematorium building.</li> <li>The proposed location would require trenching within an area identified as having 'High' archaeological potential (CMP 2020, Fig.305) to connect to existing sewer lines and services.</li> </ul>
<i>x) Where rear lanes exist, it may be possible to provide additional floor space in an outbuilding at the rear of the site, rather than as an upper level addition to the dwelling itself.</i>	<ul style="list-style-type: none"> <li>The works would not increase the footprint of the Eastern Suburbs Crematorium or the Ascension of Jesus Christ Mausoleum buildings.</li> <li>The existing public lavatories are too small to be reconfigured to statutory accessibility requirements. A new shelter and amenities building is proposed. The</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

Randwick DCP 2013 - Clause B2.3 Scale & Form	Discussion:
	proposed location partially blocks a significant view from Sharp Avenue to the Crematorium and Chapels.
<i>xi) Where rear additions are proposed to semi-detached dwellings, the additions must not compromise the symmetry and integrity of the front elevation or dominate the other house in the pair.</i>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
<i>xii) Where rear additions are proposed to attached dwellings (e.g. terrace houses), the additions must not compromise the integrity of the front elevation or the forms of relatively intact rear wings.</i>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
Randwick DCP 2013 - Clause B2.4 Siting and Setbacks	Discussion:
<b>Controls</b> <b>All Development</b> <i>i) Development must conform to the predominant front setbacks in the streetscape.</i>	<ul style="list-style-type: none"> <li>There are no changes to the setbacks of the Eastern Suburbs Crematorium. Works to the heritage-listed building generally relate to upgrading to address non-compliance issues, repair and repainting the exterior of the building, and internal refurbishment.</li> <li>The new amenities block is located within the Memorial Park, to the north of the West Chapel, and will be partly visible in progressive views from Sharp Avenue to the Crematorium. A bus stop is located in Military Road near the Sharp Avenue entrance and anticipate foot traffic along Sharp Avenue to the West and South Chapels.</li> <li>Drawing No. ARC-ESMP-DA-70-03 indicates the northeast and southwest corners of the roof of the amenities building will overhang access roads within the setting of the 1938 building.</li> </ul>
<i>ii) Development must respect side setbacks and rear alignments or setbacks of surrounding development.</i>	<ul style="list-style-type: none"> <li>The works are wholly contained within the boundary of the Eastern Suburbs Memorial Park.</li> <li>The works would not alter the setbacks or alignment of the Eastern Suburbs Crematorium to surrounding development or garden cemetery layout.</li> <li>Two trees are to be removed to facilitate the construction of the amenities block. We note new landscaping/planting is proposed between the amenities block and Crematorium Circle. We note, trees and shrubbery should not be relied on to conceal the rear elevation of the amenities block, as they may be subject to seasonal changes in foliage.</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

<p>iii) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features.</p>	<ul style="list-style-type: none"> <li>Plans indicate the northeast and the southwest corners of the roof of the shelter/amenities block encroaches on internal roads.</li> </ul>
<p>iv) Any significant historical pattern of subdivision and lot sizes must be retained. Subdivision or site amalgamation involving heritage items or contributory buildings must not compromise the setting or curtilage of buildings on or adjoining the site.</p>	<ul style="list-style-type: none"> <li>No changes to the subdivision pattern are proposed.</li> </ul>
<p><b>Randwick DCP 2013 - Clause B2.5 Detailing</b></p>	<p><b>Discussion:</b></p>
<p><b>Controls</b> <b>All Development</b> i) Only detailing which is known to have been original to your building is acceptable. Do not add what was never there.</p>	<ul style="list-style-type: none"> <li>Repairs to the crematorium are to match the detailing and materials of the existing building.</li> <li>Previously painted surfaces are to be repainted in colours based on paint scapes taken on site.</li> <li>New works to the Crematorium building would be distinguishable from original works. Where possible they would incorporate materials and finishes similar to those exhibited by the original building.</li> <li>The new amenities building would be designed in a contemporary architectural style, similar to the amenities block located in the northwest section of the memorial park.</li> </ul>
<p><b>Heritage Items and Contributory Buildings</b> ii) Retain and repair original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations. Original leadlight and coloured glass panes should be retained.</p>	<ul style="list-style-type: none"> <li>No new openings are proposed in the external walls of the ESC. The replacement of steel grilles with glazed windows and the replacement of one roller door would have little impact on the presentation of the building and would not involve the removal of significant heritage fabric.</li> <li>The adaptation of a fixed panel to an operable door leaf in north elevation of the Ascension of Jesus Christ Mausoleum would not diminish the heritage significance of that building.</li> </ul>
<p>iii) Where original windows, doors and façade detailing have been removed and replaced with modern materials, consideration should be given to reconstructing original features.</p>	<ul style="list-style-type: none"> <li>Works shown include the retention of original joinery, decorative plaster, joinery, and stained glass.</li> </ul>
<p>iv) Authentic reconstruction is encouraged. Decorative elements must not be introduced unless documentary or physical evidence indicates the</p>	<ul style="list-style-type: none"> <li>Documentation indicates repairs are to be undertaken to match like for like.</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

Randwick DCP 2013 - Clause B2.5 Detailing	Discussion:
<i>decorative elements previously existed. Undertake thorough research before attempting to reconstruct lost detail and elements.</i>	<ul style="list-style-type: none"> <li>Documents indicate specialist advice has been obtained in relation to the repainting of the Crematorium building.</li> <li>Asbestos roof finishes have been identified as hazardous materials and are to be replaced with corrugated metal sheet roofing.</li> </ul>
<i>v) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors.</i>	<ul style="list-style-type: none"> <li>No new door or window openings are proposed to the ESC or the Ascension of Jesus Christ Mausoleum.</li> </ul>
<i>vi) Alterations and additions should adopt a level of detailing which complements the heritage fabric and should (in general) be less elaborate than the original.</i>	<ul style="list-style-type: none"> <li>Repairs to existing building fabric are to match the material, dimensions, and appearance of existing adjacent surfaces.</li> <li>New works is</li> </ul>
Randwick DCP 2013 - Clause B2.6 Materials, Finishes and Colour Schemes	Discussion:
<b>Controls</b> <b>All Development</b> <i>i) Materials for pathways and driveways must be consistent with the character of the heritage item or heritage conservation area.</i>	<ul style="list-style-type: none"> <li>Proposed surfaces appear to be consistent with existing sandstone, concrete and bitumen finishes.</li> </ul>
<b>Heritage Items and Contributory Buildings</b> <i>ii) Changes to materials (including roofs and walls) on elevations visible from a public place are not favoured. Original face brickwork must not be rendered, bagged or painted. The removal of external brickwork skin is not supported.</i>	<ul style="list-style-type: none"> <li>Roof works are located behind parapet walls and would not be visible from pedestrian level, or in significant views within the ESMP.</li> <li>Repairs to external wall finishes to the ESC are to match the appearance of existing finishes and are based on physical evidence and specialist advice.</li> </ul>
<i>iii) Matching materials must be used in repairing the fabric of external surfaces. In the case of new face brickwork, the colour and texture of the brick, the type of jointing and mortar colour should be carefully matched.</i>	<ul style="list-style-type: none"> <li>Proposed materials appear to be generally consistent with original building finishes.</li> <li>External repairs are to match the mouldings, details, texture and appearance of existing adjacent finishes and details.</li> </ul>
<i>iv) New or replacement roof materials must match existing materials. Alternative materials may be considered appropriate to the architectural style of</i>	<ul style="list-style-type: none"> <li>Corrugated asbestos roof sheeting has been identified as a hazardous material and is to be replaced with Colorbond Ultra Streeel to suit environmental conditions.</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

Randwick DCP 2013 - Clause B2.6 Materials, Finishes and Colour Schemes	Discussion:
<i>the building and the streetscape context, and must be submitted for approval.</i>	<ul style="list-style-type: none"> <li>New solar panels are to be installed, subject to structural assessment and mechanical services layout. All panels would be concealed from views from pedestrian level by existing parapet walls.</li> </ul>
<i>v) Alterations and additions must use materials and colours similar to, or compatible with, the original material or colours.</i>	<ul style="list-style-type: none"> <li>Materials proposed for the alterations and repairs are generally compatible with existing roof finishes.</li> <li>Corrugated asbestos roof sheeting has been identified as a hazardous material and is to be replaced with Colorbond Ultra Steel to suit environmental conditions.</li> </ul>

Randwick DCP 2013 Clause B2.7 Roofs and Chimneys	Discussion:
<b>Controls</b> <b>All Development</b> <i>i) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations.</i>	<ul style="list-style-type: none"> <li>Not applicable; no attic spaces are proposed as part of DA/213/2021.</li> </ul>
<b>Heritage Items and Contributory Buildings</b> <i>ii) Roofs must not be repitched or have their eaves line raised to allow for the provision of attic rooms.</i>	<ul style="list-style-type: none"> <li>Roof repairs would retain the existing roof pitch and falls to roof drainage. The roof would be concealed from views from the ground by existing parapet walls.</li> </ul>
<i>iii) Chimneys must be retained.</i>	<ul style="list-style-type: none"> <li>Existing chimneys and roof features are to be retained. No new roof features are proposed.</li> </ul>

Randwick DCP 2013 - Clause B2.11 Gardens, Garden Elements and Swimming Pools	Discussion:
<b>Controls</b> <b>All Development</b> <i>(i) Significant trees and landscape elements such as pathways, garden beds and structures must be retained.</i>	<ul style="list-style-type: none"> <li>No significant trees are identified for removal. The works indicate two trees are to be removed to facilitate the construction of new lavatories.</li> </ul>
<i>(ii) Large areas of hard paving are to be minimised.</i>	<ul style="list-style-type: none"> <li>Landscaping works are generally limited to the adaptation of existing paving and steps. The works would not substantially increase the areas of hard paving within the setting of the Eastern Suburbs Crematorium building.</li> </ul>





Heritage Referral DA213/2021  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

Randwick DCP 2013 - Clause B2.11 Gardens, Garden Elements and Swimming Pools	Discussion:
(iii) <i>Garden and ancillary structures must be appropriate to primary buildings in terms of scale, style and materials.</i>	<ul style="list-style-type: none"> <li>The contemporary design, scale and materiality of new handrails and paving are generally acceptable. Sandstone paving would be retained and repaired, or sandstone paving installed in areas upgraded or constructed as access ramps.</li> </ul>
(iv) <i>Swimming pools must be located at the rear of the property and where possible should retain important trees and areas of soft landscaping. Swimming pools must not result in significant changes to ground levels on the site.</i>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>

	Discussion:
<b>Controls</b> <b>All Development</b> (i) <i>Significant trees and landscape elements such as pathways, garden beds and structures must be retained.</i>	<ul style="list-style-type: none"> <li>The application indicates two trees are to be removed to facilitate the construction of new amenities block, with future landscaping by others. The trees are not identified as significant landscape features within the Eastern Suburbs Memorial Park, but currently screen the information shelter in views from the north door of the West Chapel.</li> </ul>
(ii) <i>Large areas of hard paving are to be minimised.</i>	<ul style="list-style-type: none"> <li>Landscaping works are generally limited to the adaptation of existing paving and steps. The works would not substantially increase the areas of hard paving within the setting of the Eastern Suburbs Crematorium building.</li> </ul>

## 7.2 Assessment of the Amended Design

I have reviewed the submitted amended design documentation submitted on 22 December 2021 as detailed in section 6 above.

The assessment has been provided below in tabular form in response to the original concerns raised in the Conclusion and Recommendations section of the referral dated 18 November 2021:

Amenities/Information Shelter	Discussion:
<i>The south elevation of the structure would be a prominent feature in views from the north door to the West Chapel and would detract from the ambiance of the immediate landscaped setting of the Eastern Suburbs Crematorium building.</i>	<ul style="list-style-type: none"> <li>The amended design includes re-orientation of the proposed Amenities/Information Shelter 90 degrees from its previously proposed orientation in the location and orientation of the existing bus shelter to allow increased view corridors towards the Crematorium</li> </ul>



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

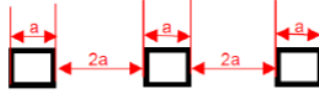
Amenities/Information Shelter	Discussion:
	<p>and have the shorter elevation facing the north door of the West Chapel.</p> <ul style="list-style-type: none"> <li>The modified design and orientation of the shorter elevation on a north-south rather than east-west as it was previously proposed are acceptable in relation to heritage matters and respond to the concerns raised in this regard. The comment provided in the NBRS Addendum HIS letter noting "This design amendment is therefore positive from a heritage perspective in improving the visibility of the west chapel in comparison to the previous proposal" is concurred.</li> <li>The Addendum HIS provides comparative diagrams (Figures 3 to 6) in relation to the views under the previous proposal and the revised proposal clearly indicate the improvement for the proposed development especially in views from north of the West Chapel.</li> </ul>
<p><i>The northeast and the southwest corners of the roof overhang vehicular roads within the Eastern Suburbs Memorial Park. The design should be revised to maintain a setback of 600mm from the kerb line.</i></p>	<ul style="list-style-type: none"> <li>The amended design has reduced the roof overhang significantly from 85.98sqm to 63.36sqm, and therefore the concerns raised in this regard are satisfied.</li> </ul>
<p><i>The proposed structure would terminate the view looking southeast along Sharp Avenue towards the Crematorium. We note the view has been compromised by recent landscape elements constructed after 2005, however those colonnaded structures retain filtered views to the crematorium building. The entrance from Sharp Avenue is located near the public bus stop in Military Road and is the main access for both pedestrian and vehicular traffic from Military Road.</i></p>	<ul style="list-style-type: none"> <li>The amended design addressed this concern and improved the views looking southeast along Sharp Avenue towards the crematorium as detailed above and the revised documentation provided.</li> <li>There are two aspects of the design that may need to be improved including the treatment of the west elevation of the revised Amenities/Information Shelter in relation to the site map and information board shown in white below, and the gap between the timber battens on south and north elevations to improve permeability and visual connection along the corridor of the Shelter (see the plan below).</li> </ul> <div data-bbox="783 1429 1294 1653"> </div> <p>It is preferable that a treatment/proportions similar to that of the previous treatment of the north elevation seen below to be utilised for a more proportional/specifically</p>

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Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

Amenities/Information Shelter	Discussion:
	<p>Recommended gap between timber battens of the screens as noted above.</p> 
<p><i>The proposed amenities structure may require trenching to connect to existing sewer lines and services be located over an 'Area of Archaeological Potential'. The proposed site of the amenities building is immediately adjoining of an area ranked as having 'High' potential, and in an area identified as an 'Area with potential for undocumented burials'. Where trenching or excavation is required, the application should be accompanied by an Archaeological Impact Statement.</i></p>	<ul style="list-style-type: none"> <li>▪ The Addendum HIS by NBRS confirms that "The proposed amenities block is not located on the land of the original Bunnerong Cemetery and is therefore unlikely, in accordance with the above assessment, to contain undocumented burials." In addition, the supporting design information provided by Intrec notes that "... the extent of excavation will be limited to the footprint of the amenities building. A design provided by Northrop Consulting Engineers has documented concrete edge beams a depth of 625mm below ground... Between each concrete beam is a 100mm thick concrete slab, plus 50mm sand bed. Therefore, the total excavation depth will vary between 625mm for beams, and 150mm for the main paving slab."</li> <li>▪ Any excavation deeper than 300mm is considered by Heritage NSW to have potential to expose any likely remnant archaeological resources. However, based on the justification by NBRS, the authors of the CMP for the site, and limited excavation required for the foundation of the Shelter no additional archaeological assessment is required for the current DA provided that a cautious approach and STOP WORK provisions/measures are put in place for the management of unexpected archaeological findings as per NBRS recommendation in line with the CMP conservation policies. Recommendations for archaeological finds for inclusion as conditions of consent have been provided in section 8 below.</li> </ul>

Generally	Discussion:
<p><i>We recommend a master plan is prepared and submitted within twelve months of the consent for the DA/213/2021 to Randwick City Council, the consent authority, identifying the heritage curtilage associated with the Eastern Suburbs Crematorium and</i></p>	<ul style="list-style-type: none"> <li>▪ Although, we support the identified development zones as noted in the CMP for the site, we remain in the opinion that a piece-meal approach and incremental changes to the site regardless of being guided by the CMP for future development may have potential to impact on the overall setting and significance of the Eastern Suburbs crematorium.</li> </ul>



**Heritage Referral DA213/2021**  
**Amended Design**  
 Eastern Suburbs Crematorium  
 45-63 Military Road, Matraville

Generally	Discussion:
<p><i>showing the potential location of future development and landscaping within the Eastern Suburbs Memorial Park site generally.</i></p>	<p>However, we acknowledge the current proposal is for a minor development within the site and preparation of a masterplan is not required under the Randwick LEP 2012. We also note that as detailed in the Urbis response (dated 22 December 2021) the Proponent as a statutory Crown Lands Manager has prepared a draft Plan of management document that sets out future planning, development, use and management of Crown land reserved or dedicated for specific purposes and defines the value, use, management practices and intent for the broad public purpose for which the land has been reserved or dedicated. The Urbis letter notes that the draft Plan of Management is anticipated to be subject to the Department and Minister's formal endorsement in March/ April 2022. A Condition of consent recommendation has been made for the provision of the endorsed Plan of management to the Council when it is formally endorsed in order for the Council to have certainty on the future operation and development within the site in the absence of a masterplan.</p>
<p><i>A signage strategy should be prepared for the ESMP to identify a consistent image for wayfinding and interpretative signage located within the ESMP, including preferred materials, finishes, font, colours as appropriate.</i></p>	<ul style="list-style-type: none"> <li>It is acknowledged that this requirement may not be relevant to the current DA as indicated in the Urbis response letter but it aimed to avoid cluttering across the site. Although Urbis notes that section 6.7.18 of the CMP provide guidance for the future signage, it does not provide guidance on locations and Policy 158 does ask for a strategic approach as copied below therefore in any future major development application Council should seek for the preparation of a signage strategy:</li> </ul> <p><i>Policy 158 Design of Signage</i></p> <p><i>Should new signage be proposed, its design should be prepared by a suitably qualified specialist so that it is sympathetic with the established aesthetic character of the place. New signage should not be visually intrusive to the place. In general, signage should be designed as part of a unified strategy for the site rather than being designed on an ad-hoc basis.</i></p>
<p>Where possible, the Applicant should explore and is encouraged to reinstate earlier/original decorative detailing and fittings that are seen in the images provided as an attachment to this assessment.</p>	<ul style="list-style-type: none"> <li>This recommendation was made as an advisory recommendation to encourage the Applicant to reinstate missing elements and detailing whenever opportunity arises. It is not necessarily related to the current DA. The proposed conservation works are sufficient for the purposes of the current DA.</li> </ul>





Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

D2/22

## 8. CONCLUSIONS AND RECOMMENDATIONS

Having reviewed the documentation cited in Section 6, we **support** the proposed conservation, adaptation, and refurbishment works to the Eastern Suburbs Crematorium building and the Ascension of Jesus Christ Mausoleum, as they are generally compatible with the identified heritage values of the Eastern Suburbs Crematorium and Memorial Park and will facilitate their continued use.

Likewise, having reviewed the amended design and associated documentation for the Amenities/Information Shelter we **support** its current modified form and location within the setting of the Eastern Suburbs Crematorium.

### ***We set out our final comments and recommendations below:***

#### Ascension of Jesus Christ Mausoleum

In our opinion the works associated with the temporary adaption of the building for use as a chapel during construction works to the Eastern Suburbs Crematorium would have negligible impact on the heritage significance of the Mausoleum as identified in the CMP (NBRS Architecture, December 2020), or the heritage significance of the Eastern Suburbs Crematorium contained in the NSW Heritage Inventory Database citation (Database No. 2310335).

Heritage aspects of the proposed temporary use and works to the Ascension of Jesus Christ Mausoleum are supported as they are minor in nature, reversible, and are generally consistent with the CMP policies and recommendations.

#### Eastern Suburbs Crematorium

*Below recommendations should be included as conditions in any consent associated with the current DA and should be provided prior to commencement of any works.*

- Solar panels are to match the pitch of the roof to which they are attached, with minimum space between the roof finish and the solar panels.
- Roof finishes and components are to be compatible with roof plumbing to avoid potential galvanic reactions.
- Evidence of paint scrapes are to be submitted to Randwick City Council as part of the construction certificate.
- South Chapel: Main entrance (Space E02). Submit details showing the raised top level of the entrance landing, including section through steps/landing, and details of the intersection of the new raised sandstone finish with exterior moulded plinth detail.
- South and West Chapels: The lower edge of the proposed interior acoustic panels should, where possible relate to horizontal lines, such as those established by window sills.
- Back of House: Works to the back of house areas of the Eastern Suburbs Crematorium are supported as they are required to address operational requirements and statutory legislation.

#### Amenities/Information Shelter

*Below recommendations should be included as conditions in any consent associated with the current DA and should be provided prior to commencement of any works.*

- The treatment of the west elevation of the revised Amenities/Information Shelter in relation to the site map and information board shown in white is to be reconsidered in line with the recommendations made in Section 7.2 above.
- The gaps between the timber battens of the screens at north and south end of the common corridor of the Amenities should be twice the width of the battens in order to increase the



Heritage Referral DA213/2021  
Amended Design  
Eastern Suburbs Crematorium  
45-63 Military Road, Matraville

permeability and see-through visual connection to the crematorium. Refer to the indicative gap recombination between the timber battens provided in Section 7.2 above.

Management Measures for Archaeological finds

The following advisory recommendations have been made to mitigate any potentially adverse impacts of excavation required for the construction of the amenities block and trenching for associated services:

- Because of the historic nature of the site, all earthworks required as part of the proposed works shall be considered potentially productive archaeologically. All antiquities such as coins, pottery, hardware, bottles, bones and the like that are found during the works remain the property of the owner / managers of the site (Southern Metropolitan Cemeteries) and should be handed over at the time they are found. Before removal from the ground (where possible) the find is to be recorded and photographed, and once removed be labelled with the position they are found. A register of all found items, including photographs, should be kept.
- In the event of archaeological deposits or relics being discovered during the course of the works, works should cease in the affected area of the site and specialist advice should be sought prior to the recommencement of works in that area. The *Heritage Act 1977* provides automatic statutory protection for "relics", preventing the excavation or disturbance of land for the purposes of discovering, exposing, or moving a relic not subject to a conservation instrument, except in accordance with an excavation permit.


I trust the above heritage assessment will assist the Council in its assessment of the proposed development to the Eastern Suburbs Crematorium and Memorial Cemetery at 45-63 Military Road, Matraville. Do not hesitate to contact me should you wish to discuss this matter further.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kerime Danis".

**Kerime Danis**  
Director - Heritage

**Attachment/s:**

1.  RLPP Draft Development Consent - DA-213-2021 - 45-63 Military Road, Matraville

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**Responsible officer:** Angela Manahan, Senior Environmental Planning Officer

**File Reference:** DA/213/2021

**D2/22**

## Draft Development Consent Conditions



<b>Folder /DA No:</b>	DA/213/2021
<b>Property:</b>	45-63 & 47 Military Road, Matraville NSW
<b>Proposal:</b>	Remediation and refurbishment of the existing Chapel and crematoria building with access upgrades, construction of a detached toilet facility, and use of an existing mausoleum building for temporary Chapel services during works, and associated works (Heritage Item).
<b>Recommendation:</b>	Approval

### Development Consent Conditions

#### GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

#### Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
ARC-ESMP-DA-00-10 (Landscape Plan), Revision C	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-00-11 (Signage Plan), Revision D	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-01-01 (Ground Level – Temporary Chapel), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-02-02 (Ground Level Conservation Works), Revision E	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-02-03 (Roof Plan), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-02-04 (Elevations), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-02-05 (Elevations), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-10-01 (Existing and Demolition Plan), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-10-02 (Ground Level Floor building Works Plan), Revision F	NBRS Architecture	06 April 2021	20 April 2021
ARC-ESMP-DA-10-04 (Ground Level Furniture and Finishes Plan), Revision E	NBRS Architecture	06 April 2021	20 April 2021

ARC-ESMP-DA-10-05 (Roof Plan - Demolition), Revision C	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-10-06 (Roof Plan), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-20-01 (Ground Level - RCP), Revision E	NBRS Architecture	06 April 2021	20 April 2021
ARC-ESMP-DA-56-01 (Stair, Ramp and Balustrade Details), Revision D	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-70-01 (Existing Demolition and Set-out Amenities Block), Revision E	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-70-02 (Ground Level Amenities Block), Revision E	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-70-03 (Ground Level Amenities Block), Revision E	NBRS Architecture	20 December 2021	24 January 2022
ARC-ESMP-DA-70-04 (Typical Chapel Elevations), Revision C	NBRS Architecture	22 March 2021	20 April 2021
ARC-ESMP-DA-85-01 (Finishes Schedule), Revision C	NBRS Architecture	20 December 2021	24 January 2022

#### Amendments

2. The Amenities building/Information Shelter is to be amended as follows:

- The treatment of the west elevation of the revised Amenities/Information Shelter in relation to the site map and information board shown in white is to be reconsidered in line with the recommendations made in Section 7.2 of the Heritage Referral in relation to 45-63 Military Road, prepared by City Plan, dated 19 January 2022.
- The gaps between the timber battens of the screens at north and south end of the common corridor of the Amenities should be twice the width of the battens in order to increase the permeability and see-through visual connection to the crematorium. Refer to the indicative gap recombination between the timber battens provided in Section 7.2 of the Heritage Referral in relation to 45-63 Military Road, prepared by City Plan, dated 19 January 2022.

Amended plans demonstrating the above are to be submitted to the Council's Manager – Development Assessment for approval prior to the issue of a Crown Construction Certificate.

#### Heritage Conservation

3. The Plan of Management for the site at Eastern Suburbs Memorial Park (45-63 & 47 Military Road, Matrville) is to be submitted to Council for their records once the POM has been formally endorsed by the Minister and Department of Planning. The POM is not required to be submitted prior to the issue of any Crown Construction Certificate (unless it has been formalised before the issue of a Crown Construction Certificate).

#### REQUIREMENTS TO BE INCLUDED IN THE CROWN CONSTRUCTION CERTIFICATE OR PRIOR TO THE COMMENCEMENT OF WORKS

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the Crown Construction Certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

#### Consent Requirements

4. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the Crown construction certificate plans and associated documentation.



**Heritage Conservation**

5. Solar panels are to match the pitch of the roof to which they are attached, with minimum space between the roof finish and the solar panels.
6. Roof finishes and components are to be compatible with roof plumbing to avoid potential galvanic reactions.
7. Evidence of paint scrapes are to be submitted to Randwick City Council as part of the Crown construction certificate.
8. South Chapel: Main entrance (Space E02). Submit details showing the raised top level of the entrance landing, including section through steps/landing, and details of the intersection of the new raised sandstone finish with exterior moulded plinth detail.
9. South and West Chapels: The lower edge of the proposed interior acoustic panels should, where possible relate to horizontal lines, such as those established by window sills.

**Section 7.12 Development Contributions**

10. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$5,128,200.00 the following applicable monetary levy must be paid to Council: \$51,282.00.

The levy must be paid in cash, bank cheque or by credit card prior to a Crown construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

**Compliance Fee**

11. A development compliance and enforcement fee of \$5000.00 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Crown Construction Certificate for development.

**Long Service Levy Payments**

12. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

*At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.*

**Sydney Water Requirements**

13. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

*The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015*

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ in online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/sydney-water-tap-in/index.htm>

The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

#### **REQUIREMENTS TO BE INCLUDED IN THE CROWN CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the Crown construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

#### **Compliance with the Building Code of Australia & Relevant Standards**

14. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance are to be provided in the Crown construction certificate.

15. The applicant must comply with the requirements of the Regulatory Compliance Report prepared by McKenzie Group, dated 12 March 2021, including the provision of a Performance Solution in relation to the dimension of the exits as indicated in Part 8.3 of the report.

#### **Access & Facilities**

16. Access and/or facilities for people with disabilities must be provided to all new building work in accordance with any relevant provisions of the Building Code of Australia Disability (Access to Premises – Buildings) Standards 2010, to the satisfaction of the Principal Certifier and details are to be provided with the Crown Construction Certificate application.

#### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Crown Certifier', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

#### **Certification and Building Inspection Requirements**

17. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Crown Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the Crown construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue a *Crown occupation certificate*;
- c) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
- d) at least two days notice must be given to the Council, in writing, prior to commencing any works.

#### **Construction Site Management Plan**

18. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

#### **Demolition Work Plan**

19. Demolition Work must be carried out in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant work health and safety provisions and the following requirements:

- a) A Demolition Work Plan must be prepared for the demolition works which should be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

- b) Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to be developed and implemented to the satisfaction of the Principal Certifier prior to commencing any demolition works.

- c) Any materials containing asbestos (including Fibro) must be safely removed and disposed of in accordance with the NSW Work Health and Safety Regulation 2017, SafeWork NSW Code of Practice for the Safe Removal of Asbestos, Protection of Environment Operations (Waste) Regulation 2014 and Council's Asbestos Policy.

**Construction Noise & Vibration Management Plan**

20. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Council's conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the *Principal Certifier*.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifier accordingly.

**Construction Site Traffic Management Plan**

21. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site

- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

*The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.*

#### **Public Utilities**

22. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services affected by the works as required. The applicant must make the necessary arrangements with the service authority.

#### **Public Liability**

23. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.

#### **REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

#### **Inspections during Construction**

24. Building works are required to be inspected by the *Principal Certifier*, in accordance with the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the Crown construction certificate.

#### **Building & Demolition Work Requirements**

25. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Protection of Environment Operations (Waste) Regulation 2014;
- Randwick City Council Asbestos Policy.

*A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.*

#### **Removal of Asbestos Materials**

26. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Work Health & Safety legislation and SafeWork NSW requirements
- Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and Randwick City Council's Asbestos Policy. A copy of the demolition work plan must be



provided to Principal Certifier and a copy must be kept on site and be made available for Council Officer upon request.

- A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifier and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.*

#### **Regulatory Requirements**

27. Hazardous or intractable wastes arising from the works must be removed, managed and disposed of in accordance with the relevant requirements of WorkCover NSW and the Environment Protection Authority, including:

- *Work Health and Safety Act, 2011 and associated Regulations;*
- *Protection of the Environment Operations Act 1997 (NSW) and*
- *NSW EPA Waste Classification Guidelines (2014);*
- *SafeWork NSW Code of Practice for the Safe Removal of Asbestos;*
- *Randwick City Council Asbestos Policy.*

The works must not cause any environmental pollution, public health incident or, result in an offence under the Protection of the Environment Operations Act 1997 or Work Health & Safety Act 2011 and Regulations.

28. All recommended control measures and actions necessary to manage any hazardous material related risks provided in the hazardous material risk assessment report C123502 : J161233 should be followed where applicable.
29. Ensure to implement the hazardous materials management plan C123502: MC.

#### **Excavations – Heritage Conservation**

30. The following advisory recommendations have been made to mitigate any potentially adverse impacts of excavation required for the construction of the amenities block and trenching for associated services:

- a) Because of the historic nature of the site, all earthworks required as part of the proposed works shall be considered potentially productive archaeologically. All antiquities such as coins, pottery, hardware, bottles, bones and the like that are found during the works remain the property of the owner / managers of the site (Southern Metropolitan Cemeteries) and should be handed over at the time they are found. Before removal from the ground (where possible) the find is to be recorded and

photographed, and once removed be labelled with the position they are found. A register of all found items, including photographs, should be kept.

- b) In the event of archaeological deposits or relics being discovered during the course of the works, works should cease in the affected area of the site and specialist advice should be sought prior to the recommencement of works in that area. The *Heritage Act 1977* provides automatic statutory protection for "relics", preventing the excavation or disturbance of land for the purposes of discovering, exposing, or moving a relic not subject to a conservation instrument, except in accordance with an excavation permit.

#### **Excavations, Back-filling & Retaining Walls**

31. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifier.

#### **Support of Adjoining Land**

32. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

#### **Sediment & Erosion Control**

33. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

#### **Dust Control**

34. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

*Dust control measures and practices may include:-*

- ☐ *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- ☐ *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- ☐ *Installation of a water sprinkling system or provision hoses or the like.*
- ☐ *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- ☐ *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- ☐ *Landscaping and revegetation of disturbed areas.*

#### **Temporary Site Fencing**

35. Temporary site safety fencing or site hoarding must be provided surrounding the construction zone as defined in ARC-ESMP-DA-00-06, prepared by NBRS, dated 20/12/2021, throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:
- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
  - Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
  - All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
  - An overhead ('B' Class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:
    - ☐ materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
    - ☐ building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
    - ☐ it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
    - ☐ as may otherwise be required by WorkCover, Council or the *Principal Certifier*.

**Notes:**

- ☐ *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- ☐ *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

**Public Safety & Site Management**

36. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:
- Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
  - The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
  - All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.
 

*Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.*
  - Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.

- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works, and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

#### Site Signage

37. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
  - name, address and telephone number of the *Principal Certifier*,
  - a statement stating that "unauthorised entry to the work site is prohibited".

#### Restriction on Working Hours

38. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>Monday to Friday - 7.00am to 5.00pm</li> <li>Saturday - 8.00am to 5.00pm</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 3.00pm only</li> <li>Saturday - No work permitted</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development	<ul style="list-style-type: none"> <li>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

*An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

#### Survey Requirements

39. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:
- prior to construction (pouring of concrete) of footings and boundary retaining structures (as required),
  - prior to construction (pouring of concrete) of each floor slab (as required),
  - upon completion of the building, prior to issuing a *Crown Occupation Certificate*,
  - as otherwise may be required by the *Principal Certifier*.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council, if the Council is not the Principal Certifier for the development.

**Building Encroachments**

40. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

**Tree Management**

41. Approval is granted for removal of the following vegetation from within this development site, so as to accommodate the new amenities building in this same area as shown, subject to full implementation of the approved Landscape scheme:

- a) The two *Lophostemon confertus* (Brush Box) that are contained within a separate garden 'island', just north of the Crematorium, along the southern edge of the existing free-standing bus shelter, which are highlighted in red on the Existing Demolition Ground Level Floor Plan, dwg ARC-ESMP-DA-70-01;
- b) Another two Brush Box's in this same area, just south of those described in point 'a' above, as despite appearing to be shown for retention, a minimal offset of between 500-800mm is not sustainable by these trees, either during works or into the future.

**Tree Preservation**

42. The Principal Certifier must ensure that all other trees within this part of the site and surrounding area are suitably protected during the course of works so to prevent secondary damage from trucks, machinery, deliveries and similar.

**Landscaping**

43. The Principal Certifier must also ensure that the landscape treatment provided throughout the existing and new garden beds surrounding the Crematorium is consistent with the Landscape Plan by NBR Architecture, dwg ARC-ESMP-DA-00-10, rev C, dated 20/12/21, with species selection and arrangement to also match in with any existing, established palettes and themes.

**REQUIREMENTS PRIOR TO THE ISSUE OF A CROWN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the 'Crown Certifier' issuing a 'Crown Occupation Certificate'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

**Occupation Certificate Requirements**

44. A Crown Occupation Certificate must be obtained from the Crown Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

A Crown Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of a Crown occupation certificate.

**Fire Safety Certificates**

45. Prior to issuing an interim or Crown Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Crown Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire and Rescue NSW.

**Structural Certification**



D2/22

46. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council with the Crown Occupation Certificate.

**Council's Infrastructure, Vehicular Crossings & Road Openings**

47. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site.
48. Any external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
  - Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
  - The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

**Landscaping**

49. The Principal Certifier must ensure that landscaping at this site has been installed in accordance with the approved Landscape Plan by NBRS Architecture, dwg ARC-ESMP-DA-00-10, rev C, dated 20/12/21, and any relevant conditions of consent, prior to any Crown Occupation Certificate, with the owner to then ensure it is maintained in a healthy and vigorous state until maturity.
50. That part of the nature-strip upon Council's footway which is damaged during the course of the works and as a result of the works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Crown Occupation Certificate.

**OPERATIONAL CONDITIONS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

**Temporary Use**

51. Immediately after the issue of the Crown Occupation Certificate for the development, the use of the Ascension of Jesus Christ Mausoleum for the purpose of memorial services is to cease, and revert back to its approved use as a Mausoleum.

**Operation of Premises**

52. The use of the Mausoleum for services shall be operated in accordance with existing operations as follows:
- 1 memorial service per hour from:
    - 9am-5pm Monday to Friday, and:
    - 9am-1pm on Saturdays.

#### Noise Control Requirements & Certification

53. The use of the development and the operation of plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

The operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

#### Fire Safety Statements

54. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a competent fire safety practitioner and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

#### External Lighting

55. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

#### GENERAL ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.
- Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$6,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.
- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:
- A *Crown Construction Certificate* has been obtained from a Crown Certifier,
  - A Crown Certifier has been appointed for the development,
  - Council and the Crown Certifier have been given at least 2 days notice (in writing) prior to commencing any works.
- A3 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your Crown Construction Certificate.
- A4 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

D2/22

- A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A6 Specific details of the location of the building/s should be provided in the Crown Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A7 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the Access to *Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

- A8 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

- A9 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

- A10 The necessary development consent and a Crown construction certificate or a complying development certificate (as applicable) must be obtained for any proposed *cooling towers* and external plant and equipment, if not included in this consent.

- A11 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

- A12 A separate development application and Crown Construction Certificate or a complying development certificate (as applicable) must be obtained if the premises is to be used for any of the purposes detailed below unless the proposed development and fit-out is encompassed in this consent:

- All food businesses (including premises used for the sale, storage, preparation and distribution of food and drinks)
- Hairdressing salons, Beauty salons, Businesses involving Skin Penetration & Piercing, Massage businesses
- Licensed premises, places of public entertainment and hotels

- Places of Shared Accommodation (including Boarding / Lodging Houses, Bed & Breakfast businesses, Backpackers, Residential Hotels or the like)
- Cooling Towers or Warm Water Systems
- External plant and equipment not encompassed in the consent
- Business providing any form of sexual service (i.e. brothel or the like).

Business premises which are used for any of these purposes must comply with relevant public health and safety legislation and requirements and they must be registered with Council prior to a Crown Occupation Certificate being issued for the development. The relevant registration and inspection fee is also required to be paid to Council in accordance with Council's adopted Pricing Policy.

- A13 Any external lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
- A14 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A15 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A16 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.





## Development Application Report No. D3/22

**Subject:** 201 Coogee Bay Road Coogee (DA/378/2021)

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<b>Proposal:</b>	Reconstruction of the awning on the corner of the building at Coogee Bay Road and Brook Street (Heritage Item), including replacement of awning fascia and under awning signage as well as upgraded stormwater drainage.
<b>Ward:</b>	East Ward
<b>Applicant:</b>	Dimitrios Syros
<b>Owner:</b>	Dalton Strata Services
<b>Cost of works:</b>	\$127,500.000
<b>Reason for referral:</b>	The development relates to the replacement of an existing awning, under awning and signage on a Heritage item

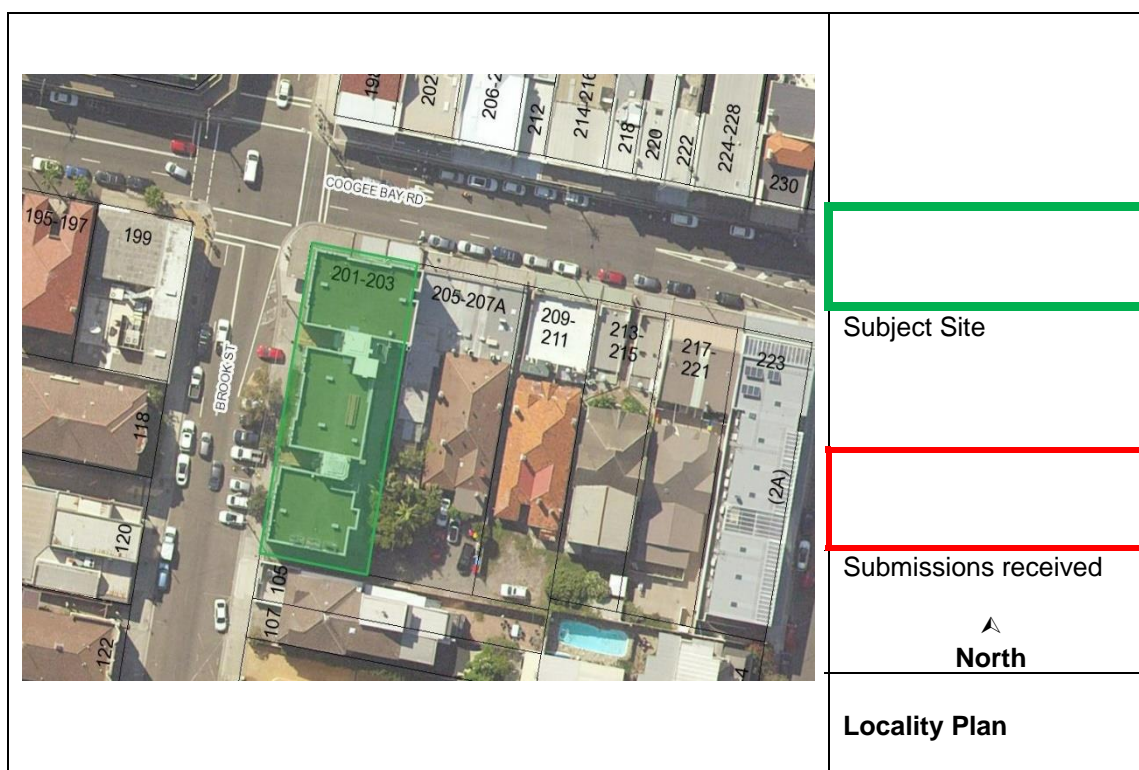
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### Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/378/2021 for replacement works to the awning above the corner of Coogee Bay Road and Brook Street (Heritage Item), including awning fascia, under awning and signage, as well as upgraded stormwater drainage, at No. 201-203 Coogee Bay Road, Coogee subject to the development consent conditions attached to the assessment report.

D3/22

D3/22



## 1. Executive summary

This application is referred to the Randwick Local Planning Panel (RLPP) because the development involves the replacement of an existing awning, under awning works and signage on a Heritage item.

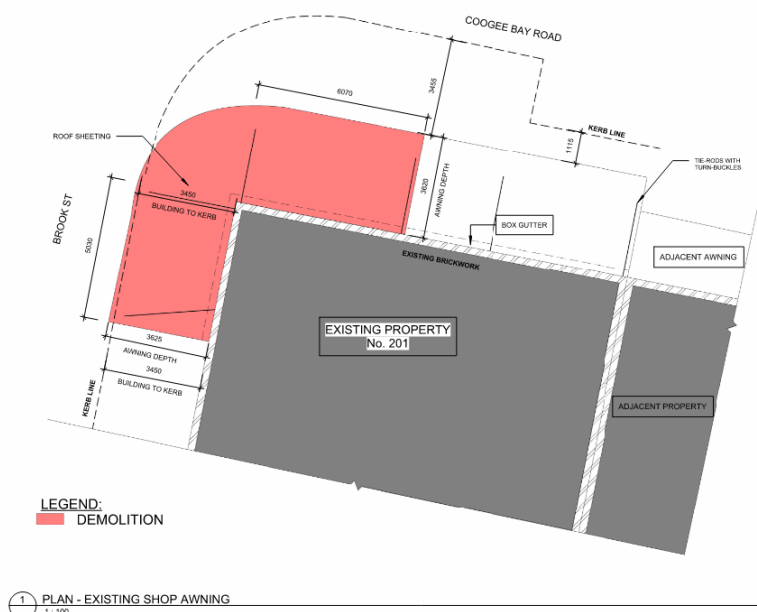
The proposal seeks development consent for the replacement of the awning above the corner of Coogee Bay Road and Brook Street (Heritage Item), including awning fascia, new roof sheeting, new soffit lining and under awning signage as well as upgraded stormwater drainage. The awning has been damaged by vehicle impact in 2020. The awning that is to be replaced relevant to the application is only the existing section above an existing medical centre at the corner of Coogee Bay Road and Brook Street. The existing and proposed awning is shown in **Figure 1** and **Figure 2** below, as well as within *Section 2 Site Description and Locality*. The proposed replacement awning and associated works and signage are demonstrated in detail within this report. Refer to *Section 4* within this report for a detailed description of the proposal.

The subject site is identified as a Local Heritage item and forms part of the Coogee Beach shopping strip along Coogee Bay Road.

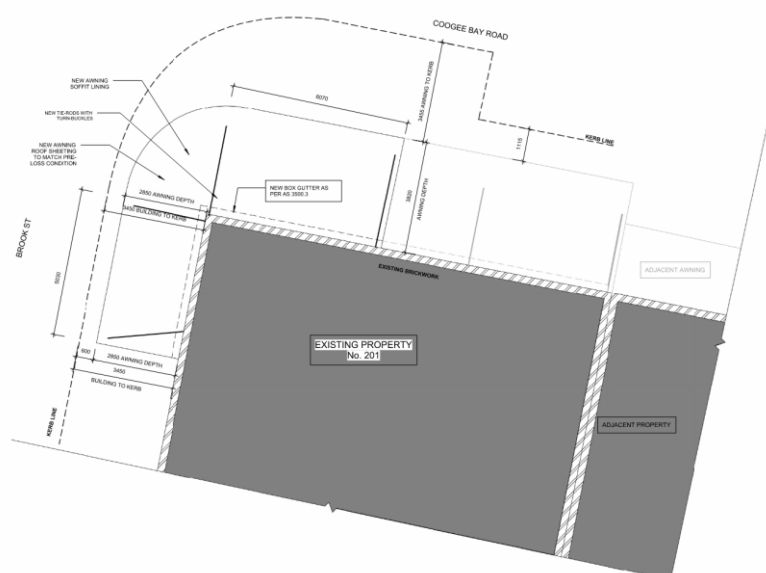
The proposal was notified and advertised in accordance with *Randwick Community Participation Plan 2019* and two submissions were received, addressed in *Section 5 Notification* below.

The key issues for the development relate to preserving the heritage significance of the building and compliance with stormwater drainage requirements and the B2 Local Centre zone objectives and signage. Refer to *Section 8 Key Issues* within this report.

Council's Heritage Planner has reviewed the application and considers that the replacement of the existing awning at the corner of Coogee Bay Road and Brook Street is acceptable subject to conditions requiring that the roof sheeting, fascia, soffit lining and signage match the existing. A number of conditions have been recommended to mitigate the impact of the development on original fabric following construction work and protect any potential archaeological remains following excavation for the upgraded stormwater drainage.



**Figure 1.** The section of the existing awning (shaded red) located on the corner of Brook Street and Coogee Bay Road that is proposed to be replaced.



**Figure 2.** The proposed replacement awning at the corner of Brook Street and Coogee Bay Road

## 2. Site Description and Locality

The subject property, legally described as SP9395, is occupied by four storey Art Deco residential flat building listed as a heritage item under Randwick LEP 2012. The ground floor of the building comprises two food and drink shops to Coogee Bay Road and a medical centre on the corner to Brook Street. (see photos in **Figure 7 and 8** below), as well as *shop top housing* to Coogee Bay Road. The residential component extends to the southern rear section of the subject site comprising a *residential flat building* portion accessed via a pedestrian and vehicular entry on Brook Street (see **Figure 9** below).

The existing awning extends for the entire Coogee Bay Road frontage of the building and for a short distance above the ground floor shopfront along Brook Street. The awning steps down above each of the three shopfronts on the Coogee Bay Road frontage. Only the section of existing awning at the Coogee Bay Road/Brook Street corner is to be replaced (that is, the section of the awning which relates to the medical centre being the Coogee Family Medical Centre).

The existing awning spans 6.07m along Coogee Bay Road and wraps around to Brook Street for a length of 5.03m (refer to **Figures 3, 4 and 5** below).

D3/22



**Figure 3.** The subject awning that is proposed to be replaced, looking south from the southern side of Coogee Bay Road



**Figure 4.** The subject awning that is proposed to be replaced, looking south along the eastern side of Brook Street





**Figure 5.** Underside detail of the subject awning that is proposed to be replaced, looking west along the southern side of Coogee Bay Road

The site is situated on the southern side of Coogee Bay Road and the eastern side of Brook Street. The Site is a corner allotment with two street frontages; the primary frontage along Coogee Bay Road is 18.25m in width and the secondary frontage to Brook Street is 49.38m. The site has a total area of 901.18m<sup>2</sup>. The allotment is a regular shaped allotment with a north-south orientation and the topography of the site falls from the south-western corner (on Brook Street) to the north-eastern corner (on Coogee Bay Road) by a difference in topography of 1.8m across the site.



**Figure 7.** The Site primary frontage to Coogee Bay Road



D3/22



**Figure 8.** The Site's secondary frontage to Brook Street



**Figure 9.** The Site's secondary frontage to Brook Street contains the southern portion of the building with residential flats and associated pedestrian access

The mixed-use development and associated residential apartments form Local Heritage item No. 185 *Art Deco residential flat buildings*, in accordance with Schedule 5 of the Randwick Local Environmental Plan 2012 (RLEP 2012). It is not located within a Heritage Conservation Area (HCA). There are Local Heritage items surrounding the site however, none adjoin the Site.

The immediate surrounding properties are a mixture of residential and commercial buildings, predominantly in the form of *Shop Top Housing* (demonstrated within **Figure 10** and **Figure 11** below). The surrounding area is also characterised by a mix of low-medium scale retail and business premises and various forms of residential accommodation as part of the B2 Local Centre zone. The site is also in close proximity to Coogee Beach to the east.



**Figure 10.** Shop top housing located on the north-eastern corner of Coogee Bay Road and Brook Street, looking north from the southern side of Coogee Bay Road



**Figure 11.** Commercial building on the south-western corner of Coogee Bay Road and Brook Street

### 3. Relevant History

DA/334/1993 was approved on 26 August 1993, in relation to Shop 1, for the *change of use to a medical consulting room*, which currently exists and is subject to this new DA/378/2021.

### 4. Proposal

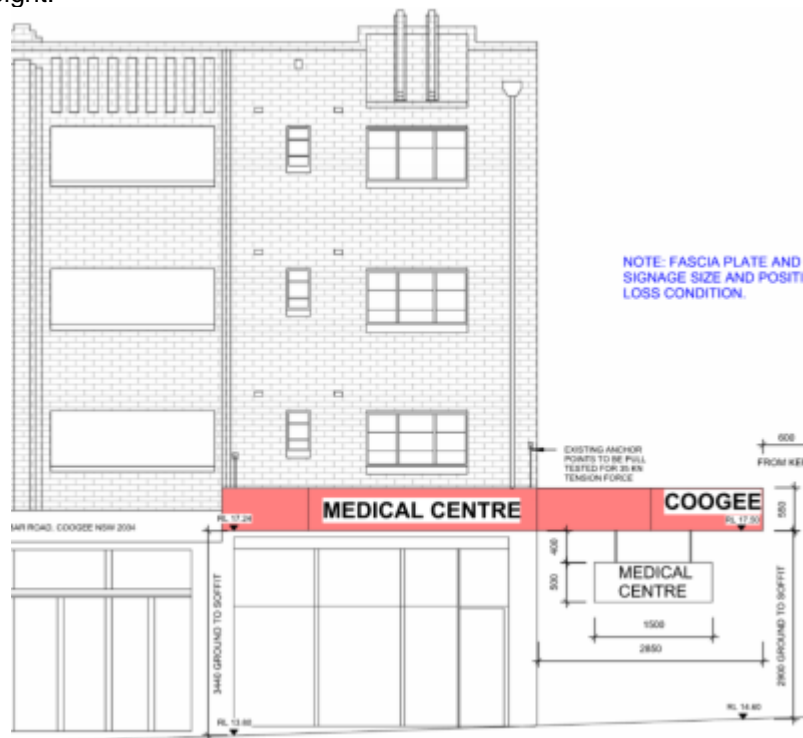
The proposal seeks development consent for development that involves the replacement of an awning at the corner of Coogee Bay Road and Brook Street, including upgraded stormwater drainage, of a Heritage item. It is proposed to demolish the section of damaged awining and reconstruct a new awning with the following features:

- provide a new internal awning structure with a new fascia, new roofing and roof drainage system, and new fibre cement sheet lining with ceiling details and timber mouldings to match the existing.
- retain, clean and repaint existing anchor points for the awning with suspension/tie rods to be replaced.
- provide a new roof drainage system as per the roof drainage plan (SWP-DWG-2001977-S07) including new guttering and downpipes that are to be connected to existing stormwater lines.

The proposed development does not involve excavation and no alterations to the landscape and vegetation on site. The damaged awning is proposed to be reinstated to match the pre-loss condition without any alteration/ addition to the layout and footprint of the existing building. The proposed development will not alter the existing Floor Space Ratio (FSR) of the existing premises. The proposed development will include all necessary NCC/ BCA upgrades.

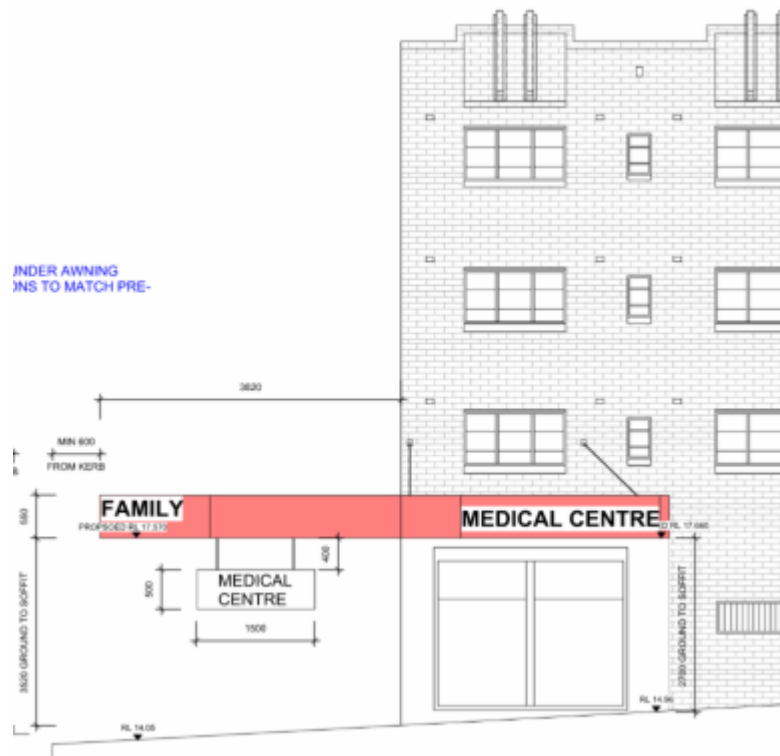
The existing awning is demonstrated in **Figure 1** and **Figure 2** (roof plan) within *Section 1 Executive Summary* of this report, as well as within site photos in *Section 2 Site Description and Locality* of this report. The replacement awning and signage is demonstrated below in **Figure 12** and **Figure 13** (proposed elevations) and **Figure 14** (proposed roof plan).

The proposed awning is to be reduced in depth from 3.625m to 2.85m, which provides a setback of 600mm from the awning to the kerb line along Brook Street. This depth reduction will mitigate against any future potential hazards from vehicle impact damage as raised also in the submissions. The two-street frontage elevation plans of the proposed awning are extracted in **Figure 12** and **Figure 13** below, which demonstrates the sloping topography and the changes in height to the underside of the proposed new awning. The height of the proposed awning will not change from the existing height.

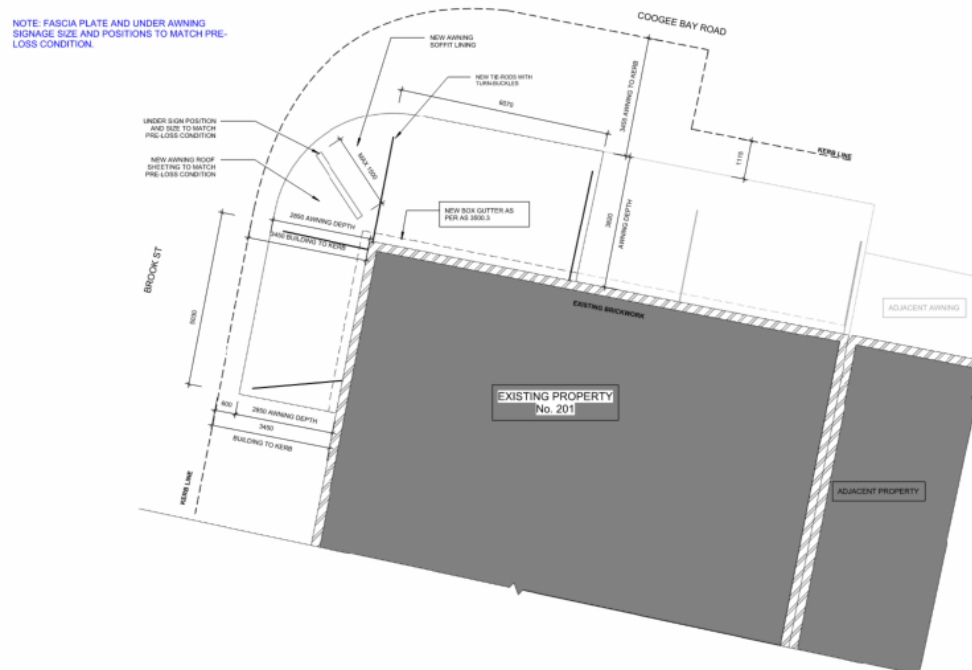


**Figure 12.** The proposed elevation along the Coogee Bay Road frontage





**Figure 13.** The proposed elevation along the Brook Street frontage



**Figure 14.** The roof plan of the proposed awning, replacing and matching the existing awning

## 5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Community Participation Plan. The following submissions were received, as a result of the notification process:

D3/22

Issue	Comment
The setback of the awning should be 900mm instead of 600mm from the kerb.	600mm is a sufficient distance supported by Council's Development Engineer as demonstrated in <i>Key Issues</i> below.
Need to refer the proposal to the Traffic Engineer	This application was referred to Council's Development Engineer, who provided conditions to include on the Notice of Determination.
Residential properties in SP 9395 (the subject site) not notified and loss of view impacts to these properties.	Residential properties in the subject site were notified of the proposal and there are no loss of view impacts arising from the proposal as it replaces an existing awning on-site with an awning of similar height and design but with a reduced depth to provide for a 600mm setback to Brook Street.

## 6. Relevant Environment Planning Instruments

### 6.1. State Environmental Planning Policies

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

The site is not identified in Council's records as being contaminated and a review of Council's records, aerial photographs and a site inspection has not revealed any obvious history of a previous land use that may have caused contamination. The application does not propose a new use or have a history of use nominated within Table 1 of the Contaminated Land Planning Guidelines. The information submitted by the applicant to accompany the application did not identify the site as contaminated.

The site history above shows that the subject building was originally designed and constructed for a mixed use residential flat building and residential flat building which would be retained by the development.

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

The subject site does not contain any significant trees or vegetation therefore the SEPP does not apply to the proposed development.

#### State Environmental Planning Policy No. 64–Advertising and Signage (SEPP 64)

The SEPP aims to ensure that signage and advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. The proposal seeks to replace the existing awning fascia and under awning signage that has contents associated with the Coogee Family Medical Centre, located on the corner of Coogee Bay Road and Brook Street. The existing signage is in a dilapidated state and currently has an unsafe proximity to Brook Street, which forms part of a much larger awning which runs the length of the building along Coogee Bay Road.

#### Clause 8 Granting of Consent to Signage

*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:*

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations, is of high-quality design and finish and is therefore consistent with the aims and objectives of the SEPP. As noted previously, the proposal



would replace an existing awning, under awning and signage content; is associated with an existing shopfront within a mixed-use local centre (Coogee Bay Road, Coogee Beach). The proposed development would not detract from the significance of the Heritage item (as confirmed in the referral comments of Council's Heritage Planner) or the mixed-use character of the area at large. The assessment criteria within Schedule 1 of the SEPP has been addressed within **Appendix 2**.

The specified colours and associated details of the replacement fascia signage content was not originally submitted and therefore, a condition of consent has been recommended to ensure that the replacement contents match the existing signage and are appropriate. However, the details were submitted following a request from the assessing officer. Notwithstanding, the condition shall remain to ensure that the signage remains consistent should it and require further consideration at the Construction Certificate (CC) stage.

Having regard to the existing and proposed signage as part of this application, they are considered to fall within the scope of a business and building identification signs associated with the use. The proposed signage will remain consistent with the requirements of the SEPP in that it provides a uniform theme identifying the business to be undertaken in the premises; they will be integrated into the building's design; they will not significantly affect any views or vistas and nor do they dominate the skyline.

## **6.2. Randwick Local Environmental Plan 2012 (RLEP 2012)**

### **Permissibility**

The site is zoned B2 Local Centre under the provisions of *Randwick Local Environmental Plan 2012* (RLEP 2012) and development ancillary to a mixed-use development comprising commercial premises and residential flat buildings are permissible with consent of Council.

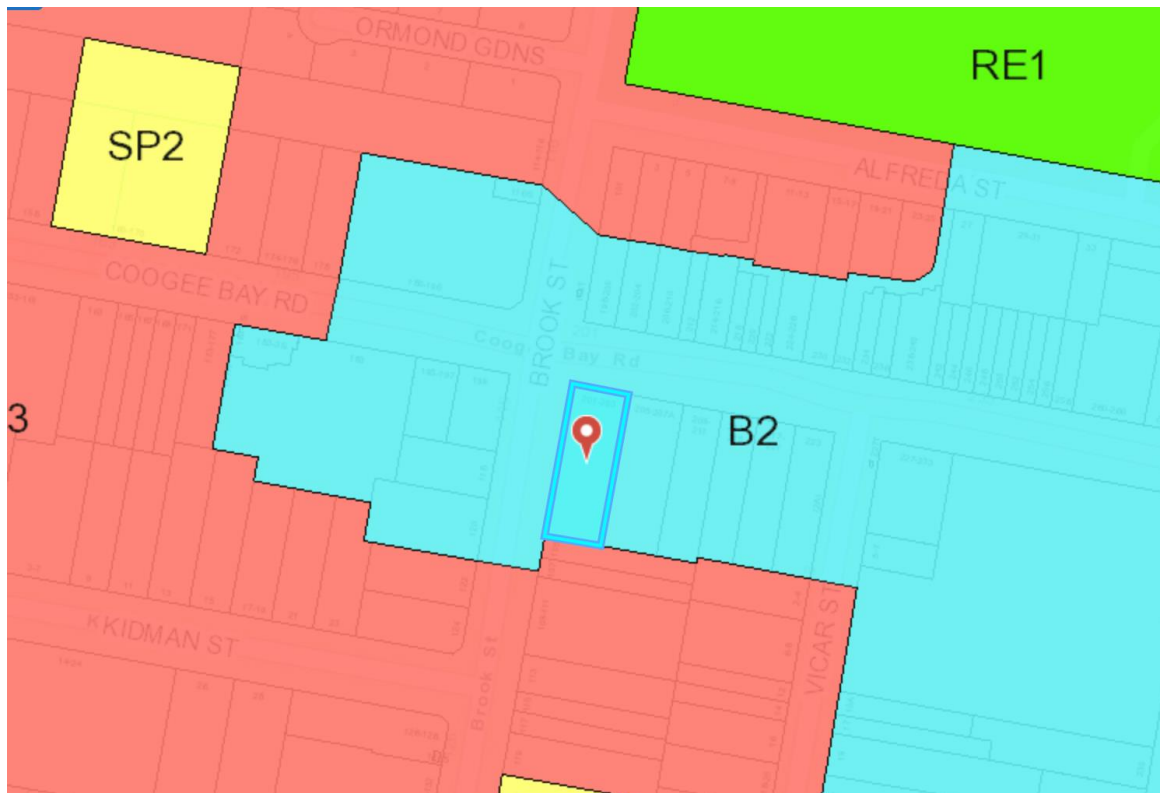
The proposal is consistent with the relevant objectives of the zone in that the proposed activity will promote the commercial character of the area and contribute to the ongoing viability of the centre whilst respecting the aesthetic and historical significance of the heritage item and nearby heritage items and protecting the amenity of residents in the zone and nearby zones.

The proposed development will ensure the ongoing use of the associated ground floor medical centre, which fronts Coogee Bay Road and continue to activate the streetscape and support the residential and commercial uses within the site through the proposed alterations at the rear of the site.

The proposed development is not considered to result in any unreasonable amenity impacts on adjoining properties, provided that suitable heritage and stormwater drainage details can be addressed and confirmed prior to construction. The building works include the replacement awning, under awning and signage contents which would replace existing elements thereby retaining the status quo in regards to impacts on the character and appearance of the area.

The proposed development does not propose any building works that would alter compliance with the development standards for building height or floor space ratio within RLEP 2012.

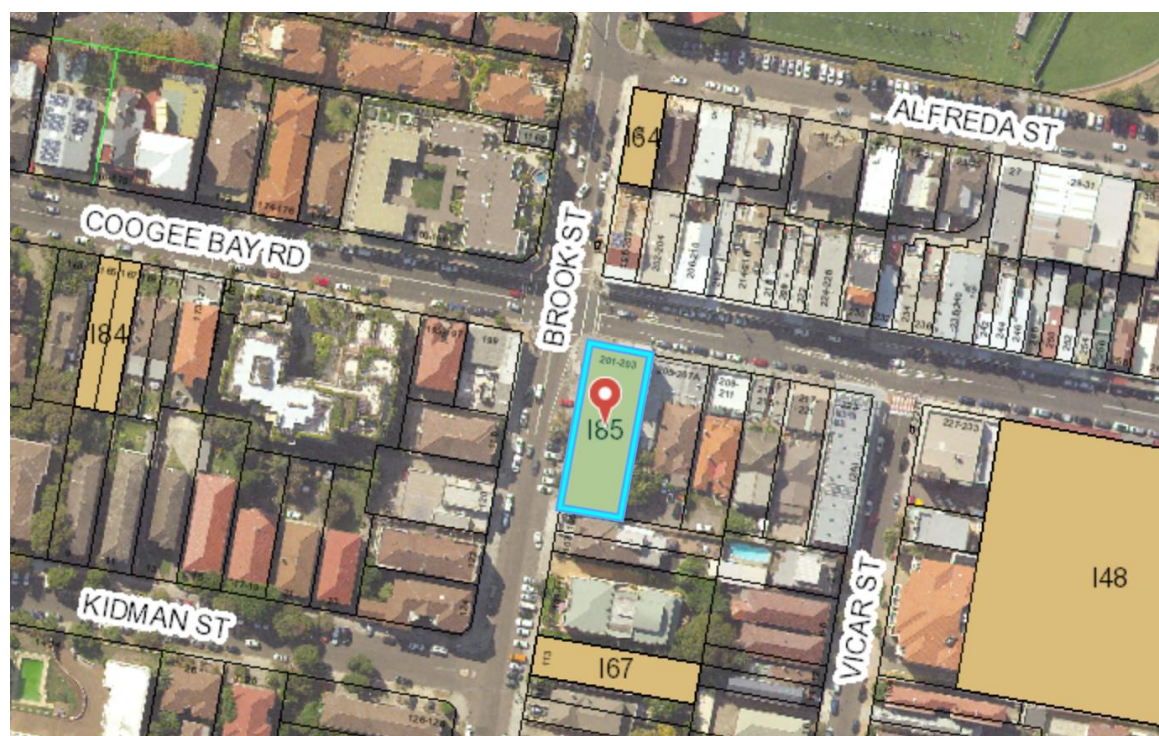
D3/22



**Figure 15.** Extract of the land zoning identified on Council's Interactive Mapping system with the subject site highlighted

#### **Clause 5.10      Heritage Conservation**

The subject site is identified as a Heritage item. The application was referred to Council's Heritage Planner who has advised that the works would reinstate an integral element of the heritage quality of the existing item and streetscape, namely the awning, and thus conserve the environmental heritage qualities of the heritage item (heritage comments are in **Appendix 1**). The proposal would not affect any significant fabric, settings, or views of the heritage item and its streetscape context. In summary, the heritage planner supports the development subject to the imposition of conditions to mitigate any potential impacts on heritage significance and any potential archaeological remains. The proposed replacement awning and under awning would be in-keeping with the use of the site and prevailing mixed-use character of the area which forms an important setting for the heritage item.



**Figure 16.** Extract of the heritage classification of sites and areas identified on Council's Interactive Mapping system with the subject site highlighted

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in **Appendix 3**.

## 8. Environmental Assessment

The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The proposal provides for the reinstatement of a damaged awning to an important facility, i.e.; medical centre, in the Coogee town centre which will also respect the heritage significance of the existing building. The site has supported and contained the existing medical centre use for almost three decades. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

## 8.1. Discussion of key issues

### Heritage

Given that the subject site is identified as a Heritage item, the consideration of potential impacts is a key consideration for the proposed development. As noted previously, Council's Heritage Planner has reviewed the application and supports the development subject to conditions to mitigate any potential impacts. Refer to the Heritage Planner's comments within **Appendix 1** for a detailed assessment of the proposal. The recommended conditions form part of the conditions of consent within **Attachment 1**.

### Engineering

Council's Development Engineer has reviewed the application and supports the development subject to conditions to ensure compliance with the relevant provisions within the BCA and Australian Standards. The recommended conditions form part of the conditions of consent within **Attachment 1**.

### Awning Depth

The existing awning is damaged (demonstrated within **Figure 7** and **8** above), is proposed to be demolished and replaced with a matching awning with a reduction in depth from 3.625m to 2.85m, which provides a setback of 600mm. The reduction in depth is ensure that future potential hazards with large vehicles do not occur. **Figure 17** below, is an example that demonstrates the proximity between a large vehicle and the existing awning, hence the reduction in depth. The photo was provided as part of one of the submissions received during the notification period.





**Figure 17.** Example of the proximity between a large vehicle and the existing awning

## 9. Conclusion

That the application for the replacement of a section of the dilapidated awning at the corner of Coogee Bay Road and Brook Street including upgraded stormwater drainage at 201-203 Coogee Bay Road, Coogee be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the objectives and requirements for consent contained within Clause 5.10 *Heritage Conservation* of the RLEP 2012 and the relevant heritage requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the B2 Local Centre zone in that the proposed activity will promote the commercial character of the area and contribute to the ongoing viability of the centre whilst respecting the aesthetic and historical significance of the heritage item and nearby heritage items and protecting the amenity of residents in the zone and nearby zones.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape.
- The proposed development will make a positive contribution to the commercial centre.



## 10. Non-Standard Conditions

Council's Heritage officer has provided the following non-standard conditions:

- *The new awning fascia is to match as closely as possible the profiled metal sheet metal fascia which is visible underneath the existing flat metal sheet fascia. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The new fibre cement ceiling/lining to the underside of the awning is to match as closely as possible the existing awning including dimensions and arrangement of timber cover battens. A reflected ceiling plan of the underside of the awning is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The new awning suspension/tie rods are to match as closely as possible the existing suspension/tie rods.*
- *Existing wall surfaces which are affected by the removal and replacement of existing concealed downpipes are carefully reinstated to match existing wall surfaces.*
- *Replacement awning fascia signage is to match the height of the new awning fascia and not project above or below it. Amended drawings indicating replacement signage is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The colours, materials and finishes of the external surfaces to the replacement awning are to be in accordance with the Schedule of Finishes prepared by Silver Wolf Projects Pty. Ltd., dated 01/06/2021, and received by Council on 1 July 2021. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

Council's Development Engineer has provided the following non-standard conditions:

### **Street Awnings**

- *Plans submitted for the construction certificate shall demonstrate the proposed awning/s complying with the following council requirements;*
  - a) *The minimum clear distance from the existing Council footpath in Coogee Bay Road & Brook Street to the underside of the proposed awning/s should be 3.00 metres.*
  - b) *All new awnings shall be set back a minimum of 600mm from the face of the Council kerb line.*

### **Public Utilities**

- *A Public Utility Impact Assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.*
- *The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

**Council's Infrastructure, Vehicular Crossings, street verge**

- *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
- *All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:*
  - a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
  - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- *The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.*

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Heritage planner

##### **The Site**

The site is occupied by an Art Deco residential flat building listed as a heritage item under Randwick LEP 2012. The Heritage NSW database sheet for the building describes it as a "c. 1937 Art Deco flats and shops to both roads. Angular geometric mode, in 3 blocks with recessed entries. Tall chevron brick and glazing work. Shop awning details original. Metal name plates 'Riviera' in Art Deco lettering." To the north of the site at no. 101 Brook Street is a residential flat building also listed as a heritage item. To the south of the site at no. 113 Brook Street is a Federation house also listed as a heritage item.

##### **Proposal**

The application proposes to partially replace the existing awning to the Coogee Bay Road and Brook Street frontages of the building. The awning has been damaged by vehicle impact in 2020. The awning comprises metal roof sheeting, timber battened asbestos cement sheet lining and a metal fascia. Existing signage is also to be reinstated.

##### **Submission**

The application has been accompanied by a Heritage Impact Statement prepared by Mina Mokhtarikondori of Tachara Group Pty Ltd. The HIS addresses the relevant Objectives and Controls within the Heritage section of Randwick DCP 2013 and concludes that:

Overall, the proposal is carefully planned for the reinstatement of the damaged shop front awning sustained during a vehicle impact event in 2020 at 201-203 Coogee Bay Road (the corner of Coogee Bay Road & Brook Street) which compromised its structural integrity. It also identifies any upgraded works required to maintain the overall safety and stability of the awning and to meet current Building Code or other requirements where it is applicable.

Subject to the above, the awning has surpassed its design life and given the extent of the corrosion & damage, the repairing of the awning structure is not warrantable. As such, the subject awning requires complete removal and replacement up to the adjoining awning, excluding the shared outrigger and the corresponding tie-rod on like for like basis.

The rest of the heritage item including the main building will be remained unchanged and no works are proposed to alter any section of the building including façade, recessed entrances, balcony areas and windows details.

##### **Controls**

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. In relation to Commercial Properties, clause 2.13 of the DCP includes an Objective that original forms, details, materials and finishes must be retained, including original shopfronts, original suspended awnings and open balconies at first floor level.

##### **Comments**

##### **Partial awning replacement**

The awning extends for the entire Coogee Bay Road frontage of the building and for a short distance above the ground floor shopfront along Brook Street. The awning steps down above each of the three shopfronts on the Coogee Bay Road frontage. Only the section of existing awning at the Coogee Bay Road/Brook Street corner is to be replaced (the section of the awning which relates to the medical centre). The section of existing awning which relates to the two food outlets is to remain. The existing plain metal fascia covers the original profiled metal fascia which remains underneath. The existing metal roof sheeting is not original, and it is unclear whether original roof sheeting remains under it. The asbestos cement sheet lining with decorative timber cover battens appears to be original. The awning is suspended above the footpath by four metal rods on the Coogee Bay

Road frontage and two metal rods on the Brook Street frontage. Roof drainage comprises a box gutter adjacent to the walls of the building and concealed downpipes.

The application proposes to retain the extent of the existing awning, but its depth on the Brook Street frontage is to be reduced by 600mm to avoid future vehicle damage. It is proposed to provide a new internal awning structure, a new fascia, new roofing and roof drainage system, and new fibre cement sheet lining with ceiling details and timber mouldings to match the existing. Existing anchor points for the suspension/tie rods are to be retained, cleaned and repainted. It appears that suspension/tie rods are to be replaced. The roof drainage plan notes that new guttering and downpipes are to be connected to existing stormwater lines.

There are no heritage objections to the reduction in the original depth of the awning as this will reduce the likelihood of further damage. There are no heritage objections to the replacement of the internal awning structure and roof drainage system which is not visible. The existing roofing which is to be replaced is not original and is not visible from the street. A consent condition should be included that existing wall surfaces which are affected by the removal and replacement of existing concealed downpipes are carefully reinstated to match existing wall surfaces. Consent conditions should also be included that new suspension/tie rods and fibre cement ceiling/lining to the underside of the awning match the existing as closely as possible. It is recommended that the new fascia be reinstated to match the profiled metal sheet metal fascia which is visible underneath the existing flat metal sheet fascia.

There are no heritage objections to the proposed materials and finishes.

### **Signage and lighting replacement**

Existing signage to the medical centre tenancy comprise an under awning sign at the Coogee Bay Road/Brook Street corner and awning fascia signage to the Coogee Bay Road frontage and the Coogee Bay Road/Brook Street corner. There are no heritage objections to the replacement of existing signage which is compatible with traditional signage within the commercial area. A consent condition should be included that replacement awning fascia signage matches the height of the new awning fascia and does not project above or below it. There are no heritage objections to the proposed replacement of non-original lighting to the underside of the awning.

### **Recommendation**

The following conditions should be included in any consent:

- The new awning fascia is to match as closely as possible the profiled metal sheet metal fascia which is visible underneath the existing flat metal sheet fascia. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- The new fibre cement ceiling/lining to the underside of the awning is to match as closely as possible the existing awning including dimensions and arrangement of timber cover battens. A reflected ceiling plan of the underside of the awning is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- The new awning suspension/tie rods are to match as closely as possible the existing suspension/tie rods.
- Existing wall surfaces which are affected by the removal and replacement of existing concealed downpipes are carefully reinstated to match existing wall surfaces.
- Replacement awning fascia signage is to match the height of the new awning fascia and not project above or below it. Amended drawings indicating replacement signage is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

- *The colours, materials and finishes of the external surfaces to the replacement awning are to be in accordance with the Schedule of Finishes prepared by Silver Wolf Projects Pty. Ltd., dated 01/06/2021, and received by Council on 1 July 2021. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

## **1.2. Development Engineer**

*An application has been received for replace the existing damaged street awning at the above site.*

*This report is based on the following plans and documentation:*

- *Architectural Plans by Silver Wolf projects P/L;*
- *Statement of Environmental Effects by Silver Wolf projects P/L;*
- *Detail & Level Survey by Complete Precision Surveys.*

*Should the application be approved the following conditions shall apply (i.e., no objections are raised to the proposal):*



**Appendix 2: SEPP 64 Compliance Table****Schedule 1 Assessment Criteria**

Clause	Assessment Criteria	Proposal	Compliance
<b>1</b>	<b>Character of the Area</b>		
	<ul style="list-style-type: none"> <li><i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i></li> <li><i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i></li> </ul>	The proposed replacement signage is consistent with the use of the subject site and would continue to provide clear business identification for a business use within a local centre.	<b>Yes</b>
<b>2</b>	<b>Special Areas</b>		
	<ul style="list-style-type: none"> <li><i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i></li> </ul>	The proposed replacement signage is consistent with signage within the locality and therefore would not detract from the character and appearance of the area. The replacement of existing signage would maintain the status quo in this regard including the impact on the associated Local Heritage item.	<b>Yes</b>
<b>3</b>	<b>Views and Vistas</b>		
	<ul style="list-style-type: none"> <li><i>Does the proposal obscure or compromise important views?</i></li> <li><i>Does the proposal dominate the skyline and reduce the quality of vistas?</i></li> <li><i>Does the proposal respect the viewing rights of other advertisers?</i></li> </ul>	The proposed replacement signage would not obscure or comprise any existing views. Signage would continue to be flush with the awning fascia as per the existing signage.	<b>Yes</b>
<b>4</b>	<b>Streetscape, Setting or Landscape</b>		
	<ul style="list-style-type: none"> <li><i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i></li> <li><i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i></li> <li><i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i></li> <li><i>Does the proposal screen unsightliness?</i></li> <li><i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i></li> <li><i>Does the proposal require ongoing vegetation management?</i></li> </ul>	The proposed replacement signage would continue to be appropriately proportioned and sympathetic to the use of the associated building and surrounding local centre. The signage would continue to clearly identify the business name of the associated shop and would be compatible with other signage to the building.	<b>Yes</b>
<b>5</b>	<b>Site and Building</b>		
	<ul style="list-style-type: none"> <li><i>Is the proposal compatible with the scale, proportion and other</i></li> </ul>	The replacement signage will continue to be simple	<b>Yes</b>

D3/22

D3/22

Clause	Assessment Criteria	Proposal	Compliance
	<p><i>characteristics of the site or building, or both, on which the proposed signage is to be located?</i></p> <ul style="list-style-type: none"> <li>• <i>Does the proposal respect important features of the site or building, or both?</i></li> <li>• <i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i></li> </ul>	in nature and complimentary to the associated premises and building and would be limited to the fascia of the awning and an under awning.	
<b>6</b>	<b>Associated Devices and Logos with Advertisements and Advertising Structures</b>		
	<ul style="list-style-type: none"> <li>• <i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i></li> </ul>	No safety devices, platforms, lighting devices or logos form part of the proposal.	<b>N/A</b>
<b>7</b>	<b>Illumination</b>		
	<ul style="list-style-type: none"> <li>• <i>Would illumination result in unacceptable glare?</i></li> <li>• <i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i></li> <li>• <i>Would illumination detract from the amenity of any residence or other form of accommodation?</i></li> <li>• <i>Can the intensity of the illumination be adjusted, if necessary?</i></li> <li>• <i>Is the illumination subject to a curfew?</i></li> </ul>	Illumination does not form part of the proposal.	<b>N/A</b>
<b>8</b>	<b>Safety</b>		
	<ul style="list-style-type: none"> <li>• <i>Would the proposal reduce the safety for any public road?</i></li> <li>• <i>Would the proposal reduce the safety for pedestrians or bicyclists?</i></li> <li>• <i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i></li> </ul>	The proposed replacement signage will improve the safety because the depth of the awning is proposed to reduce by 600mm. Refer to <b>Figure 12</b> within the <i>Key Issues</i> section of this report demonstrating an example of the existing unsafe proximity that the awning is currently.	<b>Yes</b>

**Appendix 3: DCP Compliance Table****Part B General Controls****Part B2 Heritage**

The assessment of the application has included a consideration of the impact of the proposed development on the setting, fabric and views to/from items of heritage significance. In this instance, the scale of the proposed development and siting of works would not detract from the significance of these items. Refer to the assessment of Heritage within the *Key Issues* section of report and Heritage Planner's comments within **Appendix 1** for a detailed assessment of the relevant heritage provisions.

**Section F2: Outdoor Advertising and Signage**

DCP Clause	Controls	Proposed	Compliance
<b>3</b>	<b>Signage based on land use zones</b>		
<b>3.1</b>	<b>Residential Zones</b>		
	iv) Proposals for signage on buildings operating as existing uses or business premises will be assessed against the controls relating to business zones.	The signage proposal relates to a medical centre. Assessment against the business zone controls is provided below.	Yes
<b>3.1</b>	<b>Business Zones</b>		
	(i) The size and shape of any signage must relate to the size of the building or space. Larger building facades are capable of accommodating larger signs without detracting the appearance of the building.	The proposed development would replace and retain existing features along the Coogee Bay Road and Brook Street façades.	Yes, the development would not alter compliance with development standards in relation to building height and floor space ratio.
	(ii) Signage must not dominate or obscure a building or its architectural features. Advertising should highlight and reinforce architectural details.	<p>The existing awning to Coogee Bay Road and Brook Street would be replaced like-for-like and a condition of consent has been recommended to ensure that materials selected match existing to mitigate any potential impact arising from replacement of the awning.</p> <p>The fascia signs would be replaced with business identification signage and a condition has been recommended to ensure that the details of the</p>	Yes

D3/22

DCP Clause	Controls	Proposed	Compliance
		replacement signage match existing.	
	(iii) Roof signs and advertising structures must not project above the parapet of the building or that part of the building to which they are attached (including signs and bunting mounted on plant rooms or other roof structures).	No roof signs are proposed.	N/A
	(iv) Avoid fin signs, projecting wall signs and above awning signs (sitting on the awning).	No fin signs are proposed.	N/A
	(v) The visual amenity and value of streetscapes should be protected through careful consideration.	<p>The proposed signage is not expected to impact the value of the streetscape.</p> <p>The existing frontage to Coogee Bay Road is proposed to be retained by the development although it is noted that the existing awning, under awning and signage would be replaced like-for-like.</p> <p>A condition of consent has been recommended by Council's Heritage Planner to ensure that materials selected for the replacement awning match the existing.</p>	Yes
	(vi) On any building listed as a Heritage Item or situated in a Heritage Conservation Area outdoor advertising (projecting and flush) must not be located above awning level.	The subject site is a Local Heritage item however, does not proposed any advertising above the awning level.	Yes
	(vii) Upper level signs are best located at major focal points of a building only, to advertise arcades, plazas, etc. and to provide as corporate identity for developments which contain a range of businesses.	No upper level signs are proposed.	N/A
	(viii) Outdoor advertising on or attached to buildings must align and relate to the architectural design lines on a building façade.	The proposed signage aligns with the architectural features of the building. The existing frontage to Coogee Bay Road is proposed to be retained by the	Yes


DCP Clause	Controls	Proposed	Compliance
		development although it is noted that the existing awning, under awning and signage would be replaced like-for-like.  A condition of consent has been recommended by Council's Heritage Planner to ensure that materials selected for the replacement awning match the existing.	
	(ix) Limit under awning to one per shop or for larger premises one per 6 metres of shop frontage.	One under awning sign exists and shall be replaced like-for-like	Yes
	(x) Under awning signs must be at least 2.6 metres above footpath level.	One under awning sign exists and shall be replaced like-for-like	Yes
	(xi) Pole or pylon signs must not exceed the height of adjoining or adjacent buildings, or 6 metres, whichever is the lower.	No pole or pylon signs exist	N/A

### Part F Outdoor Advertising and Signage

The proposed development includes the reconstruction of the awning above the corner of Coogee Bay Road and Brook Street (Heritage Item), like-for-like, including awning fascia, under awning signage and signage, as well as upgraded stormwater drainage. The associated fascia signage provides business identification signage for the Coogee Family Medical Centre on the corner of Coogee Bay Road and Brook Street. Accordingly, the proposed replacement awning, under awning and signage would maintain the status quo and would continue to appropriate form of development within a mixed-use local centre. The proposed development would not detract from the significance of the Local Heritage item or the mixed-use character of the area at larger.

The proposed development would be consistent with the objectives and controls relating to signage within business zones within RDCP 2013.

### **Attachment/s:**

1.  RLPP Development Consent Conditions - 201-203 Coogee Bay Road, Coogee - DA/378/2021

**Responsible officer:** Alexandra Marks, Environmental Planning Officer

**File Reference:** DA/378/2021



## Development Consent Conditions (Mixed use)



<b>DA No:</b>	DA/378/2021
<b>Property:</b>	201 – 203 Coogee Bay Road, Coogee
<b>Proposal:</b>	To partially replace the existing awning to the Coogee Bay Road and Brook Street frontages of the building, relating to Shop 1 <i>Coogee Family Medical Centre</i>
<b>Recommendation:</b>	Approval

### Development Consent Conditions

#### GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

#### Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
S01 (Rev A)	Silver Wolf Projects Pty	18 November 2021
S02 (Rev A)	Silver Wolf Projects Pty	1 June 2021
S03 (Rev A)	Silver Wolf Projects Pty	1 June 2021
S05 (Rev A)	Silver Wolf Projects Pty	1 June 2021
S07 (Rev A)	Silver Wolf Projects Pty	1 June 2021

#### Heritage

- The new awning suspension/tie rods are to match as closely as possible the existing suspension/tie rods.
- Existing wall surfaces which are affected by the removal and replacement of existing concealed downpipes are carefully reinstated to match existing wall surfaces.

#### REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

**Consent Requirements**

4. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

**External Colours, Materials & Finishes**

5. The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.

**Heritage**

6. The new awning fascia is to match as closely as possible the profiled metal sheet metal fascia which is visible underneath the existing flat metal sheet fascia. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
7. The new fibre cement ceiling/lining to the underside of the awning is to match as closely as possible the existing awning including dimensions and arrangement of timber cover battens. A reflected ceiling plan of the underside of the awning is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
8. Replacement awning fascia signage is to match the height of the new awning fascia and not project above or below it. Amended drawings indicating replacement signage is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
9. The colours, materials and finishes of the external surfaces to the replacement awning are to be in accordance with the Schedule of Finishes prepared by Silver Wolf Projects Pty. Ltd., dated 01/06/2021, and received by Council on 1 July 2021. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

**Section 7.12 Development Contributions**

10. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$127,500.00 the following applicable monetary levy must be paid to Council: \$637.50.

The levy must be paid in **cash**, **bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2} / \text{CP1}$$

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

#### **Compliance Fee**

11. A development compliance and enforcement fee of \$127.50 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

#### **Long Service Levy Payments**

12. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

*At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.*

#### **Security Deposits**

13. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17 of the *Environmental Planning and Assessment Act 1979*:

- \$5,000.00 - Damage / Civil Works Security Deposit

The security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the works which confirms that there has been no damage to Council's assets and infrastructure.

The developer/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge and other assets prior to the commencement of any building/demolition works.

To obtain a refund of relevant deposits, a Security Deposit Refund Form is to be forwarded to Council's Development Engineer upon issuing of an occupation certificate or completion of the civil works.

#### **Sydney Water Requirements**

14. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

*The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015*

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

**REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

**Compliance with the Building Code of Australia & Relevant Standards**

15. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

**Street Awnings**

16. Plans submitted for the construction certificate shall demonstrate the proposed awning/s complying with the following council requirements;
- a) The minimum clear distance from the existing Council footpath in Coogee Bay Road & Brook Street to the underside of the proposed awning/s should be 3.00 metres.
  - b) All new awnings shall be set back a minimum of 600mm from the face of the Council kerb line.

**REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

**Certification and Building Inspection Requirements**

17. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work and any applicable requirements of the *Home Building Act 1989* must be satisfied accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

**Dilapidation Reports**

18. A dilapidation report (incorporating photographs of relevant buildings) must be obtained from a *Professional Engineer*, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site and any other property or public land which may be affected by the works, to the satisfaction of the *Principal Certifying Authority*.

The dilapidation report must be submitted to the Council, the *Principal Certifying Authority* and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).

**Construction Site Management Plan**

19. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;



- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

**Demolition Work Plan**

20. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety requirements.

The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

**Construction Noise & Vibration Management Plan**

21. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

#### **Public Liability**

22. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council.

#### **Public Utilities**

23. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
24. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority

#### **REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

#### **Inspections during Construction**

25. Building works are required to be inspected by the *Principal Certifying Authority*, in accordance with section 6.5 of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

#### **Building & Demolition Work Requirements**

26. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

*A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.*

#### **Removal of Asbestos Materials**

27. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.*

#### **Support of Adjoining Land**

28. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

#### **Sediment & Erosion Control**

29. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

#### **Temporary Site Fencing**

30. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:
- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
  - b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
  - c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
  - d) An overhead ('B' Class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:
    - materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
    - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
    - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
    - as may otherwise be required by WorkCover, Council or the PCA.

#### **Notes:**

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

#### **Public Safety & Site Management**

31. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:
- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.

- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

*Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.*

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works, and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

#### Site Signage

- 32. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
  - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
  - name, address and telephone number of the *Principal Certifying Authority*,
  - a statement stating that "unauthorised entry to the work site is prohibited".

#### Restriction on Working Hours

- 33. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 1.00pm only</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development	<ul style="list-style-type: none"> <li>• Saturdays and Sundays where the preceding Friday and/or the</li> </ul>



	following Monday is a public holiday - No work permitted
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An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

#### **Survey Requirements**

34. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifying Authority (PCA):

- prior to construction (pouring of concrete) of footings and boundary retaining structures,
- prior to construction (pouring of concrete) of each floor slab,
- upon completion of the building, prior to issuing an *Occupation Certificate*,
- as otherwise may be required by the PCA.

The survey documentation must be forwarded to the Principal Certifying Authority and a copy is to be forwarded to the Council, if the Council is not the Principal Certifying Authority for the development.

#### **Building Encroachments**

35. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

#### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

*Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.*

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

#### **Occupation Certificate Requirements**

36. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

#### **Council's Infrastructure, Vehicular Crossings, street verge**

37. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

38. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
  - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
  - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing

**Structural Certification**

39. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council with the Occupation Certificate.

**Structural adequacy of awning over footpath**

40. A report is required to be obtained from a professional structural engineer, which assesses and reports on the structural adequacy of the awning attached to the subject premises, located over the footway.

The report is required to:

- a) Confirm that the subject awning is currently structurally adequate and fit-for-purpose, or;
- b) Detail the necessary works required to be carried out to ensure that the awning is structurally adequate and fit-for-purpose.

In the case of a report provided in accordance with a) above, the report must be provided to Council and the Principal Certifying Authority prior to the issuing of an Occupation Certificate or commencement of the use (whichever the sooner).

In the case of a report provided in accordance with b) above, the necessary works identified in the report must be carried out and a further report or certificate must be provided to the Council and the Principal Certifying Authority which confirms that the necessary work has been carried out and the subject awning is structurally adequate and fit-for-purpose, prior to the issuing of an Occupation Certificate or commencement of the use of the land (whichever the sooner) or other timeframe approved by Council in writing.

**Note: If works are required to make the awning structurally adequate, an application to modify the consent may need to be lodged with Council and approval obtained prior to the commencement of any works to the awning.**

**Noise Control Requirements & Certification**

41. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

42. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Control Manual, Industrial Noise Policy and Council's development consent.

A copy of the report must be provided to the *Principal Certifying Authority* and Council prior to an occupation certificate being issued.

**OPERATIONAL CONDITION**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

**Fire Safety Statements**

43. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a competent fire safety practitioner and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

**Environmental Amenity**

44. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
45. The written approval of council must be obtained prior to the installation of any cooling towers.

**GENERAL ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$6,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

- A3 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.
- Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.
- Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 The necessary development consent and a construction certificate or a complying development certificate (as applicable) must be obtained for any proposed *cooling towers* and external plant and equipment, if not included in this consent.
- A12 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.
- Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.
- A13 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
- A14 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures



(This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

- A15 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works



## Development Application Report No. D4/22

**Subject:** 44 Milroy Avenue Kensington (DA/536/2021)

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### <SummarySection>


<b>Proposal:</b>	Alterations and additions to the existing dwelling house including new upper level addition, in-ground swimming pool, alterations and additions to existing garage to accommodate a studio (Heritage Conservation Area).
<b>Ward:</b>	West Ward
<b>Applicant:</b>	House to Home Finishes Pty Ltd
<b>Owner:</b>	Dr P Salerno
<b>Cost of works:</b>	\$701,544.00
<b>Reason for referral:</b>	Conflict of Interest

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### Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/536/2021 for alterations and additions to the existing dwelling house including new upper level addition, in-ground swimming pool, alterations and additions to existing garage to accommodate a studio at No. 44 Milroy Avenue, Kensington, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

-  RLPP Dev Consent Conditions (dwellings dual occ) - DA/536/2021 - 44 Milroy Avenue, KENSINGTON NSW 2033

D4/22

D4/22

	44 Milroy Avenue
	Subject Site
	42 Milroy Avenue 46 Milroy Avenue
	Submissions received
	 North
Locality Plan	

## 1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) at the request of General Manager due to the potential conflict of interest associated with an objector.

The proposal seeks development consent for alterations and additions to create open plan living, upper level additions, in ground swimming pool; alterations and additions to existing garage to accommodate a studio (Heritage Conservation Area).

The key issues associated with the proposal relate to two storey bulk at the rear of the proposed extension, privacy, and heritage considerations.

The proposal is recommended for approval subject to non-standard conditions that require minor amendments to the front fence, that the studio not be used as a secondary dwelling, that the main bedroom window frame feature not be converted to a balcony and that the electrical power source for the pool equipment be located at least 0.30m above the 1 in 100 year flood level.

## 2. Site Description and Locality

The subject site is known as 44 Milroy Avenue Kensington and is legally described as Lot 27 Section 9 in DP 5081. The site is 689.7m<sup>2</sup>, is regular in shape and has a 15.24m boundary to Milroy Avenue to the south-west. The side boundaries are 45.26m long. The site contains a single storey brick and tile dwelling house with fibro extension to the rear. Close to the rear boundary is a brick garage for three cars.

The site slopes approximately 0.92m from RL24.5 at the driveway on the south-west corner to RL25.42 in the north east corner, being a 2% slope.





Fig 1: Existing dwelling



Fig 2: Rear of existing dwelling



### 3. Relevant history

A request for further information was provided to the applicant on 23 December 2021. In general the request sought:

- Additional RLs and plan corrections
- Increase in the first floor floor-to-ceiling height from 2.65m to 2.7m with a consequent reduction in the ground floor ceiling
- Additional information demonstrating solar access for both the site's living area and the neighbour at 46 Milroy Avenue
- Amended landscape calculations and pool coping setbacks
- Privacy for windows facing the neighbours

On 14 January 2022, the applicant provided amended plans which generally addressed the issues raised above. They included an increase in the depth of the window frame of the rear main bedroom from 900 to 950mm. The carport roof was reduced in height by 50mm.

In discussions with both the applicant and the objectors, they all drew attention to a number of developments which have occurred to the rear of the properties along the same side of Milroy Avenue within this block by way of ascertaining what is the appropriate rear building line for the two storey element of the house and appropriate privacy impacts from the first floor rear windows.

A short summary of these is below:

- 42 Milroy Avenue
  - DA/380/2013 Approval for Demolition of existing garage, alterations and additions to the existing dwelling including new first floor, new garage to side of the dwelling, swimming pool and cabana with cellar to rear and associated works (Heritage Conservation Area). It provides for a ground floor rear setback of about 16m and first floor rear setback of about 23m. There is no first floor balcony. There is a narrow window at the rear towards 44 Milroy Avenue and a larger window above the rear covered terrace at approximately the front edge of the proposed carport of 44 Milroy Avenue (rear first floor setback of about 23m).
- 50 Milroy Avenue
  - DA/783/2011 Approval of Ground and first floor alterations and additions to existing dwelling. The first floor addition is narrower than the original front part of the house and the roof form is a lower skillion form hinging from the original gable roof
  - DA/703/2017 Approval of Construction of first floor balcony to rear of existing dwelling (Heritage Conservation Area) and use of building as a dual occupancy. Conditions of consent restricted the depth of the balcony from the proposed 3m to 1.6m. Privacy screens to 1.6m high were required on both sides of the balcony. The balcony extended over part of the existing single storey addition which itself has greater side setbacks than the ground floor. Part of the the single storey addition and rear awning at ground level remained uncovered by the balcony.
  - The rear first floor balcony would have a rear setback after the conditions were applied, to be about 18.6m, with side privacy screens to 1.6m.
- 52 Milroy Avenue
  - DA/1048/2010 Approval for Alterations and additions to existing dwelling including two storey addition at rear, carport, storage area and hardstand carpark space to side of dwelling, swimming pool and associated works (Heritage Conservation Area). The two storey addition is a flat roof pavilion form at the same ridge height as the original front roof. Part of the extension overhangs the original roof form by 400mm. The extension has a side setback of 1.56m from the south eastern boundary and 5.48m from the north western boundary. There is a 15.450m rear setback. The first floor overhangs the ground floor addition. Conditions required obscured glazing to windows less than 1.5m for the bedroom windows on the side elevations. There are windows to the rear garden from the first floor ensuite and main bedroom.

- DA/1048/2010/A s96 modification. Amongst other things it sought to delete the condition requiring obscure glazing below 1.5m and to extend the deck at ground level to be in line with the first floor addition. The amended condition required some amendments to side windows and shutters to protect privacy.
- 58 Milroy Avenue
  - DA/410/2018 Approval for Alterations and 2 level addition to rear of existing dwelling, construction of garage to side of dwelling, swimming pool and storage/change area to rear, pergola, landscaping and associated works (Heritage Conservation Area). Rear setback 14.6m. There is no single storey connecting area between the original front and the rear extension. The first floor overhangs the ground floor patio area. A narrow balcony 1.2m wide extends across the rear of the first level. Conditions required fixed vertical louvres to both sides of the upper level deck and minimum sill height windows of 1.6m or fixed translucent/obscure windows for the upper level windows on various windows on the western and eastern elevations.
- 64 Milroy Avenue
  - DA/53/2021 Approval for Alterations and additions to existing dwelling house, including ground floor extension to the rear, addition of a garage to the side, addition of a new first floor with rear-facing balcony, addition of a swimming pool and studio / shed at the rear, landscaping and associated works (Heritage Conservation Area). The approved development is a contemporary design with a separate roof form to the original with a single storey bridge link below the eaves line. The rear setback appears to be approximately 13.8m and side setbacks are 1.2m. The main bedroom has an upper floor balcony with conditions for a privacy screen of 1.6m to the south eastern side of the balcony. There is also a rear window from another bedroom. The first floor balcony and planter extend slightly beyond the ground floor rear setback. It extends beyond the rear setback of both 62 and 66 Milroy Avenue.

#### 4. Proposal

The proposal seeks development consent for alterations and additions to create open plan living, upper level additions, in-ground swimming pool; alterations and additions to existing garage to accommodate a studio.

At ground level, there is to be a single storey link between the existing dwelling and proposed pavilion with a mud room. The open plan family dining and kitchen opens to an outdoor terrace with a pool in the rear yard. The existing side setbacks are retained. A carport is proposed on the north-western side adjacent to the boundary of 42 Milroy Avenue. Part of the existing 3 car garage is to be converted to a studio with additional windows and door and bathroom.

At first floor level is proposed a master bedroom with ensuite and walk in robe. The main bedroom windows have a frame feature extending beyond the windows to assist in providing privacy protection to the neighbours. There are two additional bedrooms and a bathroom.

#### 5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submissions were received as a result of the notification process:

- 42 Milroy Avenue Kensington

D4/22

Issue	Comment
The upper floor windows bordering 42 Milroy Avenue should be obscure and fixed to 1.4m above floor level as they overlook the existing living space, back yard and pool	The first floor windows will overlook the single storey roof area. A privacy screen is proposed for the stair window. On site, the objector advised that side windows were not a concern for privacy.
The large window at the rear on the upper floor to be obscure and fixed to 1.4m above floor level as they overlook the existing living space, back yard and pool	The bedroom will not overlook any patio living space as the patio adjoins the single storey element of 42 Milroy Avenue and is on the other side to the site. The bedroom window may have the opportunity to have a view into the rear grassed area of 42 Milroy Avenue. The windows are inset into the window frame feature by 950mm plus 150mm for the glass, giving a total of 1.1m inset. Conditions of consent could alleviate any such overlooking which would require privacy screening across the rear façade of the window frame. That would impact on the view available to the rear yard itself from the bedroom.
A condition to provide that the rear bedroom window with the framing "never be used as an outdoor/balcony area" and "these windows are unable to be made into doors". The preference is that the floor of the frame be removed to avoid the possibility of a balcony	The framing is not designed as a balcony and has no supports. Under the Codes SEPP, exempt development for a balcony can only be at ground level. External alterations under the Housing Alterations Codes does not apply to sites within a heritage conservation area (such as the site). Therefore, the frame could not be legally made into a balcony other than under a DA. It therefore seems reasonable that the floor of the frame be retained and the conditions as requested could be included.
The bulk and scale makes it larger than any home in the street. It extends far beyond the rear building line of 42 and 46 Milroy Avenue. The upstairs should be adjusted to either: <ul style="list-style-type: none"> <li>• Move forward about 3 metres; or</li> <li>• Setback the upstairs on all sides so that it is smaller and does not extend to the outermost border of the downstairs part</li> </ul>	<p>The table set out in the discussion of key issues in Section 8 below indicates that the proposed development will have a substantially smaller FSR and GFA than all of the neighbouring developments which have been subject to relatively recent development applications.</p> <p>The first floor will have a side setback to 42 Milroy Avenue of 3.61 metres which is 2.41 metres more than the DCP side setback control. It will have a rear setback of 16.95metres – which is 8.95 metres more than required under the DCP controls. Its rear setback of 16.95m (to the bedroom feature frame) at the first floor will be less than 42 Milroy's first floor, however 0.45 metres greater than its ground floor.</p> <p>Overall, the size of the addition is not excessive given the setbacks and proposed FSR and is considered reasonable when compared to other developments in the street.</p>

- 46 Milroy Avenue Kensington

Issue	Comment
Errors in the plans. No AHD provided for the new ridge, north point unclear, no AHD for land adjacent to the building. Elevations do not show the location of adjoining properties	Noted. Some of the matters have been provided in amended plans. There is sufficient detail to be able to undertake an assessment.
Visual Impact. The proposal will extend 3.65m past the rear bay window of their house, leading to visual and amenity impact, privacy concerns and undue bulk and scale	It is agreed that the proposal adjacent to 46 Milroy Avenue will extend 3.65m beyond the rear setback of 46 Milroy Avenue. The DCP requires some consideration of the existing predominant rear setback line in the urban block. This is considered in the discussion of key issues in section 8 below. Visual and privacy are also considered in section 8 key issues
It does not comply with the objectives of the solar access controls in the DCP to retain as much solar access as possible. The impact could be dramatically improved if the top storey moved 2 metres to the front.	The proposal will comply with the controls. The rear yard will retain full solar access between 8am and noon, following which solar access to this area will start to be lost. The rear roof portion of the first storey addition is about 5.5m wide. A 2m reduction in this would make some difference to the amount of overshadowing but not to such an extent that it would necessitate the proposed changes suggested by the objector.
Privacy. Direct overlooking from the first floor windows into their rear yard and does not comply with clause 5.3 of the DCP. Windows should have a minimum sill height of 1.6m or be opaque to 1.6m	The ensuite windows on the rear and side and the walk-in-robe window, have been amended to be fixed opaque glass to 1.6m from finished floor level The rear bedroom window is set back 1.1m within the feature frame which limits overlooking generally to the rear studio. The patio area on the north eastern side of no. 46's studio is largely protected from privacy issues by the studio. It is also noted that there is significant hedging on the boundary between the two properties in the rear yard.
Rear building line. The rear setback is not consistent with 38 and 40 Milroy Avenue as they both provided for repatching of the upper floor level into the roof cavity with dormer windows substantially setback from the side walls. This proposal spans the full width of the existing building. 48 Milroy Avenue aligns with 46's rear external wall and is less obtrusive	40 Milroy had first floor additions approved in 2006 which required as conditions, that certain first floor windows were fixed and obscure or translucent or had sill heights at 1.5m. The first floor additions to 38 Milroy Avenue appear to have been approved in 1997. Both of these were approved under a different planning scheme. Consideration of the rear setback is discussed under key issues
The colorbond hipped roof is not in keeping with the heritage values and it should use traditional tiles	The link has a matching tiled roof. The heritage officer has not raised a concern with the rear colorbond material. Numbers 42, 50, 52, 56 and 58 Milroy Avenue have not used tiled roofs. The West Kensington Heritage Conservation Area seeks for simple roof forms. The DCP heritage provisions clause 2.6 (v) requires alterations and additions to use materials and colours similar to or compatible with the originals. The existing tiles presents as red/grey and the proposed wallaby coloured roof will be recessive and acceptable.

Issue	Comment
The solution is to slide the top floor forward towards the street by 2 metres, resulting in the upper floor extending only 1.65m beyond the rear wall of their house.	The objector's suggestion has been considered by Council's heritage officer who has advised that from a heritage perspective, the proposal as lodged is preferable to the objector's suggestion. To move the addition to the front would result in greater streetscape visibility than the original proposal and would be less of a pavilion type form as recommended within the Heritage B2 section of the RDCP 2013.

### 5.1. Renotification

The amendments made are considered to address some of the issues raised by the objectors. The extension of the bedroom window frame to the rear by 50mm is considered minor and is designed to assist in providing privacy to both neighbours. Renotification was not considered necessary.

## 6. Relevant Environment Planning Instruments

### 6.1. SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004.

### 6.2. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned Residential R2 Low Density Residential under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.

The following development standards in the RLEP 2012 apply to the proposal:

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.6: 1 = 413.82m <sup>2</sup>	0.39:1 = 267.5m <sup>2</sup>	Yes
CI 4.3: Building height (max)	9.5m	7.72m	Yes

#### 6.2.1. Clause 5.10 - Heritage conservation

The site is in a heritage conservation area, however the site is not a heritage item. The assessment must therefore consider the effect of the proposal on the heritage significance of the heritage conservation area. The heritage officer's comments note that the design is of a pavilion style with lower level linking element with matching roof. While the extension will be partially visible from the street, its design, form and siting set well to the rear will not be visually dominant or affect the ability of the front portion of the house to contribute positively to the streetscape. The setbacks are consistent with the established dwelling. The new carport structure is noted as being set well to the rear and substantially behind the principal dwelling with no adverse visual impacts.

The officer indicates significant improvements to the front façade windows, door and timber pickets and tessellated tiles. The officer has recommended conditions concerning the fencing and gate and required materials to be compatible with those proposed.

The proposal is generally consistent with the development controls in the heritage chapter of the RDCP 2013 as set out in the DC table in Appendix 2.

The site is in the West Kensington Heritage Conservation Area discussed in section 4.20 of Part B of the RDCP 2013. The key values set out in that section are not impacted by the proposal. Although



section 4.20.4 provides guidelines that an increase to floor space can be achieved with a single storey rear addition, in practice, this is not generally the way in which properties have been extended more recently in the area. The rear garage is retained and an open carport is also provided – both of which are set out in the guideline.

Overall the proposal is acceptable from a heritage perspective.

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in Appendix 2.

## 8. Environmental Assessment

The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in	The issues raised in the submissions have been addressed in this report.

D4/22

Section 4.15 'Matters for Consideration'	Comments
accordance with the EP&A Act or EP&A Regulation	
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

## 8.1. Discussion of key issues

### 8.1.1 Rear Setback of Upper Floor

Both of the objecting neighbours have requested that the upper floor be shifted between 2-3 metres towards the front of the property, effectively removing the pavilion style design and low linking design which forms part of the proposal. They desire this to have a single storey element at the rear to reduce the bulk from their rear yards.

The rear building setback will be about 0.5 metres greater than the rear building line of 42 Milroy Avenue - albeit that at that point 42 Milroy Avenue is a single storey, with the two storey element having a greater setback. The rear building line will be setback from the rear boundary 3.65metres less than the rear building line of 46 Milroy Avenue adjacent to the boundary of 46 Milroy Avenue.

A number of developments have been approved along this side of Milroy Avenue and attention was drawn to the rear building line by both the objectors and the applicant. A comparison of setbacks set out in the table below and in Figure 3 indicates that the proposed first floor rear setback is not particularly unusual in the block. The proposal at a rear setback of 16.95m meets the rear setback control of 8 metres. Control 3.3.3(ii) of Chapter C1 requires increased rear setbacks above that 8 metre control having regard to (relevantly) the existing predominant rear setback line in the urban block and the need to adequately protect the privacy and solar access to neighbouring dwellings. The solar access diagrams illustrate that adequate solar access is retained to neighbouring properties and privacy impacts can be satisfactorily managed. As the proposed setback is not unusual for this block, it does not appear necessary to require the first floor to have an increased setback over that proposed.

Property	Rear setback Ground (m)	Rear setback 1 <sup>st</sup> floor (m)	Rear Privacy	FSR/GFA
40 Milroy	13 (approx)	19m (approx)		
42 Milroy	16.5 (approx)	23.5m (approx)		0.447:1
<b>44 Milroy (proposed)</b>	<b>17.9</b>	<b>17.9m 16.95m (for master window feature)</b>	<b>Rear window from main bedroom within window frame of 0.95m</b>	<b>0.39:1 267.5m<sup>2</sup></b>
46 Milroy	21.5 (approx)			
48 Milroy	18 (approx)	19m and 21m (approx)		
50 Milroy		18.6m (approx)	Rear first floor balcony 1.6m wide, with side privacy screens)	0.6:1 415.46m <sup>2</sup>
52 Milroy		15.4m	Rear first floor windows from main bedroom & ensuite	0.48:1 330.1m <sup>2</sup>
58 Milroy		14.6m	First floor balcony 1.2m wide with privacy screens. Rear first floor windows from bedroom & ensuite	0.52:1 344.45m <sup>2</sup>
64 Milroy		13.8 (approx)	Rear first floor balcony from the main bedroom with conditions for a privacy screen of 1.6m to the south eastern side of the balcony.	0.48:1

			There is also a rear window from another bedroom.	
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Figure 3 below indicates the rear setback of the buildings in the street. Red is the approximate two storey rear building line and green is the approximate single storey rear building line



Fig 3: Approximate rear setbacks in the vicinity. Green = ground floor, red = first floor

### 8.1.2 Bulk and Scale

The objectors have raised concerns about the bulk and scale of the development particularly towards the rear. It is not agreed that the proposal will create one of the largest buildings in the area as stated by the objectors. To the contrary, it has the lowest FSR of any of the dwellings which have had substantial redevelopment over the past decade or so along that side of the street. Leaving aside the single storey carport structure, it has substantial side setbacks of 2.09m and 3.61m – retaining the existing side setbacks. The proposal's hipped roof structure is more in keeping with the heritage features of the street than many other recent developments in the street.

It is acknowledged that the bulk is towards the rear of the house and particularly for 46 Milroy Avenue will create a greater feeling of bulk than currently. However Figure 3 above indicates that the two storey rear building line is generally consistent with the two storey rear building line established in the street.

### 8.1.3 Privacy

Both neighbours have indicated that they have no concerns about privacy impacts from the proposed side windows. They have both indicated concern about overlooking from the rear windows. The proposal has been amended to have non-operable opaque windows to 1.6m above

D4/22



D4/22

floor level on the main bedroom rear and wide windows for the ensuite and walk in robe which will assist in providing privacy to 46 Milroy Avenue.

The main bedroom window includes a window frame feature provided for the specific purpose of increasing privacy for the rear yards of 42 and 46 Milroy Avenue. The amended plans increased the depth by 50mm to 950mm to improve privacy. The neighbour at 42 Milroy Avenue requested significant changes to the rear windows which would have removed any view of the rear yard of the site from the main bedroom of the dwelling. This is considered unreasonable given that the frame provides greater privacy protection than the privacy screens to rear balconies which have been approved on other balconies in the immediate area. It also provides greater privacy protection than those properties which otherwise have rear windows with no privacy protection. Consideration of privacy controls for the dwellings in the table above indicates that the proposal includes greater privacy protection than has generally been approved in the recent developments in the street, and it is considered to be reasonable.

A condition of consent is recommended to prevent the main bedroom window frame feature from being converted to a balcony in future.

#### **8.1.4 Solar Access**

Additional information was sought about solar access provision to the living room of the dwellings. That information indicates compliance with the RDCP 2013 control. Further additional shadow diagrams show compliance with the solar access controls relating to 46 Milroy Avenue. Solar access is considered to be acceptable.

#### **8.1.5 Heritage**

The site is within a heritage conservation area. Council's heritage planner has provided comments on the proposal (in Appendix 2) and made a recommendation of further detailing in the front fence. The application is supported from a heritage perspective.

### **9. Conclusion**

That the application for alterations and additions to create open plan living, upper level additions, in ground swimming pool; alterations and additions to existing garage to accommodate a studio (Heritage Conservation Area) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The proposed works are in a pavilion style with a lower level linking element. The hipped style roof form is set well to the rear and will not visually dominate the original dwelling or affect its ability to contribute positively to the streetscape.
- The side setbacks are consistent with the existing dwelling and the new carport is set well to the rear, substantially behind the principal dwelling with no adverse visual impacts on the streetscape or conservation area.
- The garage alterations retain the single storey nature and it and the pool are both in the rear.
- There are significant improvements to the front façade.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Heritage planner

The site is located on the north eastern side of Milroy Avenue between Barker Street and Lenthall Street and is occupied by a single storey detached, and altered rendered Federation dwelling which has retained its overall hipped roof form with decorative gabled frontage and original roughcast chimneys with terracotta pots. The front windows have also been replaced by larger aluminium frames and a simple verandah runs along the dwelling's frontage, however there are still a number of original features including the tessellated tiled front path and verandah floor and timber framed door with door lights. A rendered masonry fence with stone capped posts runs along the front boundary and driveway access is available along the north western side. Available real estate images also show original ceilings. Floors, skirtings and fireplaces to the principle living spaces within the dwelling. The rear appears to have been previously altered to accommodate a kitchen and living area. A three car long single storey garage extends along the rear boundary of the site.

The site is not a heritage item pursuant to Schedule 5 of the Randwick LEP 2012, however it is located within the West Kensington Heritage Conservation Area (C4).

Council's historical records indicate that there were previous applications in relation to the removal of a Lemon Scented Gum on the property.

### Proposal

- The proposal involves the removal of the existing single storey extension and construction of a two-storey pavilion style addition at the rear to accommodate an open plan living/dining and kitchen area at ground level and provision of three new bedrooms including new bathroom and en-suite to level 1.
- A swimming pool is proposed along the southern side of the rear setback and the proposal involves the conversion of the southern portion of the garage to a studio and installation of full-length glazed windows to its south western elevation and retain the remaining two garage spaces.
- Works to the dwelling frontage include replacement of existing non original aluminium windows with traditional timber framed casement windows, installation of new entry door, retain existing front masonry fence base and install new timber fence pickets between the existing posts.
- A timber framed metal roof car port is proposed within the northern setback, adjoining the proposed rear additions.

### Submission

Statement of Heritage Impact prepared by Archnex Designs, dated 3 June 2021

Drawings prepared by House to Home Finishes, dated 19 August 2021

### Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes objectives for conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views. Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area. The Heritage section of Randwick Development Control Plan 2013 (B2) provides objectives and controls in relation to heritage properties.



D4/22

## Comments

- The proposed two storey rear addition has been designed in a style similar to a pavilion style addition where there is a lower level linking element which adjoins the rear building line and extending to two storeys behind. While it is not a defined low-level link (i.e. under the rear gutter line), a link has been designed with matching tiled pitched roof link element to the existing, and the link extends from the rear roof plane and will be setback from the existing roof ridge line. The addition involves a hipped styled roof form, and while the extension will be partially visible from the street frontage, its design, form and siting being set well to the rear would not visually dominate the original dwelling or affect its ability to contribute positively to the streetscape.
- The proposed setbacks of the extension from the side boundaries are consistent with the existing setbacks established by the principal dwelling and conserving the original subdivision pattern.
- The alterations to the existing garage structure within the rear setback will retain its overall single storey form and structure with minor changes to its front façade to install glazed windows. The proposal retains the existing garage for two cars within its existing location at the rear. There are no heritage objections to the works.
- The new carport structure and gate within the northern side setback would be constructed of timber framing with metal roofing and set well to the rear, substantially behind the principal dwelling and in line with the new extension. Its siting, scale and design would have no adverse visual impacts on the streetscape or conservation area.
- The proposed swimming pool will be located within the rear setback and would not detract from the landscaped setting of the dwelling.
- The proposal involves significant improvements to the front façade which are welcomed. These include replacement of the aluminium windows along the front elevation with timber framed and panelled casement windows which appear on the drawings to be of a traditional style. New front timber door and installation of timber pickets to the existing verandah and masonry front fence are also supported. New tessellated tiles to the front path and porch will reflect traditional detailing. Conditions regarding the spacing of the pickets is included to ensure consistency with traditional styles within the conservation area, and the proposed colours, materials and finishes should be provided within the drawings are neutral and sympathetic to the streetscape.

## Recommendation

The following conditions should be included in any consent:

- The fencing and gate are to be compatible with the style of the dwelling and the streetscape character. The timber pickets to the front fence are to have a maximum gap of 50mm in order to be sympathetic to the historic fencing styles in the area. Details of the design, height, materials and structure of the front fence and gates are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building and are to be in accordance with the 'Schedule of External Materials and Finishes' prepared by House to Home Finishes (A5.01/B), dated 5 July 2021, and received by Council on 1 September 2021. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

## 1.2. Development Engineer

An application has been received for alterations and additions at the above site which include reconstruction of the rear ground floor addition, a 1<sup>st</sup> floor addition, an inground swimming pool and converting one of the existing garages to a studio,.

This report is based on the following plans and documentation:

- Architectural Plans by House to Home and dated 19.08.2021;
- Statement of Environmental Effects by House to Home
- Detail & Level Survey by Greenland Surveying.

### Flooding Comments

A Council Flood Report, addressed to the current owner, for the subject site, dated 03.05.2018, stated the minimum floor planning level for the site is RL 25.57m AHD which is 0.50m above the 1 in 100yr level of RL 25.07m AHD. It is noted that the existing Ground Floor Level for the dwelling, RL 25.17m AHD, is approximately 400mm below the minimum floor planning level. Council's DCP 2013 – Water Management – does allow for a single (once only) addition at the existing lowest habitable floor level provided the additional floor space is a maximum 10 square metres.

Development Engineering notes that the proposed additional habitable floor space for the ground floor level of the dwelling is close to the 10sqm and thus does not object to the proposed ground floor extension at the existing floor level at the rear of the dwelling.

### Proposed Conversion of a rear garage to a Studio

Development Engineering notes the applicant proposes to convert one of the existing garages in the rear yard (RL 25.33m AHD) into a Studio. The studio in the rear yard up against the back boundary and is 160mm above the 1 in 100yr Flood Level. Council's flood modelling shows the concentration of flooding occurs out in the street (RL 24.31m AHD) and thus Development Engineering, on this occasion does not object to the conversion of the garage to a Studio and its current level.

### Undergrounding of power lines to site

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

*Should a mains power distribution pole be located on the same side of the street and within 15m of the development site, the applicant must meet the full cost for Ausgrid to relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground UGOH connection.*

The subject **is not** located within 15m of a power pole on the same side of the street hence the above clause **is not** applicable.

### Landscape Comments

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

## Appendix 2: DCP Compliance Table

## 3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	
<b>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP): • R2 = 400sqm • R3 = 325sqm	689.7m <sup>2</sup> – no change	NA
	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 12m Existing = 15.24m	Yes
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% <b>601 sqm or above = 45%</b>	Site = 689.7m <sup>2</sup> Existing = Approx 218m <sup>2</sup> Proposed = 233.4m <sup>2</sup> (33.8%)	Yes
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% <b>iv) 601 sqm or above = 35% (241.4m<sup>2</sup>)</b> v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 689.7m <sup>2</sup> Proposed = Approx 241.76.5m <sup>2</sup> (35.%)	Yes
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m <b>601 sqm or above = 8m x 8m</b>	Site = 689.7m <sup>2</sup> Existing = 15x11=165m <sup>2</sup> Proposed = 94m <sup>2</sup> Terrace is 9m wide, width of grass is 6m	No. area of 8x8m not included as part of POS is only 6m wide, however exceeds total POS requirement and acceptable on merit
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.6:1</b> (under cl 4.4(2A)(c) for a site >600m <sup>2</sup> )	Site area = 689.7m <sup>2</sup> Existing FSR = 180.6m <sup>2</sup> = 0.26:1)	Yes

DCP Clause	Controls	Proposal	Compliance
		Proposed FSR= 267.5m <sup>2</sup> (0.39:1)	
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Existing = approx.. 7.07m Proposed = up to 7.72m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Ceiling height: Ground: 2.85m 1 <sup>st</sup> : 2.7m Wall height: 5.8m	Ceiling height yes Wall height Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b> i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Minimum= 4.6m Existing= 4.6m Proposed= 4.6m	No change proposed
<b>3.3.2</b>	<b>Side setbacks:</b> Semi-Detached Dwellings: • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 <sup>st</sup> floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 <sup>st</sup> floor), 1800mm above.  Refer to 6.3 and 7.4 for parking facilities and outbuildings	Frontage 15.24m Minimum= 1.2m ground and 1 <sup>st</sup> floor Existing = 2m to south east; 3.7m to north west  Proposed = as above.  Carport is 500mm setback	Yes – maintaining existing side setbacks
<b>3.3.3</b>	<b>Rear setbacks</b> i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant	Minimum = 8m Existing = approx 23m Proposed = 16.95 m	Yes

D4/22

DCP Clause	Controls	Proposal	Compliance
	<p>provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> <li>- Compatibility</li> <li>- POS dimensions comply</li> <li>- minimise solar access, privacy and view sharing impacts</li> </ul> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>		
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> </ul>	<p>Hipped rear roof form responds to existing dwelling.</p> <p>South-east ground floor wall will be 22.7m long with no articulation, other than privacy screening for the terrace. Existing wall is 18.2m long, with the portion to be retained at 14m. There is articulation in the 1<sup>st</sup> level</p>	<p>Yes for street and context.</p> <p>No for wall length at ground floor. On merit considered acceptable given that the existing length is 18m, the additional area is articulated with privacy louvres, it is at ground level and articulation is provided at first floor</p>
<b>4.4</b>	<b>Roof Design and Features</b>		
	<p><i>Rooftop terraces</i></p> <p>i) on stepped buildings only (not on uppermost or main roof)</p> <p>ii) above garages on sloping sites (where garage is on low side)</p> <p><i>Dormers</i></p> <p>iii) Dormer windows don't dominate</p> <p>iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>v) Multiple dormers consistent</p> <p>vi) Suitable for existing</p> <p><i>Celestial windows and skylights</i></p> <p>vii) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>viii) Contained within roof form and not visible from street and surrounding properties.</p>	None proposed	NA
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	<p>i) Schedule of materials and finishes</p> <p>ii) Finishing is durable and non-reflective.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage</p>	Materials provided and acceptable to the heritage	Yes



DCP Clause	Controls	Proposal	Compliance
	consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	officer	
<b>4.6</b>	<b>Earthworks</b>		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	None proposed	NA
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Living room northwest window will have 3 hours sunlight/ Likely the terrace and carport will prevent any sunlight to living area. POS will have 3 hours	Yes
	<b>Solar access to neighbouring development:</b>		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no	46 Milroy Avenue has a living window at ground floor facing the site and others facing the rear yard. The side window will retain sunlight until about 11am. From about noon, the	Yes

D4/22

DCP Clause	Controls	Proposal	Compliance
	<p>panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not &lt;6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> <li>Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>Topography of the subject and adjoining allotments.</li> <li>Location and level of the windows in question.</li> <li>Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	rear windows will lose sunlight for the remainder of the day. This is additional shadowing	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> <li>Skylights (ventilated)</li> <li>Clerestory windows</li> <li>Fanlights above doorways</li> <li>Highlight windows in internal partition walls</li> </ul> <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i></p>	<p>Skylights included to hallway. Windows provided to all bathrooms</p>	Yes
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<p>i) proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> <li>windows are offset or staggered</li> <li>minimum 1600mm window sills</li> <li>Install fixed and translucent glazing up to 1600mm minimum.</li> <li>Install fixed privacy screens to windows.</li> <li>Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> <p>ii) orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>46 Milroy Avenue is single storey and no overlooking from the first floor is envisaged. Amended plans include opaque glass on the ensuite and walk in robe windows to 1.6m. The kitchen window is a lowlight window and privacy will be protected by</p>	Yes, acceptable

DCP Clause	Controls	Proposal	Compliance
		fencing. Privacy screening is provided to the terrace. Facing 42 Milroy Avenue, the living room window is a highlight window. Main bedroom has a window frame feature to assist in privacy.	
	<b>Balcony</b>		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	No upper level balcony provided	NA
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>	Significant side setbacks are provided	Yes
<b>5.5</b>	<b>Safety and Security</b>		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	Main entry at front, with existing rooms continuing to overlook the street. New fencing to allow for visual surveillance	Yes
<b>5.6</b>	<b>View Sharing</b>		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes	No views are affected	Yes

D4/22

DCP Clause	Controls	Proposal	Compliance
	<p>priority over views for the private properties</p> <p>iv) fence design and plant selection must minimise obstruction of views</p> <p>v) Adopt a balanced approach to privacy protection and view sharing</p> <p>vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)</p>		
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	<p>i) Maximum 1 vehicular access</p> <p>ii) Locate off rear lanes, or secondary street frontages where available.</p> <p>iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i></p> <p>iv) Single width garage/carport if frontage &lt;12m; Double width if:  <ul style="list-style-type: none"> <li>- Frontage &gt;12m,</li> <li>- Consistent with pattern in the street;</li> <li>- Landscaping provided in the front yard.</li> </ul> </p> <p>v) Minimise excavation for basement garages</p> <p>vi) Avoid long driveways (impermeable surfaces)</p>	<p>One access provided. Parking is behind the front façade. The carport is single width. The long driveway to the rear is maintained and is a feature of this area</p>	Yes
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	<p>i) Garages and carports comply with Sub-Section 3.3 Setbacks.</p> <p>ii) 1m rear lane setback</p> <p>iii) Nil side setback where:  <ul style="list-style-type: none"> <li>- nil side setback on adjoining property;</li> <li>- streetscape compatibility;</li> <li>- safe for drivers and pedestrians; and</li> <li>- Amalgamated driveway crossing</li> </ul> </p>	<p>Carport setback is 500mm, not 1.2m, however near nil side setbacks are common in the street for garages and carports</p>	No but acceptable on merit
<b>6.4</b>	<b>Driveway Configuration</b>		
	<p>Maximum driveway width:  <ul style="list-style-type: none"> <li>- Single driveway – 3m</li> <li>- Double driveway – 5m</li> </ul> </p> <p>Must taper driveway width at street boundary and at property boundary</p>	<p>Single driveway about 3.1m – existing to be retained</p>	No change
<b>6.5</b>	<b>Garage Configuration</b>		
	<p>i) recessed behind front of dwelling</p> <p>ii) The maximum garage width (door and piers or columns):  <ul style="list-style-type: none"> <li>- Single garage – 3m</li> <li>- Double garage – 6m</li> </ul> </p> <p>iii) 5.4m minimum length of a garage</p>	<p>Existing garage to be retained, although reduced for part to be transformed into</p>	Generally to be retained

DCP Clause	Controls	Proposal	Compliance
	iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	a studio	
<b>6.6</b>	<b>Carport Configuration</b>		
	i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open). ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling iii) 3m maximum width. iv) 5.4m minimum length v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof. vi) No solid panel or roller shutter door. vii) front gate allowed (minimum 30% open) viii) Gate does not open to public land	Simple post of timber and metal proposed with lean-to configuration. Width 2.56m, length 5.5m. Height internally 2.53m and to parapet 2.77m with flat roof. Gate is behind the boundary line and will not open to public land	Generally yes except the height. However on merit the height will be largely consistent with the floor height of the first floor and will not look out of place
<b>6.7</b>	<b>Hardstand Car Space Configuration</b>		
	i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	Grass is proposed inside the wheel tracks of the driveway	Yes
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	Timber infill panelling is proposed to the existing fence	Yes
<b>7.2</b>	<b>Front Fencing</b>		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i>	Solid portion to be retained and appears approximately 600mm. Timber panelling to be at 1.2m of open design. Gate will not open onto public land	Yes. The heritage officer has recommended conditions of consent for the timber infill panels



D4/22

DCP Clause	Controls	Proposal	Compliance
	iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.		
<b>7.3</b>	<b>Side and rear fencing</b>		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	No changes proposed	NA
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- finished external walls (not requiring maintenance;</li> <li>- no openings facing neighbours lots and</li> <li>- maintain adequate solar access to the neighbours dwelling</li> </ul> v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic)</li> <li>- Articulating the facades;</li> <li>- Using screen planting to visually soften the outbuilding;</li> <li>- Not being obtrusive when viewed from the adjoining properties;</li> <li>- Maintaining adequate solar access to the adjoining dwellings; and</li> <li>- Maintaining adequate privacy to the adjoining dwellings.</li> </ul> vi) Must not be used as a separate business premises.	Outbuilding structure is to be retained with minor changes to include glazing	Yes
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings.	In rear yard in a suitable location. Coping level at RL25.12	Yes

DCP Clause	Controls	Proposal	Compliance
	iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	consistent with adjoining land The pool structure is 1.2m from the boundary. Pool pump now shown in amended plans	
<b>7.6</b>	<b>Air conditioning equipment</b>		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	None proposed	NA
<b>7.7</b>	<b>Communications Dishes and Aerial Antennae</b>		
	i) Max. 1 communications dish and 1 antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> <li>- Located behind the front and below roof ridge;</li> <li>- minimum 900mm side and rear setback and</li> <li>- avoid loss of views or outlook amenity</li> </ul> iii) Max. 2.7m high freestanding dishes (existing).		NA
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	i) Located behind the front alignment and not be prominently visible from the street	Rear yard	Yes

### 3.2 Section B2: Heritage

DCP Clause	Controls	Proposal	Compliance
<b>2.2</b>	<b>Design and Character</b>		
	i) Demonstrate how it respects the heritage values of the heritage conservation area (HCA)	Addition is set back, retains same setbacks. Front façade improvements	Yes
	ii) common streetscape elements identified and incorporated	Original roof front retained. Addition at the rear. Carport setback from street	Yes

D4/22

DCP Clause	Controls	Proposal	Compliance
	iii) New development consistent with important horizontal lines in streetscape	Front façade retained	Yes
	vi) Large blank areas of brick and rendered walls avoided	Facades are articulated with windows	Yes
	v) street elevations and visible side elevations not significantly changed	Side setbacks retained. Street elevation improved. The addition is setback so recessive with hipped roof	Yes
	vi) proposed additions to complement the existing building in scale, form and detailing but distinguishable from the old	Separated by a low form connection. Hipped roof style replicated. Side setbacks retained the pavilion wing is of similar scale to the original	Yes
	vii) Additions to respect the proportions of major elements of existing fabric	Upper windows of similar size as existing side windows. Openings at the rear	Yes
<b>2.3</b>	<b>Scale and form</b>		
	i) in single storey streetscapes, upper floor additions not to be readily visible from the street	Addition is setback from street by about 16m and partially hidden by existing hipped roof. It will not dominate the streetscape	Yes
	ii) attic style additions not visible from front	NA	NA
	iii) dormer windows and skylights not located to street elevations or where prominent from the street	One skylight is on the front face of the new hipped roof but located near the eaves and partially hidden by the existing front roof	No, however on merit acceptable due to location where it will not be prominent
	iv) Additions to not visually dominate or compete with the original form	Side setbacks retained. Hipped roof form reflects the original. Setback from the original house	Yes
	v) Additions to heritage items		NA
	vi) Single storey rear additions to not compromise existing roof integrity		NA

DCP Clause	Controls	Proposal	Compliance
	vii) Upper floor additions to the main roof of a single storey dwelling acceptable if wholly within the existing roof space	Addition is within a pavilion additional roof form	NA
	viii) Upper floor additions to the rear of a single storey dwelling house to use a pavilion type form with a lower scale linking structure between the new and the double storey addition	Provided	Yes
	ix) If not a pavilion form, addition should be well set back	Pavilion style used and is set pack	NA
<b>2.4</b>	<b>Siting and setbacks</b>		
	i) Conform to the predominant front setbacks	No change	Yes
	ii) respect side setbacks and rear alignments of surrounding development	Side setbacks of existing house used. Rear alignment is generally consistent with the street as discussed in Key Issues	Yes
	iii) front and rear setbacks allow for retention of existing landscape character	Front setback unchanged. Rear yard to be retained	Yes
	iv) subdivision pattern to be retained	No subdivision proposed	NA
<b>2.5</b>	<b>Detailing</b>		
	i) Do not add detailing which was not there	Front façade detailing considered appropriate by the heritage officer	Yes
	ii) Retain and repair original doors, windows etc	Existing replacement door and windows on front façade to be replaced with timber windows and door	Yes
	iii) Consider reconstructing original features	This is proposed for the front door and windows	Yes
	iv) Authentic reconstruction is encouraged	This is proposed for the front door and windows	Yes
	v) alterations and additions should incorporate new doors and windows compatible with the position size and proportions of original windows and doors	Similar size windows proposed along sides. Larger windows proposed at the rear but not	Yes acceptable on merit

D4/22

DCP Clause	Controls	Proposal	Compliance
		visible from the street	
	vi) Additions to adopt a level of detailing which complements the heritage fabric (generally less elaborate than the original)	The sides are relatively plain (as per the original). The rear bedroom feature frame is not visible from the street	Yes
<b>2.6</b>	<b>Materials, finishes and colour schemes</b>		
	i) materials for pathways and driveways consistent with the heritage character	Driveways to be grassed between tyre treads. Tessellated tiling to the front porch	Yes
	ii) changes to materials on elevations seen from public places are not favoured	No such changes proposed	NA
	iii) matching materials use in repairing fabric of existing surfaces	Not proposed other than replacement of windows and doors and new fencing materials	Satisfactory
	iv) new and replacement roof materials to match existing materials	Rendered brick proposed as per original. Colorbond roof is a new material but is setback from the street.	No, however heritage officer is comfortable with the materials
<b>2.7</b>	<b>Roofs and chimneys</b>		
	ii) roofs must not be repatched or have eaves line raised iii) chimneys to be retained	Front roof line unchanged, Chimneys retained	Yes
<b>2.8</b>	<b>Verandahs and balconies</b>		
	ii) original front verandahs to be retained and conserved iii) infilling of front verandahs not supported	Front verandah retained and to be improved by tessellated tiling on the front path and porch	Yes
<b>2.9</b>	<b>Garages, carports, carspaces and driveways</b>		
	ii) car parking structures located to the side or rear and not forward of the building line	Carport at the side and recessed well back from the front building line	Yes
	vi) carparking structures to be unobtrusive and or materials, form and details to harmonise with the building and not obscure views to it. Not to have a large bulky pitched roof	Flat roof of simple post design	Yes
	vii) existing driveways to have two separate	Driveways to be	Yes



DCP Clause	Controls	Proposal	Compliance
	wheelstrips	amended to provide for this	
	viii) Large areas of concrete to be avoided and consider using pavers, gravel or permeable paving	Driveway concreting to be reduced	Concreting to be reduced
<b>2.10</b>	<b>Fences</b>		
	i) new and replacement front fences to not obscure building facades. High solid fences not appropriate	Timber infill proposed	Yes. Conditions concerning timber infills are included
	ii) new fence heights and form to be appropriate to the heritage character	Heritage officer supports the timber infills and provided conditions	Yes
	iv) side fencing forward of the building line to be simple and height compatible	No change proposed	Yes
	v) side and rear fencing preferably timber	Existing timber fencing not proposed to change	Yes
	vi) retain, repair or reconstruct original fences where possible	Original fence is to be infilled with timber slats	Yes – conditions apply
<b>2.11</b>	<b>Gardens, garden elements and swimming pools</b>		
	i) significant trees and landscape elements to be retained,	Council's landscape officer advises that there are no significant trees to be impacted by the proposal	Noted
	ii) large areas of hard paving to be minimised	Some concreting to be removed from the front setback /driveway	Some concreting removed
	iv) swimming pools to be located at the rear and retain important trees and soft landscaping. Must not result in changes to ground levels	No important trees identified	Pool coping level consistent with existing levels
<b>3</b>	<b>Landscape elements</b>		
	iii) surface mounting of infrastructure to be minimised	Rainwater tank proposed towards rear side setback	Yes
<b>4.20</b>	<b>West Kensington Heritage Conservation Area</b>		
<b>4.20.4</b>	<b>Guidelines for change</b>		
	The area is predominantly single storey. It is generally feasible to increase the floor space with a single storey rear addition without detracting from the garden setting	Recent developments have generally added two storey elements at the rear as is proposed here	No, however, consistent with recent developments a 2 storey form is proposed
	Outbuildings at the rear should not dominate and be 1.5 storey size. Roof pitch to be consistent with main building	No change to the structure is proposed, rather	Acceptable

D4/22

DCP Clause	Controls	Proposal	Compliance
		internal changes and inclusion of glazing	
	Garages traditionally at the rear (preferred). Otherwise an open carport at the side of the dwelling set back from the front wall	Garage retained and carport at the side as preferred	Yes

### 3.3 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
<b>3.2</b>	<b>Vehicle Parking Rates</b>		
	1 Space per dwelling house with up to 2 bedrooms 2 Spaces per dwelling house with 3 or more bedrooms  Note: Tandem parking for 2 vehicles is allowed.	Three provided retaining the current situation	No change

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**Responsible officer:** Urban Perspectives, Town Planners

**File Reference:** DA/536/2021

## Development Consent Conditions (dwellings and dual occupancies)



D4/22

<b>Folder /DA No:</b>	DA/536/2021
<b>Property:</b>	44 Milroy Avenue, KENSINGTON NSW 2033
<b>Proposal:</b>	Alterations and additions to the existing dwelling house including new upper level addition, in-ground swimming pool, alterations and additions to existing garage to accommodate a studio (Heritage Conservation Area).
<b>Recommendation:</b>	Approval

### Development Consent Conditions

#### GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

#### Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
A1.01 Rev E Site Plan	House to Home Finishes	10 January 2022
A1.02 Rev F Site Calculation Plan	House to Home Finishes	10 January 2022
A1.03 Rev E Demolishing Plan	House to Home Finishes	10 January 2022
A1.04 Rev F Ground floor plan	House to Home Finishes	10 January 2022
A1.05 Rev E Garage floor plan-garage elevations	House to Home Finishes	10 January 2022
A1.06 Rev E Level 1 floor plan	House to Home Finishes	10 January 2022
A1.07 Rev D Roof plan	House to Home Finishes	10 January 2022
A2.01 Rev D Elevations	House to Home Finishes	10 January 2022
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022
A3.01 Rev D Sections	House to Home Finishes	10 January 2022
A5.01 Rev B Schedule of external materials and finishes	House to Home Finishes	19 August 2021
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022
A2.02 Rev D Elevations	House to Home Finishes	10 January 2022

<b>BASIX Certificate No.</b>	<b>Dated</b>
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A418750

5 July 2021

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
- Plan A2.01 Rev D is to be amended so that the measurement on the ensuite window on the south-east elevation is amended from 1550 to 1600mm.
  - The electrical power sources for the pool filtration/pump system are to be at least 0.30m above the 1 in 100 year flood level for the site, of RL 25.07m AHD.

**REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

**Consent Requirements**

3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

**External Colours, Materials & Finishes**

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building and are to be in accordance with the 'Schedule of External Materials and Finishes' prepared by House to Home Finishes (A5.01/B), dated 19/08/2021, and received by Council on 14 January 2022. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, prior to a construction certificate being issued for the development.
5. The fencing and gate are to be compatible with the style of the dwelling and the streetscape character. The timber pickets to the front fence are to have a maximum gap of 50mm in order to be sympathetic to the historic fencing styles in the area. Details of the design, height, materials and structure of the front fence and gates are to be submitted to and approved by Council's Director City Planning, prior to a construction certificate being issued for the development.

**Section 7.12 Development Contributions**

6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$701,544.00 the following applicable monetary levy must be paid to Council: 7,015.44.

The levy must be paid in **cash**, **bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$IDC = ODC \times CP2/CP1$$

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

#### **Compliance Fee**

7. A development compliance and enforcement fee of \$701.54 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

#### **Long Service Levy Payments**

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

*At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.*

#### **Security Deposits**

9. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$600 - Damage / Civil Works Security Deposit

The security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the works which confirms that there has been no damage to Council's assets and infrastructure.

The developer/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge and other assets prior to the commencement of any building/demolition works.

To obtain a refund of relevant deposits, a Security Deposit Refund Form is to be forwarded to Council's Development Engineer upon issuing of an occupation certificate or completion of the civil works.

#### **Stormwater Drainage**

10. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifier and details are to be included in the construction certificate application for the development.

Absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance.

#### **Sydney Water Requirements**



11. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water **Tap in™** online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

*The Sydney Water **Tap in™** online service replaces the Quick Check Agents as of 30 November 2015*

The **Tap in™** service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

#### **REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

#### **Compliance with the Building Code of Australia & Relevant Standards**

12. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

#### **BASIX Requirements**

13. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

#### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifier', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

#### **Certification and Building Inspection Requirements**

14. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.  
  
A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
  - b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
  - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council are to be notified accordingly; and
  - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
  - e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

#### **Home Building Act 1989**

15. In accordance with section 4.17 (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, the relevant requirements of the Home Building Act 1989 must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.

#### **Dilapidation Reports**

16. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
  - new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
  - excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential

- damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- as otherwise may be required by the *Principal Certifier*.

The dilapidation report shall include details of the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifier*.

The dilapidation report must be submitted to the Council, the *Principal Certifier* and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).

#### **Construction Noise & Vibration Management Plan**

17. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

A *Construction Noise Management Plan*, prepared in accordance with the NSW EPA Construction Noise Guideline by a suitably qualified person, is to be implemented throughout the works, to the satisfaction of the Council. A copy of the strategy must be provided to the Principal Certifier and Council prior to the commencement of works on site.

#### **Construction Site Management Plan**

18. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

#### **Demolition Work**

19. Demolition Work must be carried out in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant work health and safety requirements.

D4/22

A Demolition Work Plan must be prepared for the demolition works which should be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

**Demolition & Construction Waste Plan**

20. A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 1300 722 542.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

**Public Utilities**

21. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
22. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

**REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

**Inspections during Construction**

23. Building works are required to be inspected by the *Principal Certifier*, in accordance with section 6.5 of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

**Site Signage**

24. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)

- name, address and telephone number of the Principal Certifier,
- a statement stating that "unauthorised entry to the work site is prohibited".

#### Restriction on Working Hours

25. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 5.00pm</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>

*An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

#### Removal of Asbestos Materials

26. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.

**Excavations, Back-filling & Retaining Walls**

27. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifier.

**Support of Adjoining Land**

28. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
29. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifier*:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
  - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
  - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
  - as may be required by the *Principal Certifier*.

The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifier*.

**Sediment & Erosion Control**

30. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details of the sediment and erosion control measures to be implemented on the site must be included in with the Construction Management Plan and be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

**Public Safety & Site Management**

31. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.



Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

- b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- d) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

*Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.*

- e) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open out into the road or footway.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
- i) Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

#### **Site Signage**

- 32. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

#### **Survey Requirements**

33. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:

- prior to construction (pouring of concrete) of the footings or first completed floor slab,
- upon completion of the building, prior to issuing an occupation certificate,
- as otherwise may be required by the Principal Certifier.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council, if the Council is not the Principal Certifier for the development.

**Building Encroachments**

34. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

**Tree Management**

35. Approval is granted for the removal of the tree located towards the rear of the site on the southern side boundary within the pool construction zone.

**Road / Asset Opening Permit**

36. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the 'Principal Certifier' issuing an 'Occupation Certificate'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

**Occupation Certificate Requirements**

37. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

**BASIX Requirements & Certification**

38. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifier* and Council upon issuing an Occupation Certificate.

**Council's Infrastructure, Vehicular Crossings, street verge**

39. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc

which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

40. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- (a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
  - (b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
  - (c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
41. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.

#### **Swimming Pool Safety**

42. Swimming pools are to be designed and installed in accordance with the relevant requirements of the *Building Code of Australia* and be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.

The swimming pool is to be surrounded by a child-resistant barrier (e.g. fence), that separates the pool from any *residential building* (as defined in the *Swimming Pools Act 1992*) that is situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with Australian Standard AS 1926.1 – 2012 (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).

Gates to pool area must be self-closing and latching at all times and, the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the *Swimming Pools Regulation 2008*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

#### **Spa Pool Safety**

D4/22

43. Spa pools are to be designed and installed in accordance with the relevant provisions of the *Building Code of Australia* and be provided with a child resistant barrier, in accordance with the provisions of the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the *Swimming Pools Regulation 2008*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

**Swimming Pool & Spa Pool Requirements**

44. Swimming pools (and spa pools) are to be designed, installed and operated in accordance with the following general requirements:
- a) Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
  - b) All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
  - c) Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2010: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
  - d) Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

**Notification of Swimming Pools & Spa Pools**

45. The owner of the premises must 'register' the swimming pool [or spa pool] on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Act 1992*.

The Swimming Pool Register is administered by the NSW Office of Local Government and registration on the Swimming Pool Register may be made on-line via their website [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.

**Street and/or Sub-Address Numbering**

46. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.

*Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.*

**OPERATIONAL CONDITIONS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

D4/22

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

**Use of Premises**

47. The premises must only be used as a single residential dwelling. The studio must not be used as a secondary dwelling or for any other multi-occupancy premises.

**No conversion of Rear to a balcony**

48. The rear window feature frame is not to be converted to a balcony to protect the privacy of the neighbours.

**External Lighting**

49. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

**Waste Management**

50. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.

**Plant & Equipment – Noise Levels**

51. The operation of all plant and equipment on the premises shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the plant and equipment shall not give rise to an LAeq, 15 min sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

**Swimming/Spa Pools**

52. The pool plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 8.00pm on any Sunday or public holiday; or
- before 7.00am or after 8.00pm on any other day.

**Air Conditioners**

53. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

**Rainwater Tanks**

54. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

**Use of parking spaces**

55. The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

**GENERAL ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifier* for the development,
- Council and the Principal Certifier have been given at least 2 days notice (in writing) prior to commencing any works.

- A3 Council can issue your *Construction Certificate* and be your *Principal Certifier* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:



- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the Access to *Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

- A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.
- Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.
- A12 Council's assessment of this application does not include an assessment of compliance with the *Swimming Pool Act 1992*. All pool barriers, fences and structures within properties containing a swimming pool must comply with the requirements of the *Swimming Pool Act 1992*, BCA and relevant Australian Standards.
- Details of compliance with the *Swimming Pool Act 1992*, Building Code of Australia and relevant Standards must be included in the Construction Certificate to the satisfaction of the Certifying Authority.
- A13 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A14 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A15 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.