

Randwick Local Planning Panel (Public) Meeting

Thursday 28 July 2022



RANDWICK LOCAL PLANNING PANEL (PUBLIC)

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting
will be held in the Microsoft Teams on
Thursday, 28 July 2022 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

In respect to Privacy & Personal Information Protection Act, members of the public are advised that the proceedings of this meeting will be recorded.

Development Application Reports

D42/22 58 Bream Street, Coogee (DA/150/2022) 1

Kerry Kyriacou
DIRECTOR CITY PLANNING

Development Application Report No. D42/22

Subject: 58 Bream Street, Coogee (DA/150/2022)

Executive Summary

Proposal:	Demolition of existing structures and construction of a four storey residential flat building comprising three units, basement parking for 4 vehicles, 2 bicycle spaces and associated landscape works
Ward:	Central Ward
Applicant:	ATTENA GROUP PTY LTD
Owner:	Mr R Nir & Mrs F R Nir
Cost of works:	\$1,588,607
Reason for referral:	Fifteen (15) unique submissions by way of objection were received.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/150/2022 for demolition of existing structures and construction of a four storey residential flat building comprising three units, basement parking for 4 vehicles, 2 bicycle spaces and associated landscape works, at No. 58 Bream Street, Coogee, for the following reasons:

- 1) The proposal does not comply with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Developments (SEPP 65), and the associated Apartment Design Guide (ADG); in particular:
 - a) The design quality principles contained in Schedule 1 of SEPP 65 relating to context, scale and built form, and density. The proposed two lifts are excessive for a three dwelling development and contributes to the excessive bulk and scale proposed for this small, narrow site.
 - b) Pursuant to Part 3B-2 of ADG, apartments 1 & 2 are south facing and do not receive adequate solar access in accordance with Parts 3D and 4A of the ADG. This is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.
 - c) Pursuant to Part 3E1 of ADG, the deep soil zones provided on the site are insufficient and are too narrow to be effective.
 - d) Pursuant to Part 3F-1 of ADG, the proposal does not provide adequate privacy levels, the proposed balconies are excessive and will result in overlooking impacts to neighbouring properties.
 - e) Pursuant to Part 4H-1 of ADG, the location of the rear swimming pool adjacent to the communal open space may result in noise impacts on adjacent neighbours due to its proximity to the boundary.
- 2) The proposal does not comply with the provisions of Randwick Local Environmental Plan 2012 (RLEP 2012) in particular:
 - a) The proposal is inconsistent with the objectives of the R3 Medium Density Residential zone pursuant to Clause 2.3 of RLEP 2012 that requires development *'to recognize the desirable elements of the existing streetscape and built form that contribute to the desired future character of the area'* and, *'to protect the amenity of adjoining residents'*.

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- 3) The development does not comply with the FSR standard contained in Clause 4.4 of the RLEP 2012 as the calculations fails to include the bin storage, metre room and the internal wall between the entry lobby and Unit 1 at the ground floor level in the GFA calculation and therefore, will be over the allowable FSR standard. Consequently, no Clause 4.6 written request which seeks to justify the failure of the proposal to comply with the FSR development standard of Clause 4.4 (2) of RLEP 202 has been submitted.
- 4) The proposed development is not considered to be compatible with the desired future character of the locality anticipated by the applicable planning controls, nor the current streetscape and foreshore area, for the following reasons:
 - a) The site is narrow for a building of this type and the 12m height limit does not anticipate a full four storey form with unrelieved and full height external wall and therefore, the bulk and scale of the proposal is considered to be excessive for the site and will not be compatible with the desired future character of the locality.
 - b) In addition to the above, the non-compliant external wall height and lack of a stepped design that follows the contours of the site emphasises the inappropriate size and scale of the building when viewed from the street and neighbouring properties and will result in unreasonable visual amenity and overshadowing impacts.
- 5) The proposal does not comply with the provision of Randwick Comprehensive Development Control Plan 2013 (RDCP 2013) in particular:
 - a) Pursuant to Part 2.3.1, Section C2 of RDCP 2013, the proposal does not provide private open space with adequate privacy for the future occupants.
 - b) Pursuant to Part 3.1, Section C2 of RDCP 2013, the proposed non-compliance with the floor space ratio development standard is not supported.
 - c) Pursuant to Part 3.4.2, Section C2 of RDCP 2013, the upper most level must incorporate additional side setbacks to the building to ensure solar access for the development and the adjoining properties.
 - d) Pursuant to Part 3.4.4, Section C2 of RDCP 2013, the proposal fails to comply with the maximum external wall height. The resultant bulk and scale of the proposal results in adverse amenity impacts to the streetscape and the neighbouring properties.
 - e) Pursuant to Part 5.1, Section C2 of RDCP 2013, the proposal fails to demonstrate adequate solar access is provided to adjoining properties and the proposal does not comply with the minimum solar access requirements to the living areas and principle private open spaces.
 - f) Pursuant to Part 5.3, Section C2 of RDCP 2013, the proposed balconies are excessive and overlook the neighbouring properties and this results in unacceptable visual privacy impacts.
- 6) The proposed development is not in the public interest as the impacts from the development in relation to privacy, visual bulk and scale are extensive and are not consistent with the surrounding streetscape and desired future character of the area; hence impacting on the visual quality of the public domain and streetscape.
- 7) Insufficient information for a full and robust assessment of the proposal cannot be completed as there are a number of deficiencies and lack of detail in the information submitted with the development application including:

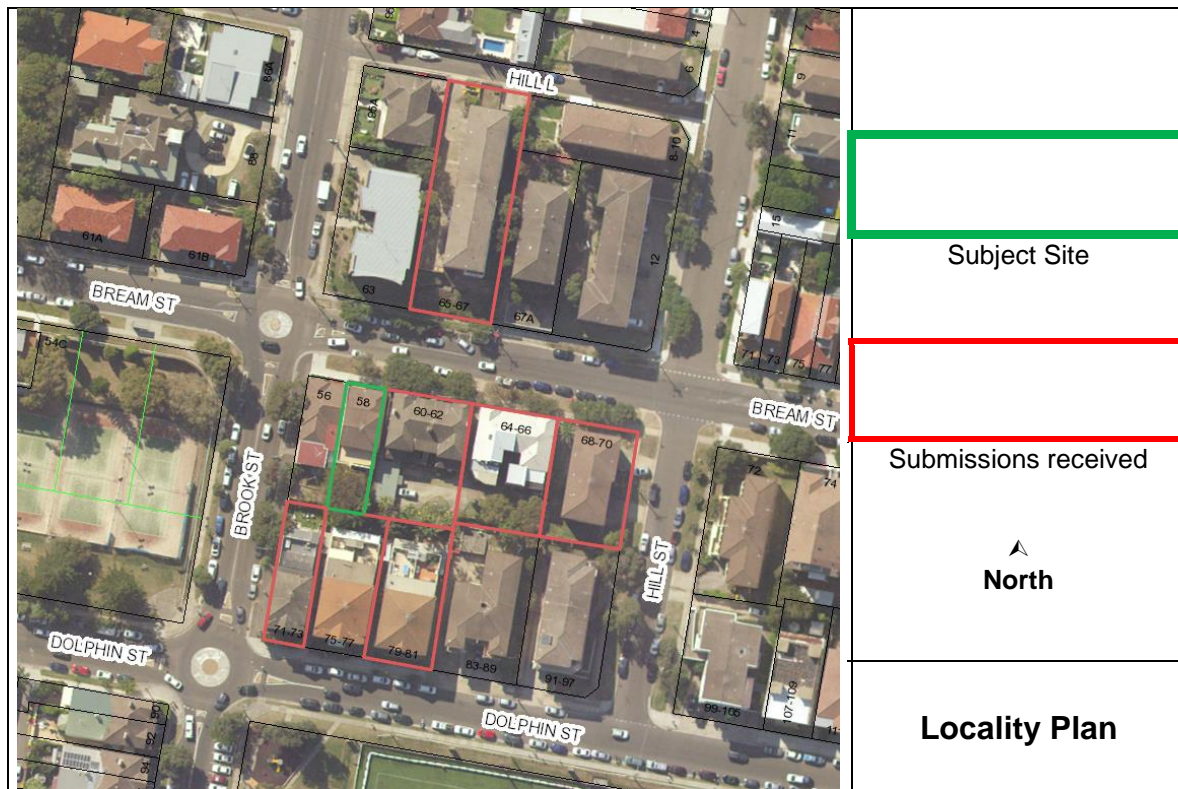
- a) The development application did not submit clear 3D or elevational shadow diagrams of the (existing and proposed) north neighbouring property at no. 71-73 Brook Street to understand the extent of additional overshadowing to POS and living room windows, nor a comparison shadow diagram demonstrating solar access based off a compliant envelope.
- b) Detailed sections of the rear retaining wall and fencing to ensure the stability of the structure and demonstrate that the existing/proposed fencing is sufficient in height to provides reasonable levels of privacy to the rear adjoining properties.

Attachment/s:

Nil

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 15 unique submissions by way of objection were received.

The proposal seeks development consent for demolition of existing structures, construction of four storey residential flat building ("RFB") comprising three (3) units (1 x 3 bedrooms, 1 x 2 bedrooms and 1 x 1 bedroom), basement parking for four (4) vehicles, two (2) bicycle spaces and associated landscape works.

The proposal was notified in accordance with the Randwick Community Participation Plan. The proposal attracted a total of 15 unique submissions raising key concerns with the bulk, scale and density of the development being out of character with the street and the local area, not complying with the external wall height control and inadequate justification for the deviation from RLEP and RDCP controls. There are also concerns raised with amenity impacts in terms of noise, overshadowing, privacy, landscaping, solar access, excavation and parking and traffic congestion.

It is noted that the development application is currently the subject of a Class 1 appeal against the deemed refusal of the application (No. 2022/156228) with the Land and Environment Court. The application is listed for a s34 conciliation conference on 26 August 2022.

The proposal is a permissible form of development within the R3 – Medium Density Residential zone pursuant to RLEP 2012, however, the development would cause adverse impacts to the locality in terms of not being in accordance with the desired future character noting the significant departure from key envelope standards and controls, and amenity impacts upon adjoining properties and future occupants.

As outlined within this report, the proposal is non-compliant with elements of the relevant assessment criteria outlined within the Apartment Design Guide (ADG) as well as the relevant requirements prescribed by the RLEP 2012. The proposal is also non-compliant with the relevant controls and core objectives outlined within the RDCP 2013.

The key issues associated with the proposal relate to:

- Floor space ratio, bulk and scale of development
- External wall height
- Desired future character
- Solar access and overshadowing
- Privacy
- Parking

The application is therefore recommended for refusal.

2. Site Description and Locality

The subject site is legally described as Lot 2 in DP 220244, known as 58 Bream Street, Coogee and is located on the southern side of Bream Street, closest intersection to Brook Street. The site is generally rectangular in shape and the dimensions of the site are summarised in the table below:

Boundary	Length	Land area
North boundary on plans (front)	10.585m	322.5m ²
East boundary	30.71m	
West boundary (Common Boundary)	30.71m	
South boundary (rear)	10.547m	

The site is relatively flat, with a fall of 0.33 metres (RL 15.48 AHD to RL 15.15 AHD) from east to west along Bream Street, and greater fall of 2.58 metres (RL 15.28 AHD to RL 12.58 AHD) from north to south, through the centre of the site.

The site is currently occupied by a part single, part two storey brick and terracotta roof semi-detached dwelling house with a single car garage integrated into the dwelling which is accessed off Bream Street. The dwelling presents as a single storey to Bream Street and two storeys to the rear of the dwelling.

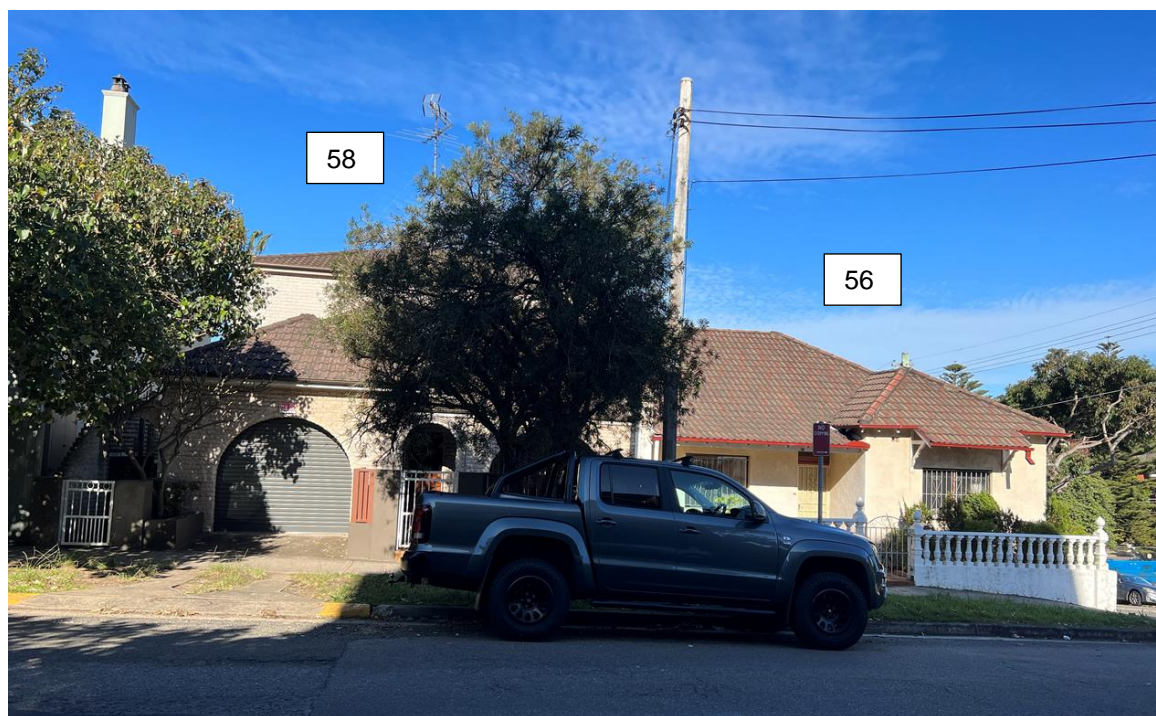


Figure 1: Subject site and adjoining property at no. 56 Bream Street, Coogee

3. Relevant history

Nil

4. Proposal

The development application (DA/150/2022) seeks consent for demolition of existing structures, construction of four storey residential flat building ("RFB") comprising three (3) units (1 x 3 bedrooms, 1 x 2 bedrooms and 1 x 1 bedroom), basement parking for four (4) vehicles, two (2) bicycle spaces and associated landscape works.

Basement Floor Level

The basement floor is at RL 12.30 AHD and comprises a car lift, four car parking spaces, a vehicle turntable, two lifts, staircase and three storage areas.

Ground Floor Level

The Ground Floor Level is at RL 15.13 AHD and comprises the main vehicular and pedestrian entrances, lift and stair access, communal bin storage, bicycle parking and a one-bedroom unit with open planned living spaces, laundry, bathroom, storage and a balcony. The rear of this level contains a communal open space area that is accessed from a door within the entry foyer.

Level 1

Level 1 is at RL 18.13 AHD and comprises a two-bedroom unit with open plan living spaces, laundry, storage, bathroom and two balconies.

Level 2

Level 2 is at RL 21.13 AHD and contains the lower level of a two-storey apartment. This level contains three bedrooms (one with an ensuite), two balconies, bathroom, laundry and lift/stair access.

Level 3

Level 3 is at RL 24.13 AHD and contains the upper level of the two-storey apartment. This level contains an open plan living, dining and kitchen area, storage, bathroom, two balconies and lift/stair access.

5. Notification

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

- BBC Consulting Planners (on behalf of the owners at No. 71-73 Dolphin Street, Coogee).
- 79-81 Dolphine Street, Coogee
- 6/79 Dolphin Street, Coogee
- 5/64 Bream Street, Coogee
- 3/79 Dolphin Street, Coogee
- 60-62 Bream Street, Coogee
- 1/60 Bream Street, Coogee
- 2/60 Bream Street, Coogee
- 3/60 Bream Street, Coogee
- 67A Bream Street, Coogee
- 9/65 Bream Street, Coogee
- 1/68 Bream Street, Coogee
- 4/81 Dolphin Street, Coogee
- 5/81 Dolphin Street, Coogee
- Unanimous address x 2
- 1/22 Abbott Street, Coogee

Issue	Comment
<p><u>Height, Bulk & scale</u> Overall height, bulk and scale and its effect on the streetscape and visual amenity of the immediate neighbourhood.</p> <p>Due to its height, scale and design, the proposal will result in significant and immediate detrimental impact on nearby properties resulting in overlook and overshadowing impacts.</p>	<p>This is acknowledged and included as a reason for refusal.</p>
<p><u>Non-compliant lot size for R3 Zone</u> The lot size of 290m² does not comply with the LEP minimum lot size requirement of 325m² for R3 Zone Medium Density Residential.</p>	<p>There are no minimum lot size requirements for residential flat buildings in R3 Zone.</p>
<p><u>Non-compliant external wall height</u> The proposed development does not comply with the DCP limit of 10.5m for external wall height control.</p>	<p>This is acknowledged and included as a reason for refusal. Refer to Section 8.1 - Discussion of key issues below.</p>
<p><u>Inadequate justification to deviation to LEP and DCP</u> The applicant has not adequacy demonstrated any strategic merit in justifying the deviation from the Randwick LEP and DCP.</p>	<p>Noted and the deviation to the RLEP 2012 and RDCP 2013 are not supported.</p>
<p><u>Over Development of site</u> Dominance and overdevelopment of a small semi-sized allotment.</p>	<p>This is acknowledged and included as a reason for refusal.</p>
<p><u>Streetscape impacts</u> Four (4) storey development is inappropriate for the southern side of Bream Street when considering the low scale 2 storey buildings and will create an undesirable precedent in the streetscape.</p> <p>The development is out of character with the existing area and is a jarring and disruption of the aesthetic of this historic neighbourhood;</p>	<p>This is acknowledged and included as a reason for refusal.</p>
<p><u>Inadequate landscaping & deep soil</u> The proposed landscape area does not comply with the minimum control reequipment in the RDCP 2013.</p> <p>Deep soil areas are questionable and concerns for structural damage to surrounding properties.</p> <p>Loss of trees.</p>	<p>This is acknowledged and included as a reason for refusal. Refer to Section 8.1 - Discussion of key issues below.</p> <p>In relation to structural damage to surrounding properties, should consent be granted, appropriate conditions would be included with the consent to ensure that there is no structural damage to surrounding properties.</p> <p>In relation to loss of tree, the Design Excellence Advisory Panel (DEAP) does not support the removal of the two existing healthy mature trees at the rear of the lot. However, Council's Landscape officer has supported their removal. Refer to Referral comments in Appendix 1 Below.</p>

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Issue	Comment
<p><u>Impact on district views</u></p> <p>The proposed four (4) storey building will impede the views currently enjoyed for a number of local residents; the objector confirmed the view loss relate to district views rather than ocean views.</p>	<p>There are no ocean views that will be impacted by the proposed development. However, it is acknowledged the site is narrow for a building of this type and height. A four storey building is not consistent with the scale and height of existing buildings surrounding the site.</p> <p>DEAP note a fourth level element would need to be more recessive, architecturally differentiated form setback from all parapets of the primary three storey element below. Council's planner agrees with this recommendation, and it will also retain some of the district views that are of concern.</p>
<p><u>Visual and acoustic privacy impacts</u></p> <p>The development will result in visual and acoustic privacy impacts due to large balconies, pool and communal area.</p>	<p>This is acknowledged and included as a reason for refusal. Refer to Section 8.1 - Discussion of key issues below.</p>
<p><u>Solar access and overshadowing impacts</u></p> <p>Solar access and overshadowing impacts to rear yard, terraces and living areas of adjoining properties.</p>	<p>This is acknowledged and included as a reason for refusal. Refer to Section 8.1 - Discussion of key issues below.</p>
<p><u>Potential impact of excavation works & integrity of sandstone wall</u></p> <p>The geotechnical report does not address the integrity of and potential impacts to the retaining wall adjoining the rear of the site down to Dolphin Street.</p> <p>Would like Council to carefully review the geotechnical report and take into consideration the excavation vibration and its effect on adjoining properties.</p> <p>Potential impact of the proposed earthworks on the integrity of the old high sandstone retaining wall at the rear of the building and its neighbouring buildings.</p> <p>Excessive excavation and its impacts on existing amenity. Potential landslide from the Bream Street site onto the rear of adjoining properties.</p>	<p>The applicant submitted a Geotechnical report which indicates a further geotechnical inspections should be carried out during construction to confirm the geotechnical and hydrological model.</p> <p>Subject to this confirmation, the proposed excavation works can be performed whilst supporting the adjoining land. Council's Engineer raises no objections to the proposed on geotechnical, hydrogeological or structural grounds. Should consent be granted a condition is included requiring a report from a suitably qualified and experienced professional engineer which contains Geotechnical details that confirm the suitability and stability of the site for the development and relevant design and construction methods/requirements to be implemented to ensure the stability and adequacy of the development and adjacent land to the satisfaction of the Certifier.</p>

Issue	Comment
<p><u>Parking, traffic and congestion</u></p> <p>Lack of parking, additional traffic to the precinct and basement parking driveway will reduce street parking in an already highly congested street.</p> <p>The development will increase the number of people living in an already congested area.</p>	<p>The proposed development complies with the parking requirements in the DCP. However, Council's Development Engineer do not support the current parking arrangement as it relies too heavily on mechanical parking devices, which will likely lead to occupants parking on-street, resulting in unacceptable impacts on the availability of kerbside street parking in the locality. The internal access driveway to the proposed lift also does not comply with AS 2890.1 which may impact on sightlines and pedestrian safety. Refer to Section 8.1 - Discussion of key issues below which further outlines reasons for refusal of the current parking arrangement.</p>
<p><u>Cost Estimate</u></p> <p>Cost estimate provided by the builder is questionable considered the quality of the structural integrity.</p>	<p>The plans subject of the application for development consent have been prepared by Berco Consulting who have certified that estimated cost or works is generally prepared in accordance with the Australian Cost management Manual from the Australian Institute of Quantity Surveyors (AIQS) and include GST in the calculation of the development's cost. In addition to the above, the measured Gross Floor Area (GFA) is in accordance with the Method of Measurement Building Area in the AIQS Cost Management Manual Volume, Appendix A2.</p> <p>The detailed cost report has been provided by a registered quantity surveyor which satisfies Council's requirements.</p>
<p><u>Pollution and noise disturbance during construction</u></p> <p>Object to the noise, disturbance and visual pollution of the construction and associated construction vehicle movement.</p> <p>Pollution and noise disturbance from large machinery during construction.</p>	<p>The application is recommended for refusal. If supported, conditions will be included within the consent to address these concerns.</p>

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

A satisfactory BASIX Certificate (No. 1278646M_02, dated 10 March 2022) has been submitted in accordance with the requirements of the BASIX SEPP.

6.2. State Environmental Planning Policy (Resilience and Hazards) 2021

The Resilience and Hazards SEPP applies to the site. Clause 4.6 of the Resilience and Hazards SEPP requires that the consent authority must consider prior to granting consent whether the land is contaminated. The site is unlikely to be contaminated given the use of the site has been residential. Accordingly, it is considered that the site is unlikely to be contaminated and is therefore generally consistent with the Resilience and Hazards SEPP.

The site is not identified in Council's records as being contaminated and no indication of any potentially contaminating activities can be derived from the historical uses on site. Therefore, the site may be considered suitable for the proposed residential development.

6.3. SEPP 65 – Design Quality Residential Flat Buildings

The proposed development is for a new RFB that comprises 3 dwellings and is 4 storeys, therefore SEPP 65 does not strictly apply. However, the subject application was referred to Council's Design Excellence Advisory Panel (DEAP) for review and advice on the design quality of the development. The DEAP advice has been considered and summarised below.

An assessment has also been carried out against the design criteria of the Apartment Design Guide ("ADG") (refer to Appendix 2). In summary, the development does not demonstrate compliance with the objectives of the ADG in relation to bulk & scale, building depth, landscaping, privacy, overshadowing and solar access. These form reasons for refusal.

Design Excellence Advisory Panel (DEAP)

The application was considered by the DEAP at its meeting on 13 May 2022. A response was received from the Respondent's Design Excellence Advisory Panel on 23 May 2022. (Refer to Appendix 1). The Design Excellence Advisory Panel in summary raised the following concerns in relation to the Development Application:

- a) The proposal at four storeys is not consistent with the scale and height of existing buildings surrounding the site.
- b) The site is narrow for a building of this type and the 12m height limit does not anticipate a full four storey form with unrelieved and full height external wall and therefore, considers the bulk and scale of the proposal excessive and three storey built form to be preferable for the site. A fourth level element would need to be more recessive, architecturally differentiated form setback from all parapets of the primary three storey element below.
- c) The development has managed to meet the building height standard only by lowering the ground floor level to below footpath, compromising floor to floor heights.
- d) The proposed bulk and scale of the built form is considered to be excessive and will result in visual impact on its context and setting.
- e) Additional sustainable measures which include:
 - i. Ceiling fans in all bedrooms and living spaces
 - ii. PV Cells on the roof
 - iii. EV charging and battery storage
 - iv. Provide flyscreens to all opening window and door sashes.
 - v. Ensure west facing windows have effective external sun protection
- f) The Panel does not support the removal of the two existing healthy mature trees at the rear of the lot.
- g) The proposed communal swimming pool may have noise impacts on adjacent neighbours due to its proximity to boundary.
- h) The deep soil areas provided are too narrow to be effective and the landscaped area includes the pool and pool deck area.
- i) The two lifts are excessive for a three-dwelling development, and it is also contributing to the excessive bulk and scale proposed for this small, narrow site.
- j) Primary living areas are south facing and will not receive ADG compliant solar access which is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.
- k) Further detail should be provided regarding overshadowing of neighbouring properties.
- l) Concern in relation to the configuration of L1 apartment.
- m) Concerns regarding insufficient landscaping to private areas of the ground floor apartments
- n) Concerns regarding safety, roof maintenance and window cleaning.
- o) Concerns with the configuration of communal open space. A more generous lobby which opens onto the entry garden will offer residents opportunities for informal interaction.
- p) Concerns with location of waste storage area and suggests it be relocated to basement.

- q) The extensive use of external faux timber is questionable on both aesthetic and sustainability grounds.
- r) Key façade construction details at min. scale of 1:20 should be provided.

6.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R3 Medium Density under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The proposal should be refused because the development is inconsistent with the objectives of the R3 Medium Density Residential Zone as per Clause 2.3 (2) of the RLEP.

The relevant objectives of the R3 Medium Density Residential Zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*

The proposal does not comply with controls related to FSR (Calculated by Council), external wall height, landscaped open space, front setback, building depth and visual privacy and therefore, does not contribute to the desired future character of the area, which is established by current planning controls.

The size and scale of the development is not compatible with the desired future character of the locality and will result in unreasonable amenity impacts. The non-compliant external wall height and lack of a stepped design that follows the contours of the site emphasises the inappropriate size and scale of the building when viewed from the street and neighbouring properties.

The proposed building has an unacceptable impact upon the streetscape within this section of the block along Bream Street and is excessive in bulk and scale when taking into consideration the existing built form is lower in scale varying from 2 to 3 storey in height.

The proposal does not protect the amenity of surrounding residents, resulting in visual amenity, overshadowing and privacy impacts.

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)	0.9:1 (or GFA of 290.25m ²)	As calculated by Council = 0.926:1 (or GFA of 298.5m ²)	No. Refer to comments below.
CI 4.3: Building height (max)	12m	11.8m	Yes
CI 4.1: Lot Size (min)	No minimum lot size	322.5m ²	N/A

6.4.1. Clause 4.4 - Floor Space Ratio (FSR)

The application should be refused as it fails to comply with the FSR standard set out in Clause 4.4 of the RLEP 2012.

The maximum FSR permitted for the site pursuant to Clause 4.4 (2) of RLEP 2012 is 0.9:1 (or 290.25m²). The application claims that the proposal has an FSR of 0.9:1 (or GFA of 290m²) according to the calculation on Drawing No. A121 (Revision 3), which with a site area of 322.5m² would result in a compliant FSR.

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes -

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

Based on the above definition of gross floor area, the applicant fails to include the bin storage, meter room and the internal wall between the entry lobby and Unit 1 at the ground floor level in the GFA calculation. Council calculation for the proposed FSR is approximately 0.926:1 (or GFA of 298.5m²) which will result in a minor variation to the control. The variation is as follows:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.9:1 (or GFA of 290.25m ²)	0.926:1 (or GFA of 298.5m ²)	8.25m ²	2.84%

6.4.2. Clause 4.6 - Exceptions to development standards

No Clause 4.6 written request which seeks to justify the failure of the proposal to comply with the FSR development standard of Clause 4.4 (2) of RLEP 2012 has been submitted and therefore, the proposed development falls to satisfy compliance with this control.

6.4.3. Clause 5.10 - Heritage conservation

The subject sites are not located in a heritage conservation area or items of local or state heritage significance. The proposal is therefore acceptable with regards to the provisions in Clause 5.10 of the RLEP.

6.4.4. Clause 6.3 – Earthworks

The RLEP states that *before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*

- a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- b) the effect of the development on the likely future use or redevelopment of the land,
- c) the quality of the fill or the soil to be excavated, or both,
- d) the effect of the development on the existing and likely amenity of adjoining properties,
- e) the source of any fill material and the destination of any excavated material,
- f) the likelihood of disturbing relics,
- g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

- h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed development shows excavation for the basement with a portion of the building works being sited on the western side with a nil setback with an increased setback of approx. 900mm and 1.2m from the eastern side and southern rear boundaries. The applicant submitted a Geotechnical report which indicates further geotechnical inspections should be carried out during construction to confirm the geotechnical and hydrological model.

Subject to this confirmation, the proposed excavation works can be performed whilst supporting the adjoining land. Council's Engineer raises no objections to the proposed on geotechnical, hydrogeological or structural grounds. Should consent be granted a condition is included requiring a report from a suitably qualified and experienced professional engineer which contains Geotechnical details that confirm the suitability and stability of the site for the development and relevant design and construction methods/requirements to be implemented to ensure the stability and adequacy of the development and adjacent land to the satisfaction of the Certifier.

6.4.5. Clause 6.1 - Acid sulfate soils

The Randwick Local Environmental Plan 2012 (RLEP) contains provisions for development on land that is affected by Acid Sulfate Soil, in line with the NSW ASS Manual and Guidelines. The RLEP provisions aim to ensure that development does not disturb, expose or drain ASS and cause environmental damage.

The property is located in a Class 5 Acid Sulfate area. Development consent is required for the carrying out of works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

The development is not adjacent to Class 1, 2, 3 or 4 land and given, there is minimum excavation works on the site, are located to the centre of the property and will not reduce the level of the water table below 1 metre, the proposal is not considered to cause an issue to warrant further investigation.

Also, a review of the history use of the site does not indicate activities that would raise land contamination concerns; therefore, no further investigation is necessary for this application.

6.4.6. Clause 6.7 Foreshore scenic protection area

(1) The objectives of this clause are as follows –

- (a) to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
- (b) to protect and improve visually prominent areas adjoining the coastal foreshore,*
- (c) to protect significant public views to and from the coast,*
- (d) to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*

The size and scale of the development is not compatible with the desired future character of the locality and will result in visual amenity impacts that will be detrimental to the visual qualities of the foreshore scenic protection area. The non-compliant external wall height and lack of a stepped design that follows the contours of the site emphasises the inappropriate size and scale of the building when viewed from the street/public domain and neighbouring properties.

In view of the above, the proposed development does not integrate effectively with existing development within the foreshore area and therefore, does not meet the relevant objectives of the above controls.

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 above and 9.1 discussion of 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 does not satisfy all 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(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 inconsistent with the dominant character in the locality.</p> <p>The proposal will result in detrimental environmental impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site is located in close proximity to local services and public transport.</p> <p>The site does not have sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not considered suitable for the proposed development.</p>
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 does not promote the objectives of the zone and will result in significant adverse environmental impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

8.1. Discussion of key issues

Parking Layout & Vehicle Access

The proposed development should be refused as it relies too heavily on mechanical parking devices, which will likely lead to occupants parking on-street, resulting in unacceptable impacts on the availability of kerbside street parking in the locality. The internal access driveway to the proposed lift also does not comply with AS 2890.1 Parking facilities Off-street carparking which may impact on sightlines and pedestrian safety

There is a heavy reliance on mechanical devices to provide off-street parking being in conflict with Clause 3.2 iv/ Part B7 of the RDCP.

The heavy reliance may be a deterrent for occupants who are more likely to park on-street resulting in unacceptable impacts on the availability of kerbside street parking in the locality.

In the event of a single breakdown to any device, all off-street parking will be transferred on-street resulting in unacceptable impacts on the availability of kerbside street parking in the locality

The swept paths provided indicate vehicle access to the westernmost car space is restrictive even when using the mechanical turntable, thereby further acting as a deterrent for use.

The internal access driveway does not comply with Clause 3.3 in AS 2890.1 in that it exceeds a grade of 5% within 6m of the front property alignment. A grade of 10% is depicted which is not acceptable given the high pedestrian activity in the area and that the footpath is located immediately adjacent to the front property alignment.

External Wall Height

Pursuant to clause 4.4 of Part C2 of RDCP 2013, the maximum external wall height applicable to the site is 10.5m. The objectives of the control are as follows:

- *To ensure that the building form provides for interesting roof forms and is compatible with the streetscape.*
- *To ensure ceiling heights for all habitable rooms promote light and quality interior spaces.*
- *To control the bulk and scale of development and minimise the impacts on the neighbouring properties in terms of overshadowing, privacy and visual amenity.*

The proposal will result in a maximum external wall height of approx. 11.4m measured from the existing ground line to the underside of the uppermost roof which does not comply with the control by 900mm.

The wall height control works in conjunction with the building height standard to allow for interesting roof forms and not a full additional storey. The roof plan on the third level does not present as a roof form or comprise habitable roof space and shall present as a full additional storey in contradiction to the intent of clause 4.4. The setback of the upper level from the external walls are not considered to be sufficient to control or minimise the bulk and scale associated with the upper level. The proposal is not in accordance with the objectives of the wall height control given:

- i. The development is not compatible with the streetscape character and will dominate the streetscape, therefore does not establish a suitable scale.
- ii. The development will result in amenity impacts on neighbouring properties in terms of overshadowing, privacy and visual amenity.
- iii. The form and massing do not respect the topography of the site, with the bulk and scale exemplified due to the sloping site and prominent corner position.

A more appropriate massing arrangement of the upper level as similarly suggested by the DEAP would be a reduced footprint to comply with the FSR control by increasing the setbacks of the external walls further from the edges of the level below. Alternatively, the proposal should contain an upper level within a roof form incorporating dormer windows. An arrangement such as this would address the fundamental issues of FSR and external wall height exceedances. The resulting development would help in reducing the overshadowing impacts on adjoining properties.

Building Depth

The development application should be refused as the first floor level has a maximum depth from window line to window line of 14.1m and 15.1m and at the second floor level has a maximum building depth from window line to window line of 14.8 and 15.8m which exceeds the allow maximum of between 10m and 14m.

The excessive wall height, bulk of building and limited setbacks to the eastern and western elevations on the first, second and third levels in conjunction with the non-compliant building depth will result in visual amenity in relation to bulk and scale and overshadowing impacts to neighbouring properties.

Solar Access and Overshadowing

The living room and private open balcony area of Unit 3 will receive the minimum solar access requirements. However, units 1 & 2 are questionable as the living areas and private open balconies are south facing and will not receive a minimum of 2 hours of direct solar access, which is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.

The DEAP are also not supportive of the orientation of the living rooms to Units 1 & 2 as they are south facing and receive limited solar access.

Due to the north to south orientation of the site and neighbouring development and limited side setbacks, it is inevitable that the proposed development would result in additional overshadowing impacts to the rear setback of subject site and neighbouring properties at no's. 60-62 Bream Street to the east of the site, 75-77 Dolphin Street to the south of the site and 71-73 Dolphin Street to the south west of the site. The shadow impacts are exacerbated by the non-compliant external wall height.

The proposal should be refused given the development will result in additional overshadowing impacts to the southern, eastern and western neighbouring properties rear yards along Brooke Street, Coogee and 56 & 60-62 Bream Street, Coogee.

Section 5.1 requires a portion of north-facing living area windows, and the private open space of neighbouring properties to receive a minimum 3 hours of direct sunlight between 8am and 4pm on 21 Jun. The submitted shadow diagrams indicate that additional overshadowing impacts as a result of the non-compliant wall height will impact a number of properties rear yards along Brooke Street and 56 & 60-62 Bream Street, Coogee during 8am to 4pm. The additional impacts to the adjoining property at no. 71-73 Brooke Street are unclear, particularly the impacts on the north facing windows.

Pursuant to Part 5.1, Section C2 of RDCP 2013, the proposal fails to demonstrate adequate solar access is provided to adjoining properties and the proposal does not comply with the minimum solar access requirements to the living areas and principle private open spaces.

Visual Privacy and Acoustic Amenity

The proposal should be refused given the development fails to comply with Part C2 of Sections 5.3 & 5.4 of the RDCP 2013.

The proposal should be refused because the development does not comply with the design criteria 3F-1 of the Apartment Design Guide with respect to visual privacy.

The objective of Section 5.3 Visual Privacy control is to ensure development minimise overlooking or cross viewing to the neighbouring dwellings to maintain reasonable levels of privacy. The proposed development does not maintain reasonable levels of privacy to the neighbouring property at no. 56 & 60-62 Bream Street, Coogee and the adjoining properties to the rear along Brooke Street, Coogee.

The design criteria 3F-1 of the Apartment Design Guide requires a 6m setback to the common boundary (12m building separation total between habitable rooms and balconies to neighbouring buildings) for buildings up to 4 storeys to mitigate visual privacy impacts.

The proposed balconies on the first, second and third levels to the rear of the building including front balcony on the third level are excessive and will create overlooking and acoustic privacy impacts to the neighbouring properties.

The non-compliant separation will also result in adverse acoustic privacy impacts to neighbouring properties, noting the additional balcony areas that are also provided in excess of minimum POS requirements.

The location of the rear communal private open space in conjunction with the rear swimming pool will result in acoustic and privacy impacts to the rear yards and private living areas of the neighbouring properties along Brooke Street and Bream Street. The deck area is elevated from the ground line and the swimming pool is relatively close to the rear boundary which is a contributing factor to these impacts. In addition, the elevated basement level at the rear section of the building further adds to these amenity impacts.

Public interest

Development consent should not be granted to the proposal because that would be contrary to the public interest.

The assessment undertaken demonstrates that the proposed development is not in the public interest as the impacts from the development in relation to privacy, visual bulk and scale are extensive and are not consistent with the surrounding streetscape and desired future character of the area.

The development application was notified in the circumstances set out in paragraph 5 this report. The proposed development should be refused having regard to the matters that were raised in the 15 unique submissions that have been received by Council to the extent that these submissions raise matters, summarised in paragraph 5 of this report and have been of particular concerns to Council and therefore warrant refusal of the application.

9. Conclusion

That the application for demolition of existing structures and construction of a four storey residential flat building comprising three units, basement parking for 4 vehicles, 2 bicycle spaces and associated landscape works be refused for the following reasons:

- 8) The proposal does not comply with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Developments (SEPP 65), and the associated Apartment Design Guide (ADG); in particular:
 - f) The design quality principles contained in Schedule 1 of SEPP 65 relating to context, scale and built form, and density. The proposed two lifts are excessive for a three dwelling development and contributes to the excessive bulk and scale proposed for this small, narrow site.
 - g) Pursuant to Part 3B-2 of ADG, apartments 1 & 2 are south facing and do not receive adequate solar access in accordance with Parts 3D and 4A of the ADG. This is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.

- h) Pursuant to Part 3E1 of ADG, the deep soil zones provided on the site are insufficient and are too narrow to be effective.
 - i) Pursuant to Part 3F-1 of ADG, the proposal does not provide adequate privacy levels, the proposed balconies are excessive and will result in overlooking impacts to neighbouring properties.
 - j) Pursuant to Part 4H-1 of ADG, the location of the rear swimming pool adjacent to the communal open space may result in noise impacts on adjacent neighbours due to its proximity to the boundary.
- 9) The proposal does not comply with the provisions of Randwick Local Environmental Plan 2012 (RLEP 2012) in particular:
- b) The proposal is inconsistent with the objectives of the R3 Medium Density Residential zone pursuant to Clause 2.3 of RLEP 2012 that requires development *'to recognize the desirable elements of the existing streetscape and built form that contribute to the desired future character of the area'* and, *'to protect the amenity of adjoining residents'*.
- 10) The development does not comply with the FSR standard contained in Clause 4.4 of the RLEP 2012 as the calculations fails to include the bin storage, metre room and the internal wall between the entry lobby and Unit 1 at the ground floor level in the GFA calculation and therefore, will be over the allowable FSR standard. Consequently, no Clause 4.6 written request which seeks to justify the failure of the proposal to comply with the FSR development standard of Clause 4.4 (2) of RLEP 2012 has been submitted.
- 11) The proposed development is not considered to be compatible with the desired future character of the locality anticipated by the applicable planning controls, nor the current streetscape and foreshore area, for the following reasons:
- c) The site is narrow for a building of this type and the 12m height limit does not anticipate a full four storey form with unrelieved and full height external wall and therefore, the bulk and scale of the proposal is considered to be excessive for the site and will not be compatible with the desired future character of the locality.
 - d) In addition to the above, the non-compliant external wall height and lack of a stepped design that follows the contours of the site emphasises the inappropriate size and scale of the building when viewed from the street and neighbouring properties and will result in unreasonable visual amenity and overshadowing impacts.
- 12) The proposal does not comply with the provision of Randwick Comprehensive Development Control Plan 2013 (RDCP 2013) in particular:
- g) Pursuant to Part 2.3.1, Section C2 of RDCP 2013, the proposal does not provide private open space with adequate privacy for the future occupants.
 - h) Pursuant to Part 3.1, Section C2 of RDCP 2013, the proposed non-compliance with the floor space ratio development standard is not supported.
 - i) Pursuant to Part 3.4.2, Section C2 of RDCP 2013, the upper most level must incorporate additional side setbacks to the building to ensure solar access for the development and the adjoining properties.
 - j) Pursuant to Part 3.4.4, Section C2 of RDCP 2013, the proposal fails to comply with the maximum external wall height. The resultant bulk and scale of the proposal results in adverse amenity impacts to the streetscape and the neighbouring properties.

- k) Pursuant to Part 5.1, Section C2 of RDCP 2013, the proposal fails to demonstrate adequate solar access is provided to adjoining properties and the proposal does not comply with the minimum solar access requirements to the living areas and principle private open spaces.
 - l) Pursuant to Part 5.3, Section C2 of RDCP 2013, the proposed balconies are excessive and overlook the neighbouring properties and this results in unacceptable visual privacy impacts.
- 13) The proposed development is not in the public interest as the impacts from the development in relation to privacy, visual bulk and scale are extensive and are not consistent with the surrounding streetscape and desired future character of the area; hence impacting on the visual quality of the public domain and streetscape.
- 14) Insufficient information for a full and robust assessment of the proposal cannot be completed as there are a number of deficiencies and lack of detail in the information submitted with the development application including:
- c) The development application did not submit clear 3D or elevational shadow diagrams of the (existing and proposed) north neighbouring property at no. 71-73 Brook Street to understand the extent of additional overshadowing to POS and living room windows, nor a comparison shadow diagram demonstrating solar access based off a compliant envelope.
 - d) Detailed sections of the rear retaining wall and fencing to ensure the stability of the structure and demonstrate that the existing/proposed fencing is sufficient in height to provides reasonable levels of privacy to the rear adjoining properties.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Design Excellence Advisory Panel (DEAP)

INTRODUCTION

These minutes record the advice provided at the Design Excellence Advisory Panel meeting.

The Panel's comments are intended to assist Council in their design consideration of an application against the SEPP 65 or/and Design Excellence principles. The absence of a comment under a head of consideration does not imply that particular matter to be satisfactorily addressed, more likely the changes are suggested elsewhere to generate a desirable change.

Your attention is drawn to the following:

- SEPP 65, including the 9 Design Quality Principles and the requirements for a Qualified Designer (a Registered Architect) to provide Design Verification Statements throughout the design, documentation and construction phases of the project.
- The Apartment Design Guide, as published by Planning NSW (July 2015), which provides guidance on all the issues addressed below.

Both documents are available from the NSW Department of Planning.

Note:

The Design Excellence Advisory Panel is appointed by Randwick Council. The Panel's written and verbal comments are their professional opinions and constitute expert design quality advice to Randwick Council, the architect and the applicant.

1. *To address the Panel's comments, the applicant may need to submit amended plans. **Prior to preparing any amended plans or attending additional Panel presentations, the applicant MUST discuss the Panel's comments and any other matter that may require amendment with Council's assessing Planning Officer.***
2. *When addressing the Panel's comments by way of amendments, if the applicant does not propose to address all or the bulk of the Panel's comments, and wishes to make minor amendments only, then it should be taken that the Panel considers the proposal does not meet the SEPP 65 requirements or Design Excellence Principles. In these instances it is unlikely the scheme will be referred back to the Panel for further review.*

PANEL COMMENTS

Project Description

Demolition of existing dwelling and construction of a 3 dwelling residential flat building over four full levels with basement parking accessed by car-lift, swimming pool and landscaping.

The proposal is required to comply with Council's controls, SEPP65 and ADG (2015).

The 322.5 sqm rectangular site is located within an R3 Medium Density Residential Zone, with a frontage of 10.585m to the street. The primary LEP controls are maximum FSR 0.9:1 and 12m height above existing ground level.

The site topography falls gently away from the footpath where the building as proposed, then more steeply across a rear garden that includes at least two healthy mature trees.

The applicant did not attend the meeting to discuss the proposal with the Panel. For the benefit of the applicant his report therefore records matters discussed by Panel members and council staff pertaining the design quality of the proposal. The Panels role is advisory only, and its commentary is provided to assist the applicant in achieving an acceptable level of design quality for the project and its contextual setting.

Key comments from the Panel include:

Principle 1: Context and Neighbourhood Context

The immediate existing context comprises a mix of 2 to 3 storey single dwellings and RFBs. The western neighbour at No.56 is built to the boundary, as is the existing dwelling on the site (to be demolished).

The area appears to be ripe for renewal, however this is occurring slowly and the proposal at four storeys is not consistent with the scale and height of existing buildings surrounding the site. To reconcile this the mass and articulation of the proposal should be reconsidered as discussed below.

The site is well located in relation to services and nearby public open space and amenities.

Drawings that adequately describe the site and its context were not provided.

Principle 2: Scale and Built Form

The site is narrow for a building of this type although it appears to comply with Council's required minimum setbacks, whilst noting that the existing dwelling to the west is on the boundary and there is likely to be a range of issues with making good any exposed common walls when the existing dwelling is demolished.

The 12m height limit does not anticipate a full four storey form with unrelieved, full height external walls, and it is only achieved by lowering the ground floor level to below the footpath level, a minimum depth flat roof allowance (falls, insulation, ballast provisions), and restricting floor to floor heights to 3m.

The Panel therefore considers the bulk and scale of the proposal to be excessive, and a three storey form to be preferable for this site. Any fourth level element would need to be re-designed as a more recessive, architecturally differentiated form setback from all parapets of the primary three storey element below.

To comply with the maximum allowable 10.5m external wall height the lift to the upper dwelling should be moved away from the external wall or have its upper stop lowered to the third level, with an internal stair provided to the upper level of the two storey top unit.

A further suggestion is to make the plan more compact to reduce the size of the top unit, which has unnecessarily large circulation areas.

Principle 3: Density

The proposal achieves the maximum allowable FSR, however in doing so the bulk and scale of the built form is considered to be excessive. The design should be reconsidered as described above to reduce its visual impact on its context and setting.

Principle 4: Sustainability

The Panel suggests additional sustainability measures are considered, including:

- Ceiling fans in all bedrooms and living spaces
- PV Cells on the roof
- EV charging and battery storage
- Provide flyscreens to all opening window and door sashes.
- Ensure west facing windows have effective external sun protection

Principle 5: Landscape

The Panel does not support the removal of the two existing healthy mature trees at the rear of the lot. (Refer Arborist Report Tree 4 (Washingtonia) and Tree 5 (Carya).

This would necessitate a full redesign of this area, where a communal swimming pool is proposed that may have noise impacts on adjacent neighbours due to its proximity to boundaries.

Provide deep soil and landscape area calculations to Council officers satisfaction, as the current deep soil areas are too narrow to be effective and the landscape calculation includes the pool and pool deck. Presently genuine deep soil area is restricted to the small area in the north-east corner of the front setback.

Principle 6: Amenity

Whilst the Panel suggests that two lifts is excessive for a three dwelling development, it is also contributing the excessive bulk and scale proposed for this small, narrow site.

Primary living areas are south facing and will not receive ADG compliant solar access, which is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.

Further detail should be provided regarding the overshadowing of the neighbouring properties. Window / room uses should be noted on the documentation, and overshadowing of the neighbouring private open space needs to be quantified.

The generous L.1 unit lacks an ensuite bathroom, perhaps deletion of second lift and more efficient planning can address this.

The rear garden should be a private landscaped outdoor space for the ground floor unit, incorporating the two trees referred to above.

Cleaning of windows should be considered and described in the documentation.

Ensure street utility service requirements are integrated into the design and shown on the DA drawings.

Principle 7: Safety

Not discussed. How is the roof accessed for maintenance? How are windows cleaned on side elevations?

Principle 8: Housing Diversity and Social Interaction

Acceptable in principle for a 3 dwelling development. A reasonable provision for communal open space could be met by providing a more generous Lobby that opens onto the entry garden, to offer residents opportunities for informal interaction. Deletion of a lift would assist, and can the waste storage room be relocated to basement?

Principle 9: Aesthetics

The design approach to the buildings architectural character and detail is supported in principle, however this may need to be re-visited in light of the need to consider the Panels comments in relation to bulk and scale.

The extensive use of external faux timber aluminium is questionable on both aesthetic and sustainability grounds.

Key façade construction details should be provided at min. scale 1:20.

SUMMARY AND RECOMMENDATIONS

Whilst the proposal has been carefully calibrated to the height control in its long section, it has managed this only by lowering the ground floor level to below footpath, compromising floor to floor heights, and the form being too bulky for such a narrow site.

The design of the upper two levels should be re-visited to reduce its bulk, as recommended in this report.

The proposal would need to return to the Panel when each of the matters raised in this report has been addressed.

1.2. Development Engineer

The application was referred to Councils Development Engineer and Landscape Development Officer on 25 March 2022.

SUMMARY OF ENGINEERING ASSESSMENT

Parking Provision

The development comprises 1 x 1 bedroom, 1 x 2 bedroom & 1 x 3 bedroom generating a parking demand of 3.7 (say 4) spaces under the DCP parking rates

The development proposes 4 spaces hence achieves compliance. No visitor parking is required as the number of dwellings is less than 4.

A minimum of 2 bicycle spaces is required under Part B7 of the DCP. The proposal achieves compliance with this requirement.

Parking Layout

There is a high dependence on mechanical devices with both a turntable and a car lift required to access the parking spaces. This is likely to be significant deterrent to occupiers of the units who are more likely to park on-street when available.

Consistent with previous applications the high dependence on mechanical devices is not supported See also Clause 3.2 (iv) Part B7 of the DCP. Given the geometric constraints of the site this may be difficult to address.

Access Driveway

The access driveway is not supported in its current form as it exceeds a grade of 5% within 6m of the front property alignment as required by Clause 3.3 of AS 2890.1.

Waste Management

The development will require the minimum provision of 5 x 240L bins comprising of 2 garbage (red lid), 2 recycling (yellow lid) and 1 FOGO (green lid). There appears to be provision for 6 waste bins on the ground floor. Satisfactory

Flooding

No flooding issues. The site lies well above the level of the 1% AEP flood.

Drainage

The site drains to the rear. The stormwater drainage system is dependent on a infiltration area in the rear yard and a pump-out system in the basement. This is consistent with our Private Stormwater Code and is OK.

SUMMARY OF LANDSCAPE ASSESSMENT

Council's Landscape officer has reviewed the plans and has inspected the site. Council's Landscape Officer notes that tree removals are proposed and believe it is justified in this instance due to a combination of the following:

- *Involving exotic species that appear only in fair condition, with reduced safe life-spans;*
- *Their central location combined with the slope/terraced rear yard presenting a major constraint to any kind of improvement/upgrade;*
- *Will improve solar access as well as usability of the communal open space;*

- *Removal of several low value species and replacing them with the new scheme will increase desirable plant material, including native coastal feature trees, of which there are currently none.*

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Appendix 2: Compliance with ADG Design Criteria

Apartment Design Guide (ADG)

An assessment has been carried out in accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide against the design criteria requirements. Any non-compliance to the design criteria includes a merit-based assessment as per the design guidance of the Apartment Design Guide.

Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A -1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed.	Site analysis satisfactory and addresses elements in the checklist.	Yes
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1).	Unit 1 on the ground floor level has direct access from the street and include landscaping within the front setback.	Yes
	Where the street frontage is to the east or west, rear buildings should be oriented to the north.	The street frontage is to the north and the rear of the building is orientated to the south.	N/A
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be oriented to the east and west.	The site is north facing and the uppermost level and external wall height result in additional overshadowing impacts.	No
3B-2	Orientation		
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space (50% direct sunlight to the principal part of the communal open space for 2 hours) and 4A Solar and daylight access.	The DEAP are not supportive of the orientation of the living rooms to Units 1 & 2 as they are south facing and receive limited solar access.	No
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered.	<p>The shadow diagrams submitted with the application do not demonstrate 3 hours of solar access is maintained to the private open space to the southwestern and southern neighbouring properties along Dolphin Street.</p> <p>The proposal fails to demonstrate adequate solar access is provided to adjoining properties.</p> <p>It should be noted that majority of the additional overshadowing impacts is a</p>	Insufficient information is provided.

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Clause	Requirement	Proposal	Compliance
		result of the non-compliant external wall height and possible site orientation.	
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	Insufficient information has been submitted with the application to demonstrate solar access to the POS at the neighbouring properties is not reduced by more than 20%. The impacts on the adjoining property at no. 71-73 Brooke Street are unclear in particular the impacts on the north facing windows.	Insufficient information
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	The solar access diagrams should demonstrate that an increased building separation or compliant building envelope would improve solar access to the rear private open space at the neighbouring properties.	Insufficient information
	Overshadowing should be minimised to the south or downhill by increased upper-level setbacks.	The DEAP has recommended that any fourth level element would need to be re-designed as a more recessive, architecturally differentiated form setback from all parapets of the primary three storey element below to reduce the bulk and scale and overshadowing impacts. Increased setbacks on the upper most level will minimise overshadowing.	No
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.	There are no solar collectors on adjoining properties.	N/A
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	Minimum required for the site = 80.625m ² A communal area of 13m ² (4.03%) is provided to the southern rear setback area. Concerns with the configuration of communal open space were raised by DEAP. Noting that a more generous lobby which opens onto the entry garden will offer residents opportunities for informal interaction.	No
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open	The communal open space is located at the southern side setback area and receives limited solar access between	No

Clause	Requirement	Proposal	Compliance
	space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	12pm to 3pm to parts of the area. The common area could be reorientated to receive better solar access.	
3E-1	Deep Soil Zones		
	Deep soil zones are to meet the following requirements: Site Area: Less than 650m ² = 7% (or 22.575m ²) Minimum dimensions of deep soil = N/A	The proposed deep soil zone is 24.8% (or 80m ²). Whilst there is no minimum dimension requirement for deep soil, the DEAP note that the deep soil zones provided on the site are insufficient and are too narrow to be effective.	Complies, but area provided are not effective.
3F-1	Visual Privacy		
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys) – Habitable rooms and balconies = 6m, non-habitable rooms = 3m	The proposed balconies are excessive and will cause overlooking impacts.	No - Refer to Section 8.1 Discussion of Key Issues.
3J-1	Bicycle and Car Parking		
	The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	The proposal complies with the relevant requirements for car parking and bicycle parking. However, does not support the current parking arrangement as it relies too heavily on mechanical parking devices.	Refer to Appendix 2 – referral comments made by Council's Development Engineers and Section 8.1 Discussion of Key Issues.
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	The living room and private open balcony area to Unit 3 receives adequate solar access. Units 1 & 2 are questionable as the living areas and private open balconies are south facing and will not receive a minimum of 2 hours of direct solar access, which is exacerbated by the proximity of adjacent	No. Refer to Section 8.1 Discussion of Key Issues.

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Clause	Requirement	Proposal	Compliance
		buildings and the proposed solidity of side walls.	
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	66.66% of units do not receive solar access.	No. Refer to Section 8.1 Discussion of Key Issues.
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	100% of all units (3/3) are naturally cross-ventilated.	Complies
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable Rooms – 2.7m Non-habitable – 2.4m	The proposed development does not meet the minimum floor to ceiling height requirement under the Apartment Design Guideline, Part 4C – Ceiling Heights when taking into consideration the floor slabs and servicing.	No
4D	Apartment Size and Layout		
	Apartments are required to have the following minimum internal areas: Studio - 35m ² 1 bedroom - 50m ² 2 bedroom - 70m ² 3 bedroom - 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each	All units comply with the minimum internal areas.	Complies
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All habitable rooms comprise of a window opening for the purposes of light and will not have an area less than 10% of the floor area of the room.	Complies
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	All habitable room depths are within the maximum limit.	Complies
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan layouts are located within an 8 metres depth of a window.	Complies
	Master bedrooms have a minimum area of 10m ² and	Bedrooms will achieve minimum area requirements.	Complies

Clause	Requirement	Proposal	Compliance
	other bedrooms 9m ² (excluding wardrobe space)		
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms have a minimum dimension of 3m.	Complies
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments	The dimensions are greater than the minimum width requirement.	Complies
4E	Apartment Size and Layout		
	All apartments are required to have primary balconies as follows: Studio apartments 4m ² 1-bedroom apartments 8m ² 2m dim. 3-bedroom apartments 12m ² 2.4m dim. The minimum balcony depth to be counted as contributing to the balcony area is 1m	All the private open space areas are adequate and are above the minimum requirement.	Complies
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	The ground floor units have private open space of 2.476m x 5.1m (10m ²) and is less than the minimum area 15m ² and depth requirement of 3m.	No
4F	Common Circulation and Spaces		
	The maximum number of apartments off a circulation core on a single level is eight	The core provides entry to a maximum of 3 apartments.	Complies
4G	Storage		
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio apartments 4m ³ 1 bedroom apartments 6m ³ 2 bedroom apartments 8m ³ 3+ bedroom apartments 10m ³ At least 50% of the required storage is to be located within the apartment	All units comply with the minimum storage requirements.	Complies

Appendix 3: DCP Compliance Table

3.1 Section B6: Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	The waste bins are located to the front of the building. DEAP suggest relocating the bin area in the basement level.	No
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	The bins are located at the front of the dwelling and are enclosed within a structure. The location of the bin area to the front entry is not considered to be acceptable and will impact on the amenity of the subject site and adjoining neighbours.	No
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	The bin storage area is screened.	Yes
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	The bins room is located to the front of the building. DEAP has recommended that it be located in the basement level and to be accessible by all residents.	The current location is accessible but not ideal.
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	The proposal will comply with this requirement.	Yes
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	The proposal complies.	Yes

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Control	Proposal	Compliance
3.	Parking & Service Delivery Requirements		
	Car parking requirements: • 1space per 2 studios	Required = 4 spaces	Yes

	<ul style="list-style-type: none"> 1 space per 1-bedroom unit (over 40m²) 1.2 spaces per 2 -bedroom unit 1.5 spaces per 3 or more bedroom unit 1 visitor space per 4 dwellings 	Proposed = 4 spaces Refer to Council's Development Engineering comments at Appendix 1.	
	Motor cycle requirements: 5% of car parking requirement	N/A	N/A
4. Bicycles			
	Residents: <ul style="list-style-type: none"> 1 bike space per 2 units Visitors: <ul style="list-style-type: none"> 1 per 10 units 	Required = 2 spaces Proposed = 2 spaces	Yes

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
2. Site Planning			
2.1 Site Layout Options			
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> Two block / courtyard example T-shape example U-shape example Conventional example 	The orientation of the primary living areas are south facing and will not receive ADG compliant solar access. This is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.	Living areas can be better orientated.
2.2 Landscaped open space and deep soil area			
2.2.1 Landscaped open space			
	A minimum of 50% of the site area (161.25m ²) is to be landscaped open space.	The architectural plans indicate a landscaped area of 35.97% (116m ²).	No
2.2.2 Deep soil area			
	(i) A minimum of 25% of the site area (80.625m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	The proposed deep soil zone area is 24.8% (or 80m ²).	No, could be better distributed.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	The DEAP note that the deep soil zones provided on the site are insufficient and are too narrow to be effective.	
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	The location of the swimming pool and communal area which is adjacent to swimming pool could be rethought to improve deep soil areas/planting and for better landscaping to be provided on the site.	
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor		

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DCP Clause	Control	Proposal	Compliance
	slabs, rainwater tanks or in planter boxes.		
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.		
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	All balconies are directly accessible from the living areas. The balconies to Units 1 & 2 are south facing and receive limited solar access. This is largely due to the orientation of the site. The balconies on Levels 1, 2 & 3 are excessive and will cause overlooking impacts to neighbouring properties and should be reduced in size. Refer to the discussion in the Key Issues section. It is therefore considered that the proposal does not provide adequate privacy for residents.	No. Refer to Section 8.1 Discussion of Key Issues
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	The proposal complies.	Yes
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	A communal area of 13m ² (4.03%) is provided to the southern rear setback area. Concerns with the configuration of communal open space were raised by DEAP. Noting that a more generous lobby which opens onto the entry garden will offer residents opportunities for informal interaction. Inadequate landscaping is provided to the rear to improve the visual amenity	Refer to ADG discussion and Section 9.1 Discussion of key issues.

DCP Clause	Control	Proposal	Compliance
		and there are privacy concerns. The orientation of the communal area and swimming pool should be rethought to improve recreational facilities on the site and deep soil planting.	
3. Building Envelope			
3.1	Floor space ratio		
	0.9:1 (or GFA of 290.25m ²)	Council's Calculation 0.926:1 (or GFA of 298.5m ²)	<i>No. Refer to Section 6.4.1 above under Clause 4.4 - Floor Space Ratio (FSR).</i>
3.2	Building height		
	12m	11.8m	Yes
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	The first floor level has a maximum depth from window line to window line of 14.1m and 15.1m and at the second floor level has a maximum building depth from window line to window line of 14.8 and 15.8m which exceeds the allow maximum of between 10m and 14m.	No. Refer to 9.1 Discussion of key issues.
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting,</p>	The balconies on Level 1 to 3 encroach onto the established front setback.	No. Balconies should be reduced, and front setback increased.

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DCP Clause	Control	Proposal	Compliance
	with the exception of driveways and pathways.		
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: - Less than 12m: Merit Assessment. (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences.	Frontage width = 10.585m There is no minimum side setback requirement for frontage widths less than 12m. When taking into consideration the non-compliant external wall height control, the side setbacks on Level 3 are not appropriate in that it will create visual amenity and overshadowing impacts. A more recessive built form would be suited for this level with the lift being moved away from the external wall height or upper stop lowered to the third level.	No. Side setbacks are not considered to be appropriate particularly on level 3.
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (4.6m Eastern boundary and 4.16m Western boundary) or 5m, whichever is the greater.	Minimum requirement is 5m. The proposal has a southern rear setback of a minimum of 7m to the rear ground floor balcony.	Yes
4.	Building Design		
4.1	Building façade		
	(i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in	The proposed building façade is generally considered acceptable.	Yes

DCP Clause	Control	Proposal	Compliance
	length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs.		
4.2	Roof design		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the 	The proposal does not incorporate a 'green roof'.	N/A

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DCP Clause	Control	Proposal	Compliance
	<p>architectural character of the building, and are positioned to minimise direct and oblique views from the street.</p> <ul style="list-style-type: none"> - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	N/A	N/A
4.4	External wall height and ceiling height		
	<p>(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.</p>	<p>The proposal will result in a maximum external wall height of approx. 11.4m measured from the existing ground line to the underside of the uppermost roof which does not comply with the control by 900mm.</p>	<p>No. Refer to 9.1 Discussion of key issues.</p>
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	<p>2.7m floor to ceiling height for habitable rooms are provided.</p>	<p>Yes</p>
4.5	Pedestrian Entry		

DCP Clause	Control	Proposal	Compliance
	<p>(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.</p> <p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	<p>The pedestrian entry is separated from vehicular access.</p> <p>The proposed entry off Bream Street is clearly identifiable and relate to the pedestrian street path.</p>	<p>Yes</p> <p>Yes</p> <p>Mailboxes are close to the entrance of the building and is considered acceptable.</p>
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. 	Complies	Yes

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	The proposal provides a maximum of 3 units.	Yes
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	The proposal provides a maximum of 3 units.	Yes
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	Complies	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Complies	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Complies	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	N/A	N/A
4.8	Balconies		

DCP Clause	Control	Proposal	Compliance
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Complies	Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.	The ground floor unit 1 has a terrace area of 10m ² and a depth of 2.476m.	No
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of lightweight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	<p>A materials and finishes schedule is provided with the application which is generally considered acceptable subject to the external faux timber aluminium which was questionable by the DEAP being excessive on both aesthetic and sustainable grounds.</p> <p>The DEAP also requested that key façade construction details should be provide at minimum scale of 1:20.</p>	Satisfactory, subject to conditions if the application was recommended for approval.
4.12	Earthworks Excavation and backfilling		

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DCP Clause	Control	Proposal	Compliance
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	The proposed cut and fill is generally considered acceptable subject to conditions.	Yes, subject to conditions. Refer to Section 6.4.4 Clause 6.3 – Earthworks above.
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	A detailed section to the rear of the building/boundary is required to determine the impacts.	Insufficient information.
5. Amenity			
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p>	<p>Unit 3 complies.</p> <p>Units 1 & 2 are questionable as the living areas are south facing and will not receive ADG compliant solar access, which is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.</p>	<p>No. Further information is required demonstrating compliance or a redesign of the internal layout would resolve this concern with living areas facing east.</p>

DCP Clause	Control	Proposal	Compliance
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	3 units (100%) receive solar access.	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	Two of the 3 units are south facing. THE DEAP note that the primary living areas to units 1 & 2 are south facing and will not receive ADG compliant solar access, which is exacerbated by the proximity of adjacent buildings and the proposed solidity of side walls.	Not acceptable and more thought-out development could resolve this concern.
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	Insufficient information provided.	No.
Solar access for surrounding development			
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	Insufficient information is provided to determine the exact impacts.	Insufficient Information. Refer to 9.1 Discussion of key issues.
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	Capable to comply	Yes
	(ii) Sun shading devices appropriate to the orientation should be	Could be conditioned.	Conditioned to comply

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DCP Clause	Control	Proposal	Compliance
	provided for the windows and glazed doors of the building.		
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	Capable to comply	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Capable to comply	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	100% of units are naturally ventilated.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Capable to comply	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	All habitable rooms have openings to outdoor areas to avoid reliance on artificial ventilation and compliance is achieved with the ADG.	Satisfactory
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats 	<p>Appropriate screening measure are implemented to the window openings.</p> <p>However, the balconies are excessive and will cause overlooking impacts and should be reduced in size.</p>	<p>Windows – Yes</p> <p>Balconies – No. Refer to 9.1 Discussion of key issues.</p>

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection. 		
5.4	Acoustic privacy		
	<ul style="list-style-type: none"> (i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	The location of the communal open space area and swimming pool at the southern side setback area would result in adverse acoustic privacy impacts to the neighbouring properties along Brooke Street and Bream Street.	No
5.5	View sharing		
	<ul style="list-style-type: none"> (i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views 	<p>A submission was received in relation to district views.</p> <p>No submissions were received in relation to water/ocean view loss.</p>	Yes

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DCP Clause	Control	Proposal	Compliance
	<p>from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	The main entry walkway is consistent with CPTED principles.	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Capable to comply	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Capable to comply	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	The proposal does not include any high boundary walls.	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Capable to comply	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Capable to comply	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Capable to comply	Yes
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Capable to comply	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Capable to comply or can be conditioned in the event the development is to be approved.	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Capable to comply	Yes

DCP Clause	Control	Proposal	Compliance
6.	Car parking and access		
6.1	Location		
	<p>(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.</p> <p>(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.</p> <p>(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.</p> <p>(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.</p> <p>(v) For residential flat buildings, comply with the following:</p> <p>(a) Car parking must be provided underground in a basement or semi-basement for new development.</p> <p>(b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage.</p> <p>(c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.</p>	Council Development Engineers does not support the current parking arrangement/configuration as it relies too heavily on mechanical parking devices.	Refer to Appendix 2 – referral comments made by Council's Development Engineers and Section 8.1 Discussion of Key Issues.
6.2	Configuration		
	<p>(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.</p> <p>(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.</p> <p>(iv) Provide basement or semi-basement car parking consistent with the following requirements:</p> <p>(a) Provide natural ventilation.</p>	Council Development Engineers does not support the current parking arrangement/configuration as it relies too heavily on mechanical parking devices.	Refer to Appendix 2 – referral comments made by Council's Development Engineers and Section 8.1 Discussion of Key Issues.

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DCP Clause	Control	Proposal	Compliance
	<p>(b) Integrate ventilation grills into the façade composition and landscape design.</p> <p>(c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding.</p> <p>(d) Use landscaping to soften or screen any car park enclosing walls.</p> <p>(e) Provide safe and secure access for building users, including direct access to dwellings where possible.</p> <p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7. Fencing and Ancillary Development			
7.1	Fencing		
	<p>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	<p>The front boundary fence includes sandstone cladding and timber look aluminium blade portion above. The proposed fence materials satisfy Council's requirements.</p> <p>It is unclear if side and rear fencing is proposed.</p>	<p>Front fencing – Yes</p> <p>Rear and side – Insufficient information.</p>
7.2	Front Fencing		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p>	The front fence aligns with the front property boundary.	Yes
	<p>(ii) The maximum height of front fencing is limited to 1200mm, as</p>	Maximum 1.14m with solid portion 500mm.	Yes

DCP Clause	Control	Proposal	Compliance
	measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.		
	(iii) Construct the non-solid portion of the fence with lightweight materials that are at least 30% open and evenly distributed along the full length of the fence.	Complies	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	N/A	N/A
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Complies	Yes
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The sandstone cladding and timber look aluminium blade fence satisfy the material requirements.	Yes
	(vii) Gates must not open over public land.	Complies	Yes
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	Complies	Yes
7.3	Side and Rear Fencing		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).	It is unclear if side and rear fencing is proposed.	Insufficient Information.
	(ii) In the scenario where there is significant level difference		

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DCP Clause	Control	Proposal	Compliance
	<p>between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>		
7.5	Swimming and Spa Pools		
	i) Locate behind the alignment of the front building facade.	The swimming pool is located to the rear of the building.	Yes
	ii) Locate to minimise damage to the root system of existing trees on the adjoining properties, as well as trees on the subject site proposed or required to be retained.	There are two mature trees that may be impacted by the proposed swimming pool.	No
	iii) Locate to minimise noise and privacy impacts on the adjoining dwellings.	The location of the rear communal private open space in conjunction with the rear swimming pool will result in acoustic and privacy impacts to the rear yards and private living areas of the neighbouring properties along Brooke Street and Bream Street. The deck area is elevated from the ground line and the swimming pool is relatively close to the rear boundary which is a contributing factor to these impacts.	No
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(b) 1-bedroom apartments – 6m³</p> <p>(c) 2-bedroom apartments –</p>	Accessible storage facilities that meet the minimum requirement are provided within the units and storage cages within the basement level.	Yes

DCP Clause	Control	Proposal	Compliance
	8m3 (d) 3 plus bedroom apartments – 10m3		
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	No details provided.	Insufficient information.
	(ii) Provide internal laundry for each dwelling unit.	Complies	Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	No details provided.	Insufficient information.
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> • Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. • Air conditioning units must not be installed within window frames. 	Complies	Yes

Responsible officer: Chahrazad Rahe, Senior Assessment Planner

File Reference: DA/150/2022

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