

# Randwick Local Planning Panel (Public) Meeting

Thursday 13 October 2022



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

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 13 October 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**

D60/22      456 Maroubra Road, Maroubra (DA/366/2021)..... 1

Kerry Kyriacou  
**DIRECTOR CITY PLANNING**

## Development Application Report No. D60/22

**Subject:** 456 Maroubra Road, Maroubra (DA/366/2021)

---

<b>Proposal:</b>	Demolition of existing structures and construction of a 3 storey residential flat building comprising 8 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works.
<b>Ward:</b>	Central Ward
<b>Applicant:</b>	Ms D Hatzipilis
<b>Owner:</b>	Ms D Hatzipilis & Dr A J Kaffes
<b>Cost of works:</b>	\$3,955,457
<b>Reason for referral:</b>	Sensitive development where SEPP 65 applies and >10 submissions

---

### Recommendation

That the RLPP approve consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/366/2021 for the demolition of existing structures and construction of a 3 storey residential flat building comprising 8 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works, at No. 456 Maroubra Road, Maroubra.

D60/22

D60/22



## 1. Executive summary

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

- Sixteen (16) unique submissions by way of objection were received; and
- Sensitive development whereby the provisions of SEPP 65 applies.

The proposal seeks development consent for a 3-storey residential flat building containing 9 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works.

An amended application was submitted on 29/04/2022 which included the following amendments:

- Revised pedestrian building and lift lobby entry at the basement level.
- Reduction to the front elevation balconies at the ground floor level.
- Increased rear setback to the northern elevation at level 1.
- Conversion of the 2 x 1 bedroom units on the eastern side of the building (non-affordable rental housing units) at Level 1 to 1 x 3 bedroom unit (reducing the total number of units from 9 to 8).
- Deletion of the skillion roof form and mechanical roof structures.
- New flat roof form.

The key issues associated with the proposal relate to non-compliances with the landscaping requirements, absence of communal open space, western and eastern side setbacks, and solar access to the living areas and private open spaces.

The proposal has been assessed against the relevant and numeric provisions of the ARH SEPP, ADG and RDCP and a detailed assessment of the non-compliances has been provided in the Key Issues section.

The new residential flat building includes four one-bedroom units that will be retained as affordable rental housing and as such, the proposal qualifies for the increased density bonus and FSR at the

subject site. The proposed bulk and scale of the development is significantly less than the allowable 12m height of buildings development standard (the proposed height is 10.22m).

A comprehensive assessment of the proposed view impacts to the neighbouring properties has been undertaken in accordance with the planning principle and four step test in *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*. As detailed in the Key Issues section, the proposal satisfies the objectives and controls regarding view sharing and overall results in a moderate impact on views to 21 Bona Vista Avenue, and a minor impact to 1&2/23 Bona Vista Avenue and 1, 2 & 3/454 Maroubra Road. The amended application skillfully reduced the overall building bulk, height and roof form to maintain adequate view sharing from the adjoining properties to the ocean, Maroubra Beach and Malabar Headland.

As conditioned, the amended proposal is considered a positive outcome for the site and would not result in any significant adverse visual or amenity impacts to the streetscape or the desired future character of the R3 zone. The proposal is therefore recommended for approval.

## 2. Site Description and Locality

The subject site is known as 456 Maroubra Road, Maroubra and is legally described as Lot 20 in DP 5463. The site is 643.7m<sup>2</sup> and is rectangular in shape. The site has a 15.24m frontage to Maroubra Road to the south-west, a western side boundary of 42.235m, an eastern side boundary of 42.245m and a northern rear boundary of 15.24m. The site slopes approximately 4.3m from the rear boundary to the front boundary, with a cross fall of approximately 1.34m between the western and eastern side boundaries.

The site contains a two-storey residential flat building with a pitched roof form. Vehicular access is provided by the driveway adjacent to the eastern side boundary and hardstand parking is located in the rear setback area. Pedestrian access is granted via the central stairs which connect to the elevated building entrance above the street level.

The site is immediately adjacent Maroubra Beach to the east/south and is surrounded by two storey dual occupancies, and three to four storey residential flat buildings of various ages and styles.



Figure 1 – View from Marine Parade to the subject site





Figure 2 – View of the rear at the subject site from 21 Bona Vista Avenue

### 3. Relevant history

#### DA/140/2021

Development Application No. DA/140/2021 was lodged on 24/03/2021 for the demolition of the existing residential flat building and construction of a new 3 storey residential flat building with excavation for part basement including 3 car stackers. The proposal included a total of 9 residential units including 4 affordable rental housing apartments. Council requested that Part 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) be addressed as part of the Statement of Environmental Effects (SEE) to determine whether a contribution is necessary including tenancy agreements/evidence of rental income as part of the response to Part 3 of the ARH SEPP. This information was not provided and the application was subsequently withdrawn on 25/03/2021.

### 4. Proposal

The proposal seeks development consent for a 3-storey residential flat building containing 9 residential units comprising of 6 x 1 bedroom units and 3 x 3 bedroom units, basement car parking, landscaping and associated works. The ground floor level includes 4 x 1 bedroom units that are proposed as affordable rental housing.

Amended plans were lodged on 29/04/2022, which included the following changes to the application:

- Revised pedestrian building and lift lobby entry at the basement level.
- Reduction to the front elevation balconies at the ground floor level.
- Increased rear setback to the northern elevation at level 1.
- Conversion of the 2 eastern units at level 1 to 1 unit (reducing the total number of units from 9 to 8).
- Deletion of the skillion roof form and roof structures.
- New flat roof form.

## 5. Notification

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

- 1&2/23 Bona Vista Avenue, Maroubra
- 25-29 Bond Street, Maroubra
- 1, 2 & 3/454 Maroubra Road, Maroubra
- 21 Bona Vista Avenue, Maroubra
- 34 Bona Vista Avenue, Maroubra
- 23 Bond Street, Maroubra
- 6/458 Maroubra Road, Maroubra
- 1/458 Maroubra road, Maroubra
- 8/23 Bond Street, Maroubra
- 4/458 Maroubra Road, Maroubra
- 452 Maroubra Road, Maroubra
- Unknown address x 5

Issue	Comment
Height, bulk and scale	For the reasons discussed in the assessment report, the height, bulk and scale of the amended proposal is considered to satisfy the relevant building envelope objectives and controls. The proposal complies with the key development standards being height and FSR. The proposal is compatible with the R3 zoning of the site and the desired future character.
Rear, side and front setback non-compliance	The amended proposal complies with the front and rear setback controls. As discussed under the Key Issues section, the side setback non-compliance is considered satisfactory on the basis that articulation and north facing windows are provided to the bedrooms and compliance would not increase deep soil landscaping in accordance with the ARH SEPP requirements of a 3m minimum dimension. Furthermore, no adverse amenity or visual impacts are likely to occur with regards to the building separation, privacy, views or overshadowing.
View loss	As discussed under the Key Issues section, the proposal is considered to uphold the relevant controls under Council's view sharing requirements in accordance with the planning principle and 4 step test in <i>Tenacity Consulting v Warringah Council (2004) NSWLEC 140</i> .
Overshadowing and solar access. Will cause moisture, mold, mildew and fungus.	The orientation of the subject site and internal floorplan configuration locates living areas and private open space to the south where views towards Maroubra Beach and Malabar Headland are obtained. The orientation results in solar access non-compliances which is further discussed in the Key Issues section. It is considered that the proposal satisfies the relevant objectives and results in suitable amenity for the future occupants.
Lack of landscaping and deep soil zones	For the reasons discussed in the Key Issues section, the proposed non-compliance with the landscaping requirements (the proposal complies with the deep soil requirements in the ADG), the proposal is satisfactory and upholds the relevant objectives. As such, no significant adverse amenity or visual impacts are likely to occur and the proposal is consistent with the desired future character of the area.

D60/22

Issue	Comment
Rooftop plant and equipment will result in adverse acoustic impacts. Birds and rodents will congregate to the rooftop. Should be located at basement as it will rust on roof.	The amended application replaced the skillion roof with a flat roof form and relocated the mechanical plant equipment to the basement level.
Should be a flat roof	The amended application replaced the skillion roof with a flat roof form.
Adverse visual impacts	The proposed is not considered to result in any significant adverse visual impacts and is consistent with the desired future character of the area.
The ARH bonus is not appropriate	The ARH Character Test in the Key Issues section demonstrates that the bonus FSR provisions result in an acceptable building envelope that is in keeping with the R3 zoning of the subject site. The bulk and scale is consistent with neighbouring development and the desired future character of the area. Refer to the detailed assessment in the Key Issues section.
Traffic and parking	Council's Engineer has confirmed the proposed impacts to traffic volumes on the adjoining streets and number of parking spaces complies with the relevant Council requirements. No significant adverse impacts are envisaged. Refer to the Engineers comments in Appendix 1.
Excessive excavation for basement, non-compliant and barely operational	Subject to the recommended conditions of consent, the geological, structural and hydrogeological impacts of the development during construction are considered to be minimised as much as practically possible.
Non-compliant separation distances	Whilst the proposal does not comply with the 6m separation distances prescribed by the ADG, conditions have been imposed to include privacy treatments to windows and balconies which satisfies the objectives.
No communal open space	The Key Issues section discusses and demonstrates that the proposed lack of communal space would not result in adverse amenity impacts to the future occupants due to the proximity to public recreational areas and Maroubra Beach. Furthermore, the proposed private open spaces are generous and provide additional space beyond the requirements of the ADG.
Non-compliant wall height and building depth.	The amended proposal complies with the maximum wall height control and the building depth complies due to the articulation at the side elevations.
Not compatible with character of local area	For the reasons discussed in this report, the proposal is compatible with the existing streetscape context and desired future character of the R3 zone.
Loss of affordable housing	As demonstrated in the ARH SEPP assessment, the subject site does not contain any units that are defined as low rental dwellings. The proposal provides 4 units as affordable housing and therefore increases affordable housing at the site.
Adverse amenity impacts to neighbouring properties	The proposal, as conditioned, is not considered to result in significant adverse amenity or visual impacts to neighbouring properties in terms of overshadowing, views and privacy. Refer to the Key Issues section, ARH SEPP, ADG and RDCP assessment for further discussion.
Not in the public interest	For the reasons detailed in this report, the proposal is considered to be in the public interest.
Visual privacy	As discussed above, subject to the recommended conditions requiring privacy treatments for windows and balconies, the proposal is considered satisfactory with regards to visual privacy to the neighbouring properties and future occupants.



Issue	Comment
Service vehicles and removalist trucks will not be able to use basement	Council's Engineer has confirmed the dimensions of the basement parking level comply with the relevant AS requirements.
A fire protection statement has not been submitted as required for buildings with external walls less than 3m from the boundary	The proposed development has been conditioned to comply with the relevant requirements for fire protection, the BCA and Australian Standards.
Water table impact from basement	The proposal does not require de-watering and Council's Engineer has confirmed the basement is satisfactory in terms of hydrogeological impacts. Relevant conditions of consent have been imposed to minimise construction impacts as much as practically possible.
Heritage art deco façade should be retained	The existing front façade is not considered significant in terms of heritage and satisfies the relevant considerations in Clause 5.10 of the RLEP.
Noise, dust and disruption from construction	Conditions of consent to minimise impacts of construction activities, noise and dust have been imposed.

### 5.1. Renotification

The amended plans were re-notified in accordance with the Randwick Community Participation Plan. Additional submissions were received from the following properties:

- 1, 2, 3/454 Maroubra Road, Maroubra
- 1&2/21 Bona Vista Avenue, Maroubra

Issue	Comment
View impacts	As above.
Non-compliant deep soil landscaping	As above.
ADG building separation requirements	As above.
Solar access	As above.
Building depth	As above.
Front/side/basement setbacks	As above.
Communal open space	As above.
Visual privacy from west elevation living area window and front balconies	As above.
Mechanical ventilation in the basement and exhaust fumes	Council's Engineer has not raised any concerns over basement ventilation and compliance with the BCA is required as a condition of consent.
No fire pump/tank room	As above.
Side setback	As above.
Lift overrun	The height of the lift overrun is 9.31m which is not considered excessive and the proposal complies with the 12m maximum height of buildings development standard (the proposed height is 10.22m).

## 6. Relevant Environment Planning Instruments

### 6.1. SEPP (Affordable Rental Housing) 2009

#### Part 2 New affordable rental housing > Division 1 In-fill affordable housing development

The proposal seeks affordable rental housing subject to the provisions in Part 2 Division 1 of the SEPP for in-fill affordable housing development. The proposal, as amended, demonstrates compliance with the applicable provisions and objectives. See assessment below and where relevant, the discussion of key issues section of this report. In summary, it is considered that subject

to the recommendations, the proposed development satisfies the character test satisfying key envelope controls and therefore the bonus FSR is considered appropriate in this instance.

<b>PART 2 – NEW AFFORDABLE RENTAL HOUSING</b>			
<b>Division 1 – In-fill Affordable Housing</b>			
<b>Clause</b>	<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Clause 10 - Development to which Division applies	<p>(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</p> <p>(a) the development concerned is permitted with consent under another environmental planning instrument, and</p> <p>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i>.</p> <p>(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</p>	<p>The proposed RFB is permitted with consent in the R3 Medium Density Residential zone.</p> <p>The site does not contain a heritage item.</p> <p>The site is within an accessible location as a bus stops is located within 400m of the site which is serviced regularly by a bus route.</p>	Yes
Clause 13 - Floor space ratios	<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p> <p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable</p>	<p>The total proposed GFA = 793m<sup>2</sup>. Total affordable housing GFA of Units 1, 2, 3 and 4 = 268m<sup>2</sup>, which is 33.8% of the total GFA.</p> <p>The existing max permissible FSR pursuant to the RLEP is 0.9:1. As the percentage of affordable housing is &lt;50% of the total GFA, a bonus FSR of 0.338:1 applies, being 1.238:1 (or GFA of 796.9m<sup>2</sup>).</p> <p>The proposed FSR = 1.232:1 (793m<sup>2</sup>)</p>	Yes

	<p>housing is 50 per cent or higher.</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,</p> <p>where— AH is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p><math>Y = AH \div 100</math></p>		
<p>Clause 14 - Standards that cannot be used to refuse consent</p>	<p>(1) <b>Site and solar access Requirements</b></p> <p>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) (Repealed)</p> <p>(b) <b>site area</b> if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>The site area is 643.7m<sup>2</sup></p>	<p>Yes</p>
	<p>(c) <b>landscaped area</b> if:</p> <p>(i) at least 30 per cent of the site area is to be landscaped,</p>	<p>The Standard Instrument defines landscaped area as <i>part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i></p> <p>The development application is not made by a social housing provider.</p> <p>The proposed landscaped area is approximately 28% (or 180.4m<sup>2</sup>) of the site.</p>	<p>No – see Key Issues for further assessment.</p>
	<p>(d) <b>deep soil zones</b> if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:</p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <b>deep soil zone</b>), and</p>	<p>The proposed development provides deep soil zones equating to 23% (148m<sup>2</sup>), however, 8.7% (55.8m<sup>2</sup>) of these areas are a minimum of 3m wide and 17.4% (111.8m<sup>2</sup>) of these areas are a minimum of 2.665m wide.</p>	<p>No – see Key Issues for further assessment.</p>

D60/22

	<p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>		
	<p>(e) <b>solar access</b> if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.</p>	6 units are required to receive at least 2 hours of solar access to living rooms and balconies between 9am and 3pm on 21 June. The proposal does not comply.	No – see Key Issues for further assessment.
	<p>(2) <b>General</b> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) <b>parking</b> if:</p> <p>(i) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p>	The proposal requires 8 spaces and 10 spaces has been provided.	Yes
	<p>(b) <b>dwelling size</b> if each dwelling has a gross floor area of at least:</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p> <p>(ii) An additional 5m<sup>2</sup> is required for additional bathrooms.</p>	<p>The dwellings have the following gross floor area:</p> <ul style="list-style-type: none"> <li>Unit G.01 is a 1-bedroom apartment = 70m<sup>2</sup> (Affordable)</li> <li>Unit G.02 is a 1-bedroom apartment = 70m<sup>2</sup> (Affordable)</li> <li>Unit G.03 is a 1-bedroom apartment = 54m<sup>2</sup> (Affordable)</li> <li>Unit G.04 is a 1-bedroom apartment = 54m<sup>2</sup> (Affordable)</li> <li>Unit 1.01 is a 3-bedroom apartment = 123m<sup>2</sup></li> <li>Unit 1.02 is a 3-bedroom apartment = 123m<sup>2</sup></li> </ul>	Yes



		<ul style="list-style-type: none"> <li>Unit 2.01 is a 3-bedroom apartment = 123m<sup>2</sup></li> <li>Unit 2.02 is a 3-bedroom apartment = 123m<sup>2</sup></li> </ul>	
	(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	Noted
	Nothing in this Policy affects the application of <i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> to any development to which this Division applies.	Noted. SEPP 65 applies to the development and an assessment is carried out against SEPP 65 in table further below.	Noted
Clause 16 - Continued application of SEPP 65	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Noted.	Noted
Clause 16A - Character of local area	<p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</p> <p>(a) for 10 years from the date of the issue of the occupation certificate:</p> <p>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</p> <p>(j) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, that will ensure that the requirements of paragraph (a) are met.</p>	Refer to section 9.1 of this report which addresses this section of the SEPP.	Yes
Clause 17 - Must be used for affordable housing for 10 years	(b) Land on which development has been carried out under this Division may be subdivided with the	Conditions will ensure compliance with this part.	Yes, subject to conditions.

D60/22

	consent of the consent authority.		
Clause 18 - Subdivision	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	The proposal does not include subdivision.	N/A

### Clause 16A Character of the Local Area

Clause 16A of the SEPP ARH require Council to consider whether the design is compatible with the character of the local area. A detailed discussion is provided in the Key Issues section and summarised below.

It is considered that the area is somewhat under transition given the age and density of the surrounding developments (particularly the neighbouring properties at Bona Vista Avenue), therefore consideration has been given to the existing character and desired future character of the area. The existing RFBs within the vicinity along Maroubra Road and Marine Parade are primarily three (3) and four (4) storey developments.

The proposed development complies with the maximum height provision under the RLEP and the bonus FSR provisions under the SEPP. The proposal complies with the front setback control to the front elevation facing Maroubra Road and the rear setback control. As discussed in the Key Issues section, the articulation to the side elevation represents a 1.1m non-compliance, however it is not considered to result in any significant adverse amenity or visual impacts to neighbouring properties, the streetscape and desired future character. The existing building is setback closer to the western side boundary than the proposed development, and compliance would not improve the view impacts or the ARH SEPP deep soil landscaping compliance (as minimum 3m dimensions are required). The proposed building footprint is not considered excessive, results in a suitable separation to the neighbouring properties, is characteristic within the context of the R3 zoning, adjoining residential flat buildings and would be commensurate of a level of development anticipated for the site. It is also noted that the proposal would not be dissimilar in height and scale to the immediate neighbouring buildings adjoining the western and eastern side boundaries. In view of the above, it is considered that the proposed development would be compatible with the existing or desired future character of the area.

### Part 3 Retention of Affordable Housing

The subject site and existing RFB is currently under single ownership. As the building has not been strata subdivided, nor is social housing provider accommodation or housing for seniors or people with a disability, consideration has been given to whether the provisions of Part 3 of SEPP ARH in relation to the retention of affordable rental housing are applicable.

It should be noted that the ARH SEPP was repealed on 25 November 2021, with the provisions of the ARH SEPP incorporated into the new SEPP (Housing) 2021. Schedule 7 of the Housing SEPP contains saving provisions which states that the former provisions of a repealed instrument continue to apply to a development application made, but not determined, before the commencement of the SEPP. As the subject application was lodged prior to the commencement of the new Housing SEPP, the provisions of Part 3 of the ARH SEPP are still applicable. Notwithstanding this, it is noted that Part 3 of the Housing SEPP is consistent with the previous provisions and therefore assessment of the development would remain consistent with the SEPP (Housing) 2021.

Part 3 Retention of existing affordable rental housing, pursuant to the ARH SEPP is applicable to determine whether the proposal will result in a reduction in affordable rental housing, and therefore whether a monetary contribution might be considered to substitute any loss pursuant to Section 51 of the ARH SEPP.

The ARH SEPP defines a low-rental dwelling as follows:

***“low-rental dwelling means a dwelling that was let at a rental not exceeding the median rental level at any time during the relevant period, as specified in the Rent and Sales Report,***

*in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area."*

The relevant period is defined as "the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day."

Council requested additional information from the Applicant for the rents received in the 5 year period prior to the lodgement of the application. In response, the Applicant provided details of the rental income as shown in the table below. Rental records prior to June 2017 could not be obtained as the property was managed by a different letting agent, which is no longer in business. Furthermore, several rental agreements were not renewed at the end of the lease period and tenants transitioned to a rolling contract thereby rental ledgers have been included in the table below.

The Applicant identified the existing building, indicating there being a total of 4 x 2 bedroom units. Based on the size of the existing development on site, this is accepted as the total number of bedrooms.

The quarterly rent and sales reports published by the Department of Human Services for the relevant period provides the median rental data in the table below.

The information submitted to Council identifies that the four (4) existing units have been rented out as follows:

Quarter	Median Rent – 2 Bed	Unit 1 Weekly Rental Rate	Low-rental dwelling	Unit 2 Weekly Rental Rate	Low-rental dwelling	Unit 3 Weekly Rental Rate	Low-rental dwelling	Unit 4 Weekly Rental Rate	Low-rental dwelling
Jun 17	\$650	\$500	Yes	\$500	Yes	\$600	Yes	\$600	Yes
Sep 17	\$650	\$460	Yes	\$526	Yes	\$600	Yes	\$550	Yes
Dec 17	\$660	\$460	Yes	\$526	Yes	\$600	Yes	\$550	Yes
Mar 18	\$650	\$460	Yes	\$526	Yes	\$600	Yes	\$550	Yes
Jun 18	\$650	\$460	Yes	\$526	Yes	\$600	Yes	\$550	Yes
Sep 18	\$650	\$750	No	-	-	-	-	-	-
Dec 18	\$650	\$750	No	-	-	\$700	No	\$750	No
Mar 19	\$630	\$750	No	-	-	\$700	No	\$750	No
Jun 19	\$630	\$750	No	\$752	No	\$700	No	\$750	No
Sep 19	\$610	\$750	No	\$752	No	\$700	No	\$750	No
Dec 19	\$630	\$736	No	\$752	No	\$726	-	\$750	-
Mar 20	\$630	\$736	No	\$752	No	\$726	-	\$750	-
Jun 20	\$580	\$736	No	\$752	No	\$726	-	\$750	-
Sep 20	\$560	-	-	\$752	No	\$700	No	\$750	No
Dec 20	\$550	\$700	No	\$752	No	\$700	No	\$700	No
Mar 21	\$550	\$700	No	-	-	\$700	No	\$700	No
Jun 21	\$560	\$700	No	-	-	\$700	No	\$700	No

The information provided demonstrates that all four (4) units were rented at less than the median at some point within the 5 years prior to the Development Application being lodged, resulting in four (4) low-rental dwellings at the property. Therefore, Part 3 Retention of existing affordable rental housing, pursuant to the ARH SEPP is applicable to determine whether the proposal will result in a reduction in affordable rental housing, and therefore whether a monetary contribution might be considered to substitute any loss pursuant to Section 51 of the ARH SEPP.

Clause 50 (2) of the ARH SEPP states:

- (2) *In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:*
- (a) *whether there is likely to be a reduction in affordable housing on the land to which the application relates,*

- (b) *whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,*
- (c) *whether the development is likely to cause adverse social and economic effects on the general community,*
- (d) *whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,*
- (e) *the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,*

Assessing Officer's Comment: The proposal seeks consent for the demolition of the existing building. Based on the data submitted, it is concluded that there will be the reduction of four (4) low-rental dwellings. However, the application is made pursuant to the ARH SEPP and provides for four (4) affordable housing units within the development.

The existing low-rental dwellings comprise 4 x 2 bedroom units, equating to a total of seven (8) bedrooms. The proposed development allocates 4 x 1 bedroom units as affordable housing in accordance with the ARH SEPP, providing a total of four (4) bedrooms as affordable housing.

The ARH SEPP guidelines states that clause 50(2)(a) is the most fundamental criteria in considering the reduction of affordable housing, and will determine how each of the other criteria is assessed. Furthermore, the guidelines require consideration of any new affordable accommodation being provided on the site which offsets the loss of existing low rental accommodation on the site, which may result in a nil net loss or gain in low rental accommodation.

In view of the above, whilst it is noted that there shall be a change to the type of apartments, it is considered that there shall be a net loss of four (4) affordable bedrooms available on the site and the overall number of affordable units remains unchanged. As such there shall be a reduction of affordable housing on the land, and the development may contribute to a cumulative loss of affordable housing in the LGA.

The applicant has not identified any alternative arrangements for the existing tenants within the building. A condition of consent (Condition 5) is recommended to ensure this occurs.

- (f) *the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,*

Assessing Officer's Comment: The proposal seeks demolition of the existing building.

- (g) *whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,*

Assessing Officer's Comment: As the development will result in a net loss of four (4) bedrooms as affordable housing at the subject site and will maintain the overall number of affordable bedrooms, a monetary contribution for the purpose of affordable housing may be imposed as a condition of consent.

To offset the loss of four (4) bedrooms and in accordance with Clause 51 of the ARH SEPP and in section 7.32 of the *Environmental Planning and Assessment Act 1979*, a condition is recommended to ensure affordable housing contributions are provided in accordance with the following formula:

$$\text{Contribution} = L \times R \times 0.05$$

Where:



L = is the total number of bedrooms in a low-rental dwelling bedrooms that will be lost by the proposed development (4 bedrooms)

R = is the replacement cost calculated as the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report.

the replacement cost being the average value of first quartile sales of strata properties in the Randwick LGA as published in the Rent & Sales Report, which equates to \$816,750.

R = June 2021 = \$910,000. March 2021 = \$806,000. December 2020 = \$825,000. September 2020 = \$807,000. The average value therefore = \$837,000.

The amount of the replacement cost of four (4) bedrooms ( $\times \$837,000 \times 0.05 =$ ) is calculated as \$167,400.

It is considered that the contribution payable will serve to mitigate the loss of affordable housing and Terms of approval are incorporated into the conditions of consent.

*(h) in the case of a boarding house, the financial viability of the continued use of the boarding house.*

**Assessing Officer's Comment:** The existing development is not identified as being a boarding house and therefore subclause 2(h) is not applicable.

*(3) For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgment of the development application, less than 3 per cent.*

**Assessing Officer's Comment:** The average vacancy rate for the 3 months immediately preceding the date of lodgement is 3.3% (February), 3.4% (March) and 3.1% (April) based on the data published by the Real Estate Institute of New South Wales. Notwithstanding, the ARH SEPP guidelines state:

*If the Sydney vacancy rate is equal to or exceeds 3% in the preceding quarter, then it is open to the applicant to demonstrate that adequate comparable accommodation is available in the locality.*

The Applicant has demonstrated that adequate comparable accommodation is available in the locality for the existing residents. The vacancy rate is above the 3% threshold suggesting sufficient comparable accommodation, however, these rates may be inflated due to the Pandemic circumstances which have driven down demand for rental accommodation. As such, a monetary contribution is considered warranted in this instance.

*(4) For the purposes of subclause (2) (h), the continued use of a boarding house is financially viable if the rental yield of the boarding house determined under clause 51 (5) not less than 6 per cent.*

**Assessing Officer's Comment:** The existing development is not identified as being a boarding house and therefore subclause 2(h) is not applicable.

In view of the above, it is considered that the proposed development, involving the demolition of the existing low-rental residential building, shall result in a reduction to the availability of affordable housing on the land or within the area. In accordance with Clause 51 of the ARH SEPP, a condition requiring a monetary contribution is therefore considered mandatory (Condition 4).

## 6.2. SEPP (Housing) 2021

During the course of the assessment of the application, the new SEPP (Housing) 2021 was gazetted and came into force on 26 November 2021. The new Housing SEPP shall replace the ARH SEPP, with Part 2 of the new Housing SEPP applicable to the proposed development.

While the new Housing SEPP contains saving provisions and the subject application will ultimately be determined under the ARH SEPP, consideration of the new Housing SEPP has been undertaken in accordance with the provisions of 4.15 of the Act. The provisions of Part 2 of the Housing SEPP are primarily consistent with the provisions of the ARH SEPP with particular regards to the do not refuse standards and non-discretionary standards, and design requirements. As such, it is considered that the proposed development would remain consistent with the relevant provisions under the new Housing SEPP.

### **6.3. SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004. A revised BASIX certificate was submitted on 26/09/2022 to reflect the amended plans.

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

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

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

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

Assessing Officer's Comment: Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Consent for the removal of vegetation within the site is not being sought under this DA.

The site contains no significant vegetation, and the removal of limited insignificant vegetation on site has been assessed and supported by Council's Landscape Officer (refer to Appendix 1). The proposed landscaping will increase and enhance the quality and amount of vegetation on site and biodiversity values.

### **6.5. SEPP (Biodiversity and Conservation) 2021**

The Biodiversity and Conservation SEPP came into force on 2 March 2022. The new Biodiversity and Conservation SEPP shall replace the SEPP (Vegetation in Non-rural Areas) 2017, with Chapter 2 of the new Biodiversity SEPP applicable to the proposed development. Consideration of the new Biodiversity SEPP has been undertaken in accordance with the provisions of 4.15 of the Act.

The provisions of the Vegetation SEPP have generally been transferred over to the new Biodiversity and Conservation SEPP with particular regards to when a permit from Council is required to remove vegetation and the considerations for Council when granting consent to remove vegetation. As such, it is considered that the proposed development would remain consistent with the provisions of the new Biodiversity and Conservation SEPP, noting the comments and justification above.

### **6.6. SEPP (Resilience and Hazards) 2021**

The application was lodged under the now repealed, SEPP 55 – Remediation of Land and SEPP Coastal Management. Notwithstanding any savings provisions, consideration of the application under the new Resilience and Hazards SEPP is provided below as there are no material policy changes and the new SEPP was made as part of a SEPP consolidation initiative. The Resilience and Hazards SEPP consolidated 3 SEPPs being the Coastal Management SEPP, SEPP 33, and SEPP 55.

The subject site is identified within the coastal use area and in accordance with Clause 2.11(1)(a) of the SEPP. The proposal is not considered to have an adverse impact on the access to the

foreshore area, public views, overshadowing, visual amenity, Aboriginal, cultural and built environmental heritage. It is therefore considered that the proposal upholds the provisions in Clause 2.11(1)(a) and (b) with regards to the coastal use zone.

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 (previously Clause 7 in SEPP 55). The site is unlikely to be contaminated given the use of the site has been residential. As such, the provisions of Clause 4.6 are satisfied.

The proposal is therefore consistent with the relevant provisions of the Resilience and Hazards SEPP.

### 6.7. SEPP No. 65 – Design Quality Residential Flat Buildings

The proposed development is for a new RFB that comprises 8 dwellings and is 3 storeys, therefore SEPP 65 applies.

Clause 28 (2) of SEPP 65 states:

*(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) the advice (if any) obtained from the design review panel, and*
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) the Apartment Design Guide.*

#### Assessing Officer's Comment:

In accordance with Clause 28 of SEPP 65, the development was referred to Council's Design Excellence Advisory Panel ("DEAP") who assessed the development against the design quality principles of SEPP 65 (refer to Appendix 1). The DEAP advice was considered and amended plans/additional information provided to address the concerns. The amended proposal is considered to have satisfactorily addressed the DEAP comments, subject to conditions, or provided justification for any non-compliances with particular regards to the provision of communal open space, landscaping and solar access non-compliances. As such re-referral to the Panel was not considered necessary in this instance. Refer to the table below for an assessment against the DEAP responses. The amended development is assessed as being in accordance with the design quality principles of SEPP 65.

DEAP Comment	Response
<i>Encroaching into the side and rear setbacks also reduces the opportunities for deep soil and communal spaces. Any deficiencies need to be justified, and where possible, offset by additional investment in the available spaces and site-wide initiatives (see sustainability)</i>	The side setback non-compliance attributes for a minor portion of the landscaping non-compliances as the ARH SEPP requires a minimum dimension of 3m for the calculation of deep soil landscaping. The required site setback of 2.5m in accordance with the RDCP results in none of the side setback areas being counted towards deep soil landscaping. Refer to the detailed assessment in the Key Issues section.
<i>Reducing the rear setback also impacts the shared amenity created by the cumulative contribution of the blocks rear gardens. The balcony to Unit 1.03 should be brought back to align with Unit 1.01 (or alternately, turn Units 1.02 and 1.03 into a 3-bed similar to Unit 1.01)</i>	The rear setback has been increased to comply with Council's RDCP control.
<i>Skillion roof provides sunlight to the living spaces in the top-floor units, but adds to the overall bulk and scale of the building. There</i>	The amended application removed the skillion roof and included a flat roof form. Whilst the flat roof form reduces opportunities for solar access

are other less obtrusive methods that can achieve a similar outcome, whilst improve impacts (i.e. views across the site from neighbouring properties)	to the top floor units, this is considered satisfactory and discussed further in the Key Issues section.
Lift-overflow and services on the roof should be reviewed, and if possible, relocated to the basement or reduced through alternate approaches – as above, this can improve the site's impacts on highly valued and contest views	The mechanical roof services have been relocated to the basement level and the lift overrun has been minimised as much as practically possible. The proposal complies with the 12m height standard (the proposed height is 10.22m) and no significant adverse view impacts result from the lift overrun.
The relatively low number of units receiving direct sunlight in mid-winter is a symptom of the site's orientation, proximity to the beach (views) and the number of dwellings/mix. Further justification needs to be provided, including methods for mitigating this outcome, particularly for the 1-bed units. The Panel suggest revisiting the mix and yield, in addition to further investment in the communal spaces (i.e. outdoor showers, drying areas, surfboard storage areas, etc.)	<p>The amended plans removed one of the units on the first floor level in order to create a more compliant percentage of units that receive solar access.</p> <p>No communal space has been provided, however, a communal shower has been added to the basement level entry for the future occupants. Sufficient storage space has also been provided within the units and in the basement.</p> <p>Solar access and communal space have been further discussed in the Key Issues section.</p>
The Panel see an opportunity to improve the quality of the common circulation space at Ground & Level 1 by allowing daylight and ventilation along the eastern elevation, facilitated by reorientating the bathroom.	Due to the narrow width of the site and required internal areas for each of the units, the common circulation spaces do not include external windows to allow natural lighting. Should the proposal be amended in accordance with the DEAP comment regarding the orientation of the bathroom, this is not considered an efficient use of the internal floor area and would reduce the size of the units. The internal amenity of the unit has been prioritised over the amenity of the common circulation space which is appropriate in this instance.
<p>Given the number of dwellings and additional floor space being proposed the Panel suggest a more rigorous sustainability strategy for the site, including:</p> <ul style="list-style-type: none"> <li>• Rainwater capture &amp; re-use across the site, most notably in irrigation systems and car washing</li> <li>• Louvered windows to kitchens to allow natural ventilation without relying on the sliding doors to the balcony being open</li> <li>• Ceiling fans to all bedrooms, and potentially living areas, to reduce the reliance on A/C</li> <li>• Outdoor drying area at ground for all residents</li> <li>• PV Cells on the roof, to provide energy to common areas, car charging points, and lighting to basement, lifts and circulation</li> </ul>	<ul style="list-style-type: none"> <li>• Council's Engineer has conditioned the stormwater management of the site to comply with the relevant requirements.</li> <li>• Louvred windows to the kitchen would be contrary to the privacy conditions imposed to protect overlooking from the neighbouring properties.</li> <li>• The stove rangehoods are sufficient to allow ventilation from cooking activities.</li> <li>• Condition 2(d) requires ceiling fans to all bedrooms and living areas.</li> <li>• Sufficient outdoor space within the rear garden at the ground floor level is provided for the residents.</li> <li>• Solar panels has not been provided however, LED lighting has been proposed for the internal lighting to common areas.</li> </ul>
The privacy of the south-facing 'ground floor' units should be carefully analysed, given the proximity to passing vehicular and pedestrian traffic along the busy beachfront. This may	Conditions of consent have been imposed to ensure the windows at the southern side elevation include privacy treatments. Furthermore, privacy screens to the side



<i>be addressed through solid balcony upstands for this level, then transitioning to the steel balustrade at Levels 1 and 2. Additional planters to the ground floor units may help soften the podium and improve the landscape contribution to a streetscape that's largely devoid of planting.</i>	elevations of the front balcony have been conditioned. Additional planter boxes to the units would not increase compliance with the landscaping requirements, and would reduce the private open space areas. Given there is no communal open space, generous private open spaces has been prioritised over the addition of planter boxes.
<i>Rear (north) balconies should feature solid balustrades to secure the privacy of these units and bedrooms. Without the need to capture ocean views, the priority for this elevation is privacy and the useability of these spaces.</i>	The rear balconies have enclosed by solid walls at the side elevations.

An assessment has also been carried out against the design criteria of the Apartment Design Guide ("ADG") (refer to the table below). In summary, the development complies with the objectives of the ADG.

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

- (1) *If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:*

- (a) *if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*

Assessing officer's comment: According to Council's Development Engineer, the proposal provides the required number of parking spaces (refer to Appendix 1).

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

Assessing officer's comment: All of the apartments have internal areas that comply with the ADG (refer to Appendix 3).

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

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

Assessing officer's comment: All units will be provided with 2.7m floor to ceiling heights, whilst the 3.06m floor to floor heights are less than 3.1m indicated in the ADG, it is considered that the variation is minor and the 2.7m floor to ceiling height is considered achievable across the majority of the proposed developments habitable floor area. The applicant has provided wall sections demonstrating the proposed development can achieve the minimum 2.7m ceiling height with the proposed 3.06m floor to floor dimensions for the ground floor level and level 1.

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

Assessing officer's comment: Based on comments provided by Council's DEP, adequate regard has been given to the SEPP 65 design quality principles and the ADG design criteria (refer to

Appendix 1), and the Applicant has submitted a Design Verification Statement prepared by a qualified architect.

(3) *To remove doubt:*

(a) *subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*

(b) *the design criteria specified in subclause (1) are standards to which section 79C (2) of the Act applies.*

### 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 and is further discussed in the Key Issues section.

Apartment Design Guide – Compliance Table										
Design Criteria			Proposal	Compliance						
<u>Communal and Public Open Space</u> Communal open space has a minimum area equal to 25% of the site (161m²).  Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).			No communal open space is provided for the development.	No  Refer to Key Issues for further discussion.						
<u>Deep Soil Zones</u> Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td>7% (45.1m²)</td></tr></table>			Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	Less than 650m²	-	7% (45.1m²)	148m² (23%) deep soil provided.	Complies.
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)								
Less than 650m²	-	7% (45.1m²)								
<u>Visual Privacy</u> 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: <table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr></table>			Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	The side elevation windows do not directly face the boundary, and are orientated to the front/rear of the site. Notwithstanding this, conditions have been imposed to ensure privacy treatments afford adequately privacy to neighbours and future occupants.	Satisfactory, as conditioned
Building Height	Habitable Rooms and Balconies	Non-habitable rooms								
Up to 12m (4 storeys)	6m	3m								
<u>Solar Access and Daylight</u> 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			Due to the orientation of the site, solar access to the south-facing front balconies overlooking Maroubra Beach is difficult to achieve. As such, the proposal does not comply.	No  Refer to Key Issues for further discussion.						

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
<p>Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>		
<p><b><u>Natural Ventilation</u></b> 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</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> <p><b><i>Cross-over apartment</i></b> <i>cross ventilating apartment with two opposite aspects and with a change in level between one side of the building and the other</i></p> <p><b><i>Cross-through apartment</i></b> <i>cross ventilating apartment on one level with two opposite aspects</i></p>	<p>All apartments (100%) are naturally cross ventilated.</p>	<p>Complies.</p>
<p><b><u>Ceiling Height</u></b> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> <li>Habitable Rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> </ul>	<p>All units are provided with minimum 2.7m ceiling heights, noting floor to floor heights of 3.060m. As discussed above, the detailed wall sections submitted demonstrate the floor to floor heights are satisfactory.</p>	<p>Complies.</p>
<p><b><u>Apartment Layout</u></b> Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>Studio - 35m<sup>2</sup></li> <li>1 Bedroom - 50m<sup>2</sup></li> <li>2 Bedroom - 70m<sup>2</sup></li> <li>3 Bedroom - 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>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.</p> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding</p>	<ul style="list-style-type: none"> <li>Unit G.01 is a 1-bedroom apartment = 70m<sup>2</sup> (Affordable)</li> <li>Unit G.02 is a 1-bedroom apartment = 70m<sup>2</sup> (Affordable)</li> <li>Unit G.03 is a 1-bedroom apartment = 54m<sup>2</sup> (Affordable)</li> <li>Unit G.04 is a 1-bedroom apartment = 54m<sup>2</sup> (Affordable)</li> <li>Unit 1.01 is a 3-bedroom apartment = 123m<sup>2</sup></li> <li>Unit 1.02 is a 3-bedroom apartment = 123m<sup>2</sup></li> <li>Unit 2.01 is a 3-bedroom apartment = 123m<sup>2</sup></li> <li>Unit 2.02 is a 3-bedroom apartment = 123m<sup>2</sup></li> </ul> <p>All habitable rooms have windows that comply with the requirements of the ADG.</p>	<p>Complies.</p>

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
<p>wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>3.6m for studio and 1 bedroom apartments</li> <li>4m for 2 and 3 bedroom apartments</li> </ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>All bedrooms and living rooms comply with minimum dimensions.</p>	
<p><u>Environmental Performance</u></p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Depth of habitable rooms (other than open plan rooms) do not exceed 2.5 x the ceiling height.</p> <p>Open plan rooms combining living, dining and kitchen have a maximum living room depth less than 8m from a window.</p>	Complies
<p><u>Open Space</u></p> <p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> <li>Studio - 4m<sup>2</sup></li> <li>1 bedroom - 8m<sup>2</sup> (minimum depth of 2m)</li> <li>2 bedroom – 10m<sup>2</sup> (minimum depth of 2m)</li> <li>3+ bedroom apartments – 12m<sup>2</sup> (minimum depth of 2.4m)</li> </ul> <p>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<sup>2</sup> and a minimum depth of 3m.</p>	<p>The ground level units at the rear provide courtyard areas of 8m<sup>2</sup> and 60m<sup>2</sup> of landscaped area.</p> <p>The ground floor level front unit balconies are 9.8m<sup>2</sup> (1 bedroom units). At levels 1 and 2, all units are 3 bedrooms and provide 16.5m<sup>2</sup> balconies.</p> <p>All private open spaces comply with the minimum depth requirements.</p>	Complies
<p><u>Common Circulation Space</u></p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>A maximum of four (4) units are proposed on any single level.</p>	Complies
<p><u>Storage</u></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> <li>Studio - 4m<sup>3</sup></li> <li>1 Bedroom - 6m<sup>3</sup></li> <li>2 Bedroom - 8m<sup>3</sup></li> <li>3 Bedroom - 10m<sup>3</sup></li> </ul> <p>At least 50% of the required storage is to be</p>	<p>Compliant storage is provided for each unit within the units.</p>	Complies



Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
located within the apartment.		

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

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community and encourage housing affordability, will not be inconsistent with the streetscape or the desired future character of the area (noting the area is considered to be under transition), and will not result in any unreasonable amenity impacts upon surrounding residents, subject to the recommendations within the report.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9+0.338=1.238:1 (796.9m <sup>2</sup> )	1.232:1 (793m <sup>2</sup> )	Yes
Cl 4.3: Building height (max)	12m	10.22m	Yes

### 6.8.1. Clause 5.10 - Heritage conservation

The subject site is not within close proximity to any items of heritage significance or a heritage conservation area. The subject site is not considered to be significant in terms of heritage significance. The proposal therefore satisfies the provisions under Clause 5.10 of the RLEP.

### 6.8.2. Clause 6.7 Foreshore scenic protection area

The subject site is located within the foreshore scenic protection area and the proposal is considered satisfactory in that it has been designed to minimise its visual impact from the coastal areas and contributes to the scenic quality of the Maroubra Beach coastal foreshore (Clause 4.7(3)). Further, the proposal upholds the objectives listed in Clause 6.7(1) and would not result in any significant adverse visual, amenity or view impacts to the natural and environmental qualities of the area.

The proposal is therefore acceptable with regards to Clause 6.7.

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

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

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

## 8. Environmental Assessment

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

D60/22

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6-8 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

## 8.1. Discussion of key issues

### View Sharing

The RDCP requires view sharing to be considered where there is a potential for view loss impact to ensure the equitable distribution of views between developments, neighbouring properties and the public domain.

The objectives for view sharing within RDCP are as follows:

- *To acknowledge the value of views to significant scenic elements, such as ocean, bays, coastlines, watercourses, bushland*
- *and parks; as well as recognised icons, such as city skylines, landmark buildings /structures and special natural features.*
- *To protect and enhance views from the public domain, including streets, parks and reserves.*
- *To ensure developments are sensitively and skillfully designed to maintain a reasonable amount of views from the development, neighbouring dwellings and the public domain.*

The following properties have objected to the proposal based on view impacts.

- 21 Bona Vista Avenue, Maroubra
- 1/23 Bona Vista Avenue, Maroubra (the inspection revealed no views are obtained from this ground floor level property)
- 2/23 Bona Vista Avenue, Maroubra
- 1/454 Maroubra Road, Maroubra
- 2/454 Maroubra Road, Maroubra
- 3/454 Maroubra Road, Maroubra
- 4/454 Maroubra Road, Maroubra

Multiple attempts to contact the following properties were unsuccessful and as such, no view impact inspection has been undertaken:

- 25-29 Bond Street, Maroubra
- 34 Bona Vista Avenue, Maroubra

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four-step assessment of view sharing. The steps are as follows:

### 1. The assessment of the views affected

***The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.***

21 Bona Vista Avenue, Maroubra

- Interrupted ocean views of the horizon including partially interrupted/oblique ocean/beach views to Maroubra Beach and Malabar Headland.

2/23 Bona Vista Avenue, Maroubra:

- Interrupted ocean views of the horizon, interrupted oblique ocean/beach views to Maroubra Beach and Malabar Headland.

1/454 Maroubra Road, Maroubra

2/454 Maroubra Road, Maroubra

3/454 Maroubra Road, Maroubra

- Uninterrupted views of Maroubra Beach and Malabar Headland.

### 2. From what part of the property are views obtained?

***The Court said: "The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic."***

21 Bona Vista Avenue, Maroubra

- All views across the eastern rear boundary have been considered from a standing position.
- The subject property is a two-storey dwelling-house.
- The interrupted ocean views of the horizon including partially interrupted oblique ocean/beach views to Maroubra Beach and Malabar Headland are obtained from the first-

floor level rear balcony (Figure 3) and secondary kitchen window (Figure 4) across the eastern rear and southern side boundaries.

- The interrupted ocean views of the horizon are obtained from the first floor level kitchen/lounge area across the eastern rear boundary (Figure 5).
- No views are obtained from the ground floor level.

D60/22

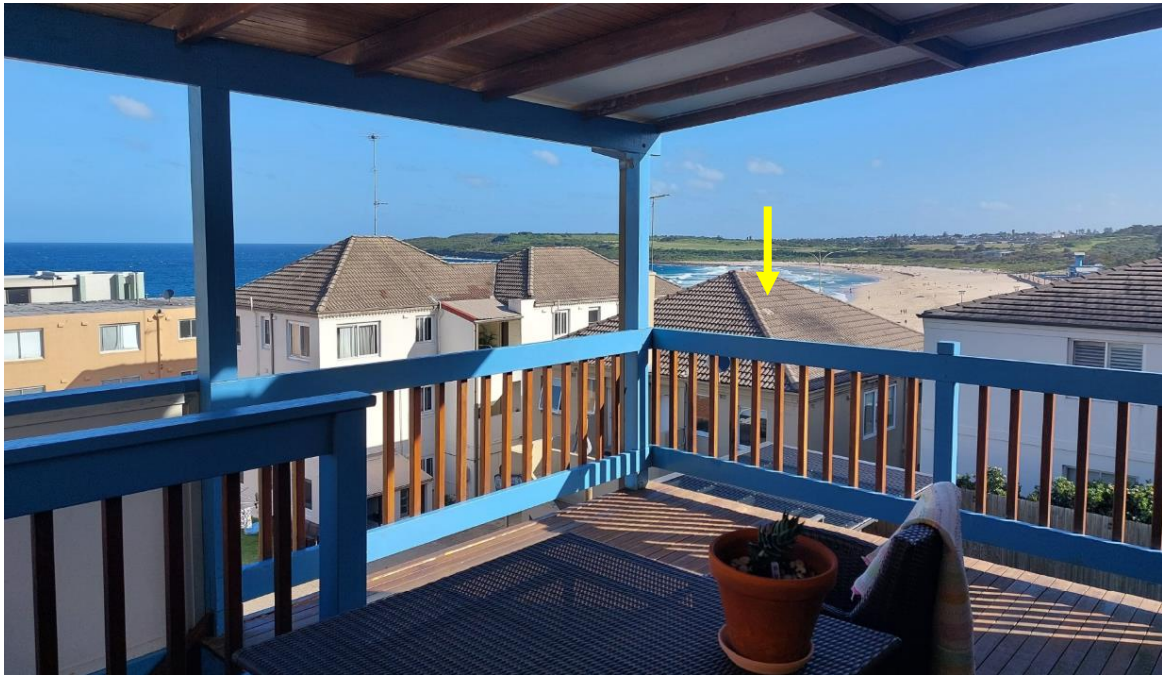


Figure 3 – Ocean, Maroubra Beach and Malabar Headland views from the balcony 21 Bona Vista Avenue



Figure 4 - Ocean, Maroubra Beach and Malabar Headland views from the kitchen window 21 Bona Vista Avenue





Figure 5 – Interrupted ocean horizon views from the kitchen/lounge area at 21 Bona Vista Avenue

2/23 Bona Vista Avenue, Maroubra

- All views across the eastern rear boundary have been considered from a standing position.
- The subject property is a dual occupancy, and the subject dwelling is located on the first-floor level.
- The ocean views of the horizon are interrupted by neighbouring built form and are obtained from the kitchen and lounge room windows across the eastern rear boundary (Figure 6).
- The ocean/beach views to Maroubra Beach and Malabar Headland are oblique, interrupted by neighbouring built form and are obtained from the kitchen and lounge area windows across the eastern rear boundary (Figure 7).

D60/22



D60/22



Figure 6 – Ocean horizon views from the lounge room at 2/23 Bona Vista Avenue



Figure 7 – Oblique views to Maroubra Beach and Malabar Headland from the kitchen at 2/23 Bona Vista Avenue

## 1/454 Maroubra Road, Maroubra

- All views across the eastern rear boundary have been considered from a standing position.
- The subject property is a ground floor level unit (above the basement parking level) in a 3-storey residential flat building.
- The uninterrupted views of Maroubra Beach and Malabar Headland are obtained from the dining and lounge area windows across the southern front boundary (Figure 8).
- Interrupted ocean views (from existing built form at the subject site) of Maroubra Beach are obtained from the dining/lounge area windows across the eastern side boundary (Figure 9).



Figure 8 – Uninterrupted views of Maroubra Beach and Malabar Headland from 1/454 Maroubra Road

D60/22



Figure 9 – Interrupted ocean views to Maroubra Beach across the side boundary from 1/454 Maroubra Road 2/454 Maroubra Road, Maroubra

- All views across the eastern rear boundary have been considered from a standing position.
- The subject property is a first-floor level unit in a 3 storey (above a basement parking level) residential flat building.
- The uninterrupted views of Maroubra Beach and Malabar Headland are obtained from the front balcony, kitchen, dining and lounge area across the southern front boundary (Figure 10).
- Interrupted ocean views (from existing built form at the subject site) of Maroubra Beach are obtained from the dining/lounge area windows across the eastern side boundary (Figure 11).





Figure 10 – Uninterrupted views of Maroubra Beach and Malabar Headland from 2/454 Maroubra Road



Figure 11 – Interrupted ocean views to Maroubra Beach across the side boundary from 2/454 Maroubra Road

3/454 Maroubra Road, Maroubra

- All views across the eastern rear boundary have been considered from a standing position.
- The subject property is a second-floor level unit in a 3 storey (above a basement parking level) residential flat building.
- The uninterrupted views of Maroubra Beach and Malabar Headland are obtained from the front balcony, kitchen, dining and lounge area across the southern front boundary (Figure 12).
- Interrupted ocean views (from existing built form at the subject site) of Maroubra Beach are obtained from the dining and lounge area windows across the eastern side boundary (Figure 13).



Figure 12 - Uninterrupted views of Maroubra Beach and Malabar Headland from kitchen 3/454 Maroubra Road





Figure 13 – Interrupted ocean views to Maroubra Beach across the side boundary from 3/454 Maroubra Road

D60/22

### 3. What is the extent of the impact?

**The Court said: "The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."**

21 Bona Vista Avenue, Maroubra

- The proposal would result in a partial loss of oblique views of the sand at Maroubra Beach across the southern side boundary at the first floor level rear balcony.
- The extent of the impact upon existing views has been demonstrated in Figures 14-16 below. The photomontages have been prepared by the Applicant.
- The interrupted views of the ocean and horizon will be maintained from the first floor level secondary kitchen and lounge area.
- Overall, it is therefore considered that the proposal will have a moderate impact on views obtained from this property.

D60/22



Figure 14 – Existing views from the first floor level rear balcony at 21 Bona Vista Avenue



Figure 15 – Amended proposal and the photomontage of view impact from first floor rear balcony at 21 Bona Vista Avenue



Figure 16 – Original proposal and the photomontage of view impact from first floor rear balcony at 21 Bona Vista Avenue

#### 2/23 Bona Vista Avenue, Maroubra

- The proposal would result in a partial loss of views to ocean below the horizon from the kitchen and lounge room windows across the eastern rear boundary.
- Overall, it is considered that the proposal would result in a minor impact on views obtained from this property.

#### 1/454 Maroubra Road, Maroubra

- The proposal would result in a partial loss of ocean views across the eastern side boundary from the side elevation window to the dining/living area. This is a result of the proposed development, specifically, the reduced front setback of the southern elevation (compared to the existing building) and balconies.
- Overall, it is considered that the proposal would result in a minor impact on views obtained from this property.

#### 2/454 Maroubra Road, Maroubra

- The proposal would result in a partial loss of ocean views across the eastern side boundary from the side elevation window to the dining/living area. This is a result of the proposed development, specifically, the reduced front setback of the southern elevation (compared to the existing building) and balconies.
- Overall, it is considered that the proposal would result in a minor impact on views obtained from this property.

#### 3/454 Maroubra Road, Maroubra

- The proposal would result in a partial loss of ocean views across the eastern side boundary from the side elevation window to the kitchen and dining/living area. This is a result of the proposed development, specifically, the reduced front setback of the southern elevation (compared to the existing building) and balconies.
- Overall, it is considered that the proposal would result in a minor impact on views obtained from this property.



#### 4. What is the reasonableness of the proposal that is causing the impact?

**The Court said: "The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."**

The Court poses two questions in *Tenacity Consulting v Warringah Council (2004) NSWLEC 140* (paragraphs 23-33). The first question relates to whether a non-compliance with one or more planning controls results in view loss. The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

The following comments are made with regard to the reasonableness of the proposal:

- The proposal will have a moderate impact on views obtained from 21 Bona Vista Avenue, and a minor impact on views obtained from 2/23 Bona Vista Avenue, Units 1, 2 and 3, 454 Maroubra Road.
- The amended proposal presents as three storeys above a basement garage level with a flat roof form. The proposed building envelope is considered to result in an appropriate streetscape outcome to Maroubra Road, the neighbouring properties at 454 Maroubra Road and the adjoining properties at Bona Vista Avenue. As shown in Figure 17 below, the parapet height is lower than the existing roof ridge height at the subject site and the overall bulk of the building is consistent with the neighbouring properties.

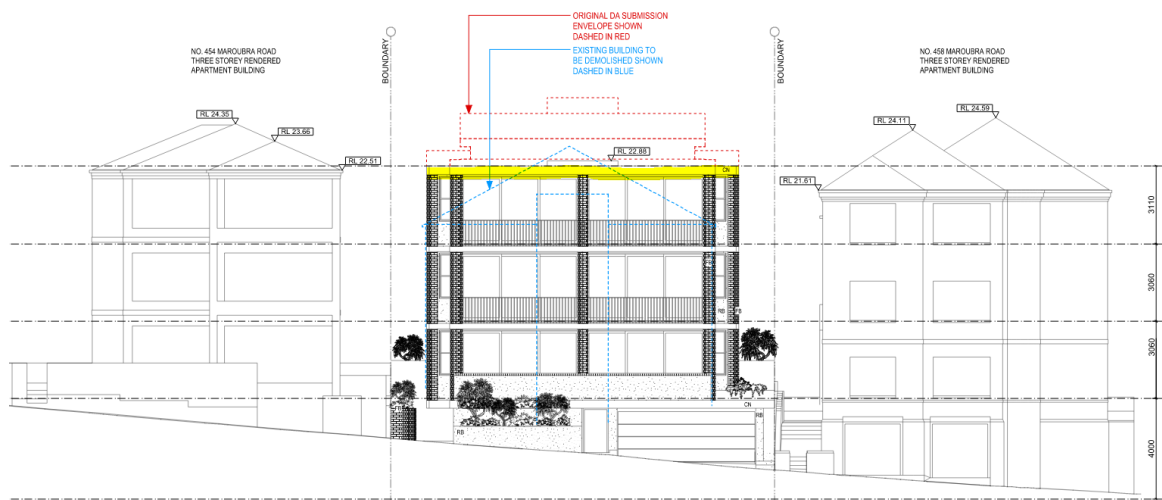


Figure 17 – Southern street elevation of the proposed development and highlighted roof parapet

- The subject site contains a two-storey residential flat building and is considered to be underdeveloped within the R3 zone. On the basis that the neighbouring property currently obtains views across the subject site, to the west of the existing pitched roof form, it is considered that any new three storey development at the site would result in unavoidable view impacts to Maroubra Beach and Malabar Headland.
- The development attains a maximum height of 10.22m which complies with the 12m maximum height control. The proposed parapet height (RL22.68) is 0.61m higher than the roof ridge height (RL23.29) of the existing building. As such, the height of the development

comprises an envelope significantly less than the envisaged Council height standard.

- The extent of view loss to the neighbouring property at 21 Bona Vista Avenue associated with the proposed residential flat building is considered satisfactory despite the partial loss of beach views to Maroubra Beach from the first-floor level rear balcony. Expansive views are maintained from the first-floor level rear balcony, secondary kitchen, and lounge area.
- The floor to ceiling heights vary throughout the building from 2.4m-2.7m and are not considered to be excessive. The amended proposal includes a flat roof form and relocated the mechanical services to the basement level thereby minimising view impacts to the neighbouring properties.
- The bulk and scale of the proposal is considered to be reasonable (the proposed floor space ratio of 1.232:1 and building height of 10.22m is less than the envisaged development standards of 1.238:1 and 12m). The proposed development will be largely contained within the permissible building envelope except for a non-compliance with the side elevation windows that provide articulation and solar access to the building. It is noted that a complaint design with regards to the western side setback would not improve the view impacts to the neighbouring properties, in particular, the first-floor level rear balcony at 21 Bona Vista Avenue.
- The neighbouring property at 21 Bona Vista Avenue adjoins the western boundary of the subject site and views to Maroubra Beach obtained across the southern side boundary. The adjoining units at 454 Maroubra Road have expansive views across the front boundary and ocean views from the eastern side elevation window. It has been established that *“the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries”*. It is therefore considered that the proposal represents a skillful design that minimises the impacts of the development to the neighbouring properties.
- The neighbouring property at 23 Bona Vista Avenue, Maroubra has been granted approval by the LEC on 27/01/2022 for the demolition of the existing structures and construction of a three (3) storey residential flat building containing (4) apartments, basement parking, landscaping and associated works (including a variation to the building height standard of the RLEP) under Affordable Rental Housing. The consent has not been activated and a construction certificate has not been issued. A modification application has been lodged to amend the basement floor level, and extend the ground, first and secondary floor levels of the building including various alterations and additions to the approved building. Whilst a view loss inspection is not possible, for the reasons summarised above, the resultant view impacts from the proposal are considered satisfactory and adequate view sharing will be provided to the ocean, Maroubra Beach and Malabar Headland as per the comments above.

In conclusion, the proposal satisfies the aims and objectives for view sharing in the RDCP and the planning principle tests established by *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

#### Landscaped Area

The proposed development incorporates affordable housing and therefore the application is made pursuant to SEPP (Affordable Rental Housing) 2009. Clause 14 of the ARH SEPP stipulates standards that cannot be used to refuse consent. Clause 14(1)(c) and (d) relate to landscaping provisions and require the following:

- *Landscaped area – at least 30% of the site area is to be landscaped.*
- *Deep soil zones – in relation to that part of the site not built upon*
  - *there is a soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area; and*
  - *each area forming part of the deep soil zone has a minimum dimension of 3 metres, and*



- *if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area.*

The definition of “landscaped area” pursuant to the Standard Instrument is as follows:

***landscaped area*** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

The proposal includes a basement car park which occupies a significant portion of the site. As such, the area of the site not occupied by building is limited and therefore the proposed landscaped area (in accordance with the above definition) is 28% or 180.4m<sup>2</sup> which does not comply with the standard. The deep soil areas, which are a minimum of 3m in width, contribute to approximately 8.7% of the site or 55.8m<sup>2</sup>.

The shortfall in landscaped area and deep soil area can be attributed to the extent of the basement level across the site. However, the proposal includes several landscaping areas throughout the site located above the basement and areas that are smaller than 3m in width. The overall deep soil zone equates to 23% (148m<sup>2</sup>) and 17.4% (111.8m<sup>2</sup>) of these areas are a minimum of 2.665m wide.

As the proposal is for a residential flat building, the provisions of SEPP 65 and the ADG are also applicable. The ADG requires a minimum of 7% (45.1m<sup>2</sup>) of the site to be deep soil zones. No minimum dimensions are provided for the purpose of deep soil areas for sites less than 650m<sup>2</sup>, in which the site is, being 643.7m<sup>2</sup>. As the proposal provides a minimum of 23% (148m<sup>2</sup>) of the site as deep soil planting, the proposal complies with the minimum provisions of the ADG.

While the provisions of SEPP ARH and SEPP 65 prevail, consideration is also given to the medium density provisions of Part C2 of the RDCP in relation to landscaping and deep soil areas. Clause 2.2 of Part C2 require a minimum of 50% of the site area to be landscaped open space and a minimum of 25% of the site to be deep soil areas, with no minimum numerical dimensions specified. The proposed development shall have landscaped open space equating to 33% (214.7m<sup>2</sup>) of the site area, and deep soil areas of 19% (123m<sup>2</sup>).

The objectives of clause 2.2 aim to ensure that landscape open space is provided of sufficient size to be used for recreational activities or growing substantial vegetation, to reduce impermeable surface cover and reduce stormwater run-off, improve stormwater quality and improve the amenity of open space with landscaped design.

While the proposed development results in non-compliance with the minimum deep soil areas and landscaped open space, the proposal includes additional landscaping in the form of planter boxes within the front setback and substantial areas located within the rear and side setbacks for planting and vegetation. The rear units at the ground floor level have substantial garden areas for deep soil landscaping. As such, as outlined above the area of site utilised for planting shall be approximately 33% (214.7m<sup>2</sup>) of the site. The landscaped open space results in a non-compliance of 17%, the proposal provides sufficient setbacks to the east and west, and compliant front (southern) and rear (northern) setbacks and the building footprint is not considered to be excessive. Compliance with the side setback controls at the ground floor level would not improve compliance with the deep soil landscaping requirements as the 3m dimension specified in the SEPP ARH would not be achieved. Furthermore, the landscaped open space comprises a combination of soft and hard landscaping. Council's Development Engineer raised no concerns regarding the stormwater management of the site, subject to recommended conditions. As such, the proposal is considered to be consistent with the objectives of the control and is supported in this instance.

In view of the above, the proposed development is considered to provide a balance between built form and open space, and provide adequate areas throughout the site for the purpose of plantings and landscaping. Furthermore, given that the proposal complies with the minimum requirements of the ADG in regards to deep soil areas and landscape open space, refusal of the application based on landscaping provisions would not be warranted in this instance, and therefore the variations are supported.

### Solar Access

The ARH SEPP states that the consent authority cannot refuse consent to the development if 70% of the apartments receive a minimum of 3 hours of sunlight in midwinter between 9am and 3pm. The provisions of the ADG require a minimum of 2 hours of sunlight to 70% of apartments between 9am and 3pm in midwinter, and RDCP 2013 requires a minimum of 3 hours of direct sunlight in midwinter to 70% of apartments between 8am and 4pm.

Due to the north-south orientation of the site and the design of the POS balconies which are roofed, the proposed development does not comply with the above requirements. Clause 14(1)(e) of the AHR SEPP is a “cannot not refuse” standard and therefore Council can grant consent to a development which does not comply with the provisions provided it is appropriate to do so and that the proposal achieves the objectives of the policy. As such, consideration has been given to the requirements of the ADG and RDCP with regards to solar access. The proposed development provides direct solar access as follows:

### Living Areas

Unit	Solar Access 9am-3pm	Compliance SEPP ARH (3 hours)	Compliance ADG (2 hours)	Solar Access 8am-4pm	Compliance RDCP (3 hours)
G.01	Nil	x	x	Nil	x
G.02	Nil	x	x	Nil	x
G.03	2 hours	x	✓	2 hours	x
G.04	2 hours	x	✓	2 hours	x
1.01	Nil (3hrs to rear bedroom)	x	x	Nil (3hrs to rear bedroom)	x
1.02	Nil (4hrs to rear bedroom)	x	x	Nil (4hrs to rear bedroom)	x
2.01	Nil (6hrs to rear bedroom)	x	x	Nil (6hrs to rear bedroom)	x
2.02	Nil (6hrs to rear bedroom)	x	x	Nil (6hrs to rear bedroom)	x
<b>Percentage</b>		<b>0% (50% if rear bedroom included)</b>	<b>25% (75% if rear bedroom included)</b>		<b>0% (50% if rear bedroom included)</b>

### Private Open Space

Unit	Solar Access 9am-3pm	Compliance SEPP ARH (3 hours)	Compliance ADG (2 hours)	Solar Access 8am-4pm	Compliance RDCP (3 hours)
G.01	Nil	x	x	Nil	x
G.02	Nil	x	x	Nil	x
G.03	2 hours	x	✓	2 hours	x
G.04	5 hours	✓	✓	5 hours	✓
1.01	3 hours	✓	✓	3 hours	✓
1.02	4 hours	✓	✓	4 hours	✓
2.01	6 hours	✓	✓	6 hours	✓
2.02	6 hours	✓	✓	6 hours	✓
<b>Percentage</b>		<b>62.5%</b>	<b>75%</b>		<b>62.5%</b>

The ARH SEPP and RDCP require a minimum of 70% of apartments to achieve solar access to the living areas and private open spaces. The proposal does not comply with these requirements and only provides 2 hours of solar access to the living rooms at Units G.03 and G.04. It is noted that Units G.03 and G.04 are the only units with living areas orientated to north and include generous private open space areas with rear gardens. With regards to the private open space requirements, the proposal complies with the ADG (5 out of 8 units), however the ARH SEPP and RDCP require 6 out of 8 units to comply.

Due to the orientation of the subject site and the expansive views obtained across the southern front boundary to Maroubra Beach and Malabar Headland, all units (not including Units G.03 and G.04) have been orientated to take advantage of these views by locating private open spaces and living rooms to the southern side of the building. As demonstrated in the table above, should the rear primary bedrooms be counted as a living room, the proposal would comply with the ADG requirements. It is also noted that the original proposal included a skillion roof form with highlight windows to provide solar access to the units at level 3, however to minimise view impacts, the amended plans revised the roof design to a flat roof.

Notwithstanding the above, consideration has been given to the objectives of the controls. Objective 4A aims to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space, with the objectives of Part 5.1 of RDCP seeking to ensure the design of development maximises solar access and to minimise the need for artificial lighting during daylight hours.

Given that all apartments have dual aspect, the units shall receive good natural daylight into all areas of the apartment, with particular regards to the living areas which have substantial window openings. The apartments that do not receive compliant solar access are those which are orientated to the southern side of the building to maximise views to Maroubra Beach and Malabar Headland. As the living spaces provide multiple windows, while compliant direct solar access shall not be provided, the proposed dwellings shall obtain generous natural daylight into the spaces and shall not rely artificial lighting. The subject site adjoins Maroubra Road and Maroubra Beach to the south and there is no possibility of future built form that would decrease natural lighting to the building. All bedrooms include north facing windows that are articulated into the design of the side elevations. The solar access non-compliance is not a result of any building envelope variations, in particular, the side setbacks. In view of the numerical non-compliances, the optimization of views and extent of natural light that the apartments shall achieve, the proposal is supported in this instance.

#### Communal Open Space

Objective 3D-1 of the ADG requires a minimum area for communal open space equal to 25% of the site area, with the communal area to receive a minimum of 2 hours of sunlight in midwinter. However, the objective acknowledges that some developments may not be able to achieve the design criteria and the provision of COS, with particular regards to small lots. The subject site is considered to be a smaller sized allotment, having a site area of 643.7m<sup>2</sup>. Part 3D-1 of the ADG recommends that where developments are unable to achieve the design criteria, the following should be considered:

- *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- *provide larger balconies or increased private open space for apartments*
- *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

A roof terrace would require additional roof top structures to access the area adversely attributing to the bulk and scale of the development, and would likely result in adverse amenity impacts upon surrounding properties with regards to view impacts, visual and acoustic privacy given the proximity of the proposed development to the neighbouring properties. As such, in this instance it is considered that a roof terrace would not be an appropriate solution.

To compensate for the lack of COS, the proposed development provides private open space areas in excess of the minimum requirements under the ADG, with the following areas provided:

- One bedroom apartments – 8m<sup>2</sup> required, 9.8m<sup>2</sup> balconies to Units G.01 and G.02, 8m<sup>2</sup> balconies with >60m<sup>2</sup> rear gardens to Units G.03 and G.04.
- Three bedroom apartments – 12m<sup>2</sup> required, two balconies at the front and rear of the building are provided to Units 1.01, 1.02, 2.01 and 2.02. The front balconies facing Maroubra Beach adjoining the kitchen/living/dining areas are 16.5m<sup>2</sup> and the rear balconies adjoining the primary bedrooms are 3.5m<sup>2</sup>.

The subject site is directly adjacent Maroubra Beach and nearby public recreation areas including Jack Vanny Reserve, Mahon Pool, Mistral Point, Broadarrow Reserve, Arthur Byrne Reserve and Malabar Headland National Park.

Objective 3D-1 seeks to enhance residential amenity for occupants and provide opportunities for landscaping.

Subclause 2.3.2 of Part C2 of RDCP also requires communal open space to be provided for residential flat buildings, however no minimum numerical area is provided. The objective of clause 2.3 aims to ensure that useful areas of private and communal space for outdoor living and recreation to serve the needs of residents is provided to enhance their quality of life.

The areas of POS at the ground floor level are well integrated with landscaping to improve the visual outlook and amenity of the areas. In view of the size of the site, increased POS and the proximity of Maroubra Beach and public recreational areas, it is considered that in this instance despite the lack of COS, the proposal can achieve the objectives of the ADG and subclause 2.3.2 and therefore is supported in this instance.

#### Character of Local Area (Clause 16A of SEPP ARH)

Division 1 of the SEPP contains provisions and development standards that apply to development for the purpose of a in-fill affordable housing which have been addressed in the most part in SEPP ARH Table in Appendix 2. Clause 16A of SEPP ARH specifies that 'a consent authority must take into consideration whether the development is compatible with the *character of the local area*'.

An appropriate methodology in carrying out this character test is provided for in the Land and Environment Court planning principle that seeks to ascertain the compatibility of a proposal with the surrounding development. The key case cited in this character test is *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191 at 22-31*. An outline of the test includes ascertaining the:

- A. Identify the local context,
- B. Compatibility of built form that is:
  - *Is the appearance of the proposal in harmony with surrounding development and the character of the area?*
  - *What are the physical impacts of the proposal on the amenity of neighbouring properties having regard to visual amenity, privacy, overshadowing and views.*
- C. Compatibility of use.

#### A. Identify the local area (Context)

The extent of land use surrounding the subject site are predominately medium density residential within sites zoned R3 medium density residential. The immediate locality is occupied by a mix of medium density residential land uses with built form dominated by three storey and four buildings. The two to three storey attached dual occupancies that adjoin the western side boundary on Bona Vista Avenue are considered underdeveloped within the R3 zone and desired future character of the area. As such, the surrounding area can be considered to be in transition with the emerging character expected to contain higher densities in the R3 medium density zone.

#### B. Compatibility of built form:

The consent authority is required to take into consideration whether the design of the development is compatible with the character of the local area.

- *Is the appearance of the proposal in harmony with surrounding development and the character of the area?*

The proposal as amended is consistent with the streetscape character, presenting as a three-storey development well within the 12m maximum height of buildings standard (the height of the proposed development is 10.22m) in the RLEP for R3 zone of the site and surrounding area.

Despite the bonus floor area afforded by the SEPP ARH (1.238:1) – a higher order social planning policy that aims for greater housing stock of affordable rental housing in NSW, the proposed development as amended complies with the full floor area bonus (the proposed FSR is 1.232:1). The additional bonus floor area is accommodated by only minor variations to the applicable RDCP controls for the side setbacks, solar access and landscaped area. It is considered that the objectives of the RLEP and RDCP provisions will continue to be satisfied.

In terms of appearance, the proposal presents as a medium density form of development envisaged by the standards, sits comfortably within the site and the emerging character of the area zoned for medium density housing.

Overall, the proposed larger density is representative of a sustainable form of development, is socially beneficial providing additional affordable rental housing stock in NSW and is therefore considered to meet the character test.

The next consideration is *are the physical impacts of the proposal on surrounding development acceptable?*

The physical impacts of the proposal on the amenity of neighbouring properties having regard to key aspects of visual amenity, privacy, overshadowing and views are assessed as follows:

#### *Visual Amenity*

In terms of visual amenity, the proposed in-fill development will essentially read as a three-storey development above basement parking when viewed from the street and surrounding properties. The proposal is consistent with the relevant built form standards for medium density residential development contained in the RLEP for height of buildings (12m). The proposed gross floor area (1.232:1) is also compliant with the bonus density/floor area afforded for this type of development under the SEPP ARH allowing for a maximum of 1.238:1. The proposal is also generally consistent with the provisions of the built form controls in the RDCP applicable to medium density and low-density residential dwellings and where non-compliance occurs such as with setback and landscaping, the proposal is considered to satisfy the relevant objectives.

In particular regard to setbacks, the proposed setbacks mostly comply with the RDCP provisions except for the areas providing articulation in order to allow north facing windows to the bedrooms. The articulated area represents a 1.1m non-compliance with the 2.5m RDCP control. The proposed setback non-compliance occurs over a small portion (12.11m) of the 36m length of the side elevation. The setbacks are generally acceptable having regard to the RDCP provisions which are reflective of the existing and likely urban pattern of development in the medium density residential environment. As discussed under the solar access assessment above, the non-compliances are considered satisfactory against the relevant objectives. The windows provided to the side elevation articulated areas improve amenity, natural lighting and ventilation for the future occupants. No view impacts are attributed to the side setback non-compliances and adequate separation between neighbouring buildings is provided. For these reasons, the side setback non-compliance is considered satisfactory.

#### *Overshadowing*

The proposed development retains reasonable levels of solar access to the neighbouring properties and does not result in undue overshadowing of neighbouring properties by virtue of the north-south orientation of the site. The proposed overshadowing complies with Council's RDCP requirements in that 3 hours of solar access is maintained to neighbouring living rooms and private open spaces between 8am and 4pm during mid-winter.

#### *Privacy*



The side elevations include windows that face the rear of the site, however, to mitigate cross viewing and potential privacy impacts, conditions have been imposed that require adequate privacy measures be installed.

The rear balconies include privacy screening to the side elevations and the front balconies have been conditions to include privacy screening in accordance with Council's standard requirements.

#### Views

As discussed in the view sharing assessment above, the impact upon existing views to neighbouring properties is considered satisfactory and is not a result of any non-compliances with the building envelope controls.

Within the above context, the proposed bulk and scale, subject to conditions, is compatible with the built form of the surrounding area. The design of the development is capable of co-existing in harmony with the existing built form of its surroundings by virtue of the proposed scale, number of storeys, roof form, setbacks and contemporary design and mix of external colours and materials.

#### C. Compatibility of use:

The proposed constitutes a permissible development and its residential use is representative of a compatible use in the local area in the R3 medium density residential zone. The necessity for affordable housing stock represents a socially benefit.

Overall having regard to context, compatibility of built form and uses, the proposal is considered to satisfy the character test requirements within Clause 16A of the SEPP ARH 2009.

### 9. Conclusion

That the application for the demolition of existing structures and construction of a 3 storey residential flat building comprising 8 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the R3 zone in that it presents a bulk and scale that is generally consistent with that envisaged by the applicable standards that will contribute to the character of the area and not result in any adverse impacts on the residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Design Excellence Advisory Panel

##### “INTRODUCTION

Attached is a copy of the minutes relating to this 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

### INTRODUCTION

- Demolition of existing residential flat building and replacement with a four-storey building (parking at grade with three levels of residential above)

#### **General Notes:**

The Panel consider this design to be well executed and responsive to the site's unique characteristics and context. A number of additional studies and information is requested to support the design approach, particularly in relation to potential impacts arising from the pursuit of additional floor space under the AHRSEPP.

#### **Built Form & Analysis**

- By accommodating the additional floor-space (through the AHRSEPP) within the height controls added pressure has been placed on the setbacks. Where setbacks are being encroached the Panel suggests additional analysis, including;

- View analysis from those properties to the north that may access views through/across the site to the coast. This is most relevant in the side setbacks, where it appears a mediated approach has been taken, with some elements intruding into the setback whilst other parts of the building offset.
- Encroaching into the side and rear setbacks also reduces the opportunities for deep soil and communal spaces. Any deficiencies need to be justified, and where possible, offset by additional investment in the available spaces and site-wide initiatives (see sustainability)
- Reducing the rear setback also impacts the shared amenity created by the cumulative contribution of the blocks rear gardens. The balcony to Unit 1.03 should be brought back to align with Unit 1.01 (or alternately, turn Units 1.02 and 1.03 into a 3-bed similar to Unit 1.01)
- Skillion roof provides sunlight to the living spaces in the top-floor units, but adds to the overall bulk and scale of the building. There are other less obtrusive methods that can achieve a similar outcome, whilst improve impacts (i.e. views across the site from neighbouring properties)
- Lift-overrun and services on the roof should be reviewed, and if possible, relocated to the basement or reduced through alternate approaches – as above, this can improve the site's impacts on highly valued and contest views
- The relatively low number of units receiving direct sunlight in mid-winter is a symptom of the site's orientation, proximity to the beach (views) and the number of dwellings/mix. Further justification needs to be provided, including methods for mitigating this outcome, particularly for the 1-bed units. The Panel suggest revisiting the mix and yield, in addition to further investment in the communal spaces (i.e. outdoor showers, drying areas, surfboard storage areas, etc.)
- The Panel see an opportunity to improve the quality of the common circulation space at Ground & Level 1 by allowing daylight and ventilation along the eastern elevation, facilitated by reorientating the bathroom.

### **Sustainability**

- Given the number of dwellings and additional floor space being proposed the Panel suggest a more rigorous sustainability strategy for the site, including:
  - Rainwater capture & re-use across the site, most notably in irrigation systems and car washing
  - Louvered windows to kitchens to allow natural ventilation without relying on the sliding doors to the balcony being open
  - Ceiling fans to all bedrooms, and potentially living areas, to reduce the reliance on A/C
  - Outdoor drying area at ground for all residents
  - PV Cells on the roof, to provide energy to common areas, car charging points, and lighting to basement, lifts and circulation

### **Streetscape & Privacy**

- The privacy of the south-facing 'ground floor' units should be carefully analysed, given the proximity to passing vehicular and pedestrian traffic along the busy beachfront. This may be addressed through solid balcony upstands for this level, then transitioning to the steel balustrade at Levels 1 and 2. Additional planters to the ground floor units may help soften the podium and improve the landscape contribution to a streetscape that's largely devoid of planting
- Rear (north) balconies should feature solid balustrades to secure the privacy of these units and bedrooms. Without the need to capture ocean views, the priority for this elevation is privacy and the useability of these spaces.

### **Appearance & Materials**

- The Panel support the overall architectural approach and material selection, which in this harsh coastal environment will require robust and resilient products like brick, steel and concrete – these have been well crafted across the site's elevations. As noted above, the Panel suggests some refinement to the balconies and roof levels, whilst seeking further landscaping and communal activation around the side setbacks

### **Summary**

Given the points above it is the opinion of the Panel that the proposal demonstrates that:

1. The additional FSR and overall bulk on the site has placed considerable pressure on the side setbacks, which are highly contested and sensitive to proposed encroachments given the site's coastal location. This needs to be carefully analysed and understood, and where possible, offset by improvements in other areas of the site (roof plane).
2. The proposed yield, coupled with an absence of communal open space and limited deep soil, must be justified and potentially accompanied by additional/improvements in communal open space, landscaping, privacy mechanisms and sustainability initiatives

*Its the Panel's opinion that subject to the points within this report being addressed that the design has the capacity to be approved."*

## 1.2. Development Engineer

"An amended application has been received for the demolition of existing structures and construction of a 3 storey residential flat building comprising 9 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works (affordable rental housing proposed pursuant to ARH SEPP).

This report is based on the following plans and documentation:

- Amended Architectural Plans by Ergo Architecture Rev E dated 12/04/2022;
- Statement of Environmental Effects by GSA Planning date March 2021;
- Stormwater Plans by Donovan associates dated 10/02/2021;
- Detail & Level Survey by Survcorp Consulting Surveyors dated 2/09/2020;
- Traffic Impact Assessment Report by PDC consultants dated 10/02/2021;
- Geotechnical Report by JK Geotechnics dated 4<sup>th</sup> March 2021;
- Landscape Plans by Gabi Park, dwg's 001-002, rev B, dated 17/03/22.

## General Comments

No objections are raised to the proposal subject to the comments and conditions provided in this report.

The earlier issue identified with the head clearance in the vicinity of the car-stackers has been satisfactorily resolved. The head clearance been increased from 3.58m to 3.7m.

## Flooding Comments

The Planning Officer is advised that the subject development site is located adjacent to a localised flow path and the Council commissioned & adopted, Maroubra Bay Flood Study indicates part of the property will be subject to some minor flooding during major storm events.

The flooding only impacts the northeast corner of the property however there is also some overland flows on the road reserve in front of the site on Maroubra Road

It should be noted that Part B8 of Council's DCP currently requires;

- Basement levels are to be protected by a crest on the driveway at generally 0.3m above the level of the 1% AEP (1 in 100yr) flood or twice the depth of flow if adjacent to a flow path.
- All habitable floor area is to be provided at or above the level of the 1% AEP (1 in 100yr) flood + 0.5m freeboard.

Development Engineering have assessed the current proposed building plans against the specified flood levels and other relevant information. A flood plot of the proposal is provided below for reference.





D60/22

The minor flooding will have the following implications for the development and can be conditioned. Suitable conditions have been included in this report.

- The flooding at the front of the property reaches a peak depth of 0.07m. The proposed internal driveway & pedestrian entrances shall therefore be designed with a high point at least 150 mm (being twice the depth of flow) above the design alignment levels to protect the basement from predicted surface flooding in Maroubra Road during the 1% AEP (1 in 100 year) storm event. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
- The flooding at the rear of the of the property reaches a peak depth of 0.08m at the location of the proposed rear terraces. They shall therefore be suitably protected by a raised retaining wall and threshold for the stairs that shall be a minimum of 160mm (being twice the depth of flow) above surrounding finished ground surface.
- Adequate provision is to made for a surface flow path along the eastern side boundary at the rear with all landscaping to comprise of minimal trunk sizes (less than 300mm fully grown) and with no masonry walls blocking the flow paths. Any fencing across the flow path must be minimal and is to be of a free and open form.

#### **Parking Provision Comments**

Parking Requirements for the proposed development have been assessed as per the following applicable parking rates specified in sec 14(2) , Part 2, Division 1 (In Fill Housing) in the SEPP Affordable Housing. The development cannot be refused in parking grounds provided the minimum parking rates are achieved.

- 0.5 spaces per 1 bedroom dwelling
- 1.0 spaces per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit
- No visitor parking specified

The amended development now comprises of 8 dwellings comprising of 4 x 1 bedroom units and 4 x 3 bedroom units

$$\begin{aligned}
 \text{Parking required under AHSEPP} &= (4 \times 0.5) + (4 \times 1.5) \\
 &= 2.0 + 6.0 \\
 &= 8.0 \\
 &= \text{say 8 spaces}
 \end{aligned}$$

Parking proposed = 10 spaces (complies)

#### Motorbike Parking

Motorbike Parking is to be provided at 5% of the vehicle parking requirement.

Motorbike Parking Required =  $0.05 \times 8$   
= 0.4 (not required as < 0.5 spaces)

Motorbike Parking proposed = 1 space (complies)

#### Bicycle Parking

For Flats/multi dwelling bicycle parking to be provided at 1 space per 2 units plus 1 visitor space per 10 units.

Bicycle Parking Required =  $9/2 + 9/10$   
=  $4.5 + 0.9$   
= 5.4  
= say 5 spaces

Bicycle Parking proposed = 6 spaces complies

#### **Parking Layout Comments**

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of Australian Standard 2890.1:2004.

#### Carstacker

The earlier issue identified with the car-stacker has been satisfactorily resolved with the amended plans. The head clearance in the vicinity of the car-stackers has been increased from 3.58m to 3.7m.

#### **Undergrounding of site feed power lines**

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

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

The subject **is/is not** located within 15m of a power pole on the same side of the street hence the above clause **is/ is not** applicable. A suitable condition has been included in this report.

#### **Waste Management Comments**

The applicant is required to submit to Council and have approved by Council's Director Planning, a Waste Management Plan (WMP) detailing waste and recycling storage and disposal for the development site.

The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage, collection recycling & disposal of waste and show how the on-going management of waste for the units will operate.

#### Comments on the number of Waste Bins

Appendix 3 in Part B6 of Council's DCP specifies a waste bin requirement rate for residential flat buildings houses of 1 x 240L bin per 2 rooms for normal garbage and 1 x 240L bin per 2 rooms for recycling.

i.e. Garbage/recycling Bins Required =  $9/2 = 4.5 = 5$  (rounded up to nearest whole number))

There are no specific requirements for green waste in Part B6 of the DCP however since March of 2021 Council has introduced a Garden Organic Food organic (FOGO) collection service. As some landscape areas are also proposed it is recommended that a minimum of 2 x 240L bins also be provided for FOGO.

Total Number of BINS required = 4(normal) + 4(recycling) + 2(FOGO)  
= 10 x 240L BINS

Total Number of BINS provided = 10 x 240L BINS (complies)

**Landscape Comments**

There is no established vegetation within this site or on adjoining private or public property at all that would pose a constraint to this development, so conditions in this report relate purely to the requirement to formally implement the submitted Landscape Plans, which will significantly increase the amount of plant material at this site, resulting in high quality outcome for future occupants."

**D60/22**

## Appendix 2: DCP Compliance Table

### 3.1 Section C2: Medium Density Residential

It is noted that Clause 6 of SEPP 65 refers to Parts 3 and 4 of the ADG and requires:

*(1) This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*

- (a) visual privacy,*
- (b) solar and daylight access,*
- (c) common circulation and spaces,*
- (d) apartment size and layout,*
- (e) ceiling heights,*
- (f) private open space and balconies,*
- (g) natural ventilation,*
- (h) storage.*

*(2) If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.*

*(3) This clause applies regardless of when the development control plan was made.*

Therefore, where the RDCP provides controls in relation to (1), refer to Appendix 3 for the ADG design criteria assessment.

The relevant provisions of the DCP are addressed below.

DCP Clause	Control	Proposal	Compliance
<b>C2</b>	<b>Medium Density Residential</b>		
<b>2.2</b>	<b>Landscaped open space and deep soil area</b>		
<b>2.2.1</b>	<b>Landscaped open space</b>		
	A minimum of 50% of the site area (321.9m <sup>2</sup> ) is to be landscaped open space.	<p>The proposed landscaped area is approximately 33% (214.7m<sup>2</sup>) of the site.</p> <p>The variation is supported noting the development is consistent with the objectives of the control, and it is considered that sufficient landscaped open space is provided that shall enhance the landscape character of the site.</p>	<p>No</p> <p>See Key Issues for further assessment.</p>
<b>2.2.2</b>	<b>Deep soil area</b>		
	<p>(i) A minimum of 25% of the site area (110.85m<sup>2</sup>) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.</p> <p>(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</p>	<p>19% (123m<sup>2</sup>).</p> <p>It is noted that the SEPP ARH housing requires only 15% and the ADG requires 7% deep soil.</p>	<p>No</p> <p>See Key Issues for further assessment.</p>



DCP Clause	Control	Proposal	Compliance
	<p>spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.</p> <p>(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.</p> <p>(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.</p> <p>(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.</p>	<p>The variation is supported due to the constraints of the site and the provision of car parking which requires a significant basement level. The site provides sufficient areas for landscaping and substantial vegetation, particularly within the side setbacks and at the front and rear. Stormwater will be appropriately managed (refer to Development Engineering comments at Appendix 1) with permeable surfaces provided where possible.</p>	
<b>2.3</b>	<b>Private and communal open space</b>		
<b>2.3.1</b>	<b>Private open space</b>		
	<p>Private open space is to be:</p> <p>(i) Directly accessible from the living area of the dwelling.</p> <p>(ii) Open to a northerly aspect where possible so as to maximise solar access.</p> <p>(iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.</p> <p><b>For residential flat buildings:</b></p> <p>(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.</p> <p>(vii) Private open space for apartments has a minimum area of 8m<sup>2</sup> and a minimum dimension of 2m.</p>	<p>Each apartment is provided with an area of POS in excess of the minimum requirements under the ADG and RDCP.</p>	Yes
<b>2.3.2</b>	<b>Communal open space</b>		
	<p>Communal open space for residential flat building is to be:</p> <p>(a) Of a sufficient contiguous area, and not divided up for allocation to individual units.</p> <p>(b) Designed for passive surveillance.</p> <p>(c) Well oriented with a preferred northerly aspect to maximise solar access.</p> <p>(d) adequately landscaped for privacy screening and visual amenity.</p> <p>(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.</p>	<p>No communal open space provided.</p>	<p>No</p> <p>See Key Issues for further discussion.</p>
<b>3</b>	<b>Building Envelope</b>		

D60/22

D60/22

DCP Clause	Control	Proposal	Compliance
<b>3.1</b>	<b>Floor space ratio</b>		
	1.238:1 required by the combined maximum permitted under the LEP and bonus under the ARH SEPP.	1.232:1	Yes
<b>3.2</b>	<b>Building height</b>		
	12m required by the LEP.	10.22m	Yes
<b>3.3</b>	<b>Building depth</b>		
	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.	Building / apartment depths comply with the ADG limiting maximum glass line to glass line to 18m length for apartments for purpose of ventilation which takes precedence over the RDCP for this development standard (refer to ADG assessment).  The proposal also complies with the minimum depth requirements in the DCP.	Yes
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b> (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. (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. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.		Yes
<b>3.4.2</b>	<b>Side setback</b>		
	<b>Residential flat building</b> (i) Comply with the minimum side setback requirements stated below: <ul style="list-style-type: none"> <li>- Lots with a site frontage width &gt;14m and &lt;16m: 2.5m side setback applies</li> </ul>	The site frontage width is 15.24m, and therefore a 2.5m side setback applies.  <b>Eastern</b> Basement – Nil GF – 1.4m-3m L1 – 1.4m-3m L2 – 1.4m-3m	Partial compliance.  See Key Issues for further discussion.

DCP Clause	Control	Proposal	Compliance
	(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: <ul style="list-style-type: none"> <li>- Create articulations to the building facades.</li> <li>- Reserve open space areas and provide opportunities for landscaping.</li> <li>- Provide building separation.</li> <li>- Improve visual amenity and outlook from the development and adjoining residences.</li> <li>- Provide visual and acoustic privacy for the development and the adjoining residences.</li> <li>- Ensure solar access and natural ventilation for the development and the adjoining residences.</li> </ul>	<b>Western</b> Basement – 0.7m GF – 1.4m-3.1m L1 – 1.4m-3.1m L2 – 1.4m-3.1m	
	(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.	A standard condition will ensure compliance with the BCA is achieved.	Yes
<b>3.4.3</b>	<b>Rear setback</b>		
	For residential flat buildings, provide a minimum rear setback of 15% (6.3m) of allotment depth or 5m, whichever is the greater.  iii) The required rear setback may be varied in the following scenarios: <ul style="list-style-type: none"> <li>• Allotments with an irregular shape.</li> <li>• Allotments with the longest boundary abutting the street or the rear adjoining neighbour (that is, the frontage width being longer than the site depth).</li> <li>• Allotments with the rear boundary abutting a laneway.</li> <li>• A central courtyard is provided in the development.</li> </ul>	For an allotment depth of 45.235m, a rear setback of 6.3m applies to the site.  Basement – 6.7m GF – 6.4m L1 – 6.3m L2 – 6.3m	Yes
<b>4</b>	<b>Building Design</b>		
<b>4.1</b>	<b>Building façade</b>		
	(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.	The front façade to Maroubra Road is well articulated and presents well to the street and surrounding properties. The articulation to the front facade includes balconies, recessed and projecting	Yes

D60/22

DCP Clause	Control	Proposal	Compliance
	(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 length and stagger the wall planes.	architectural elements, and a change in building materials.	
<b>4.2</b>	<b>Roof design</b>		
	<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"> <li>- There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.</li> <li>- The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.</li> <li>- Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.</li> </ul>	<p>The proposed flat roof is consistent with the desired future character of development within the vicinity that is undergoing transition. Furthermore, the amended flat roof form minimises view impacts and relocated mechanical equipment to the basement level.</p>	Yes



DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <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>		
<b>4.3</b>	<b>Habitable roof space</b>		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> <li>- Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.</li> <li>- Has a maximum floor space of 65% of the storey immediately below.</li> <li>- Wholly contain habitable areas within the roof space.</li> <li>- 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.</li> <li>- Design windows to habitable roof space as an integrated element of the roof.</li> <li>- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.</li> </ul>	None proposed.	N/A
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	The proposed development has a maximum external wall height of approximately 8.9m-9.2m.	Yes
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m	Yes
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Pedestrian pathways and vehicular access are clearly distinguished.	Yes
	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> <li>- Locate building entries so that they relate to the pedestrian access network and desired lines.</li> </ul>	The building entry at the front adjacent to the western boundary relates well to the pedestrian access network, landscaping	Yes

D60/22

D60/22

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Design the entry as a clearly identifiable element in the façade composition.</li> <li>- Integrate pedestrian access ramps into the overall building and landscape design.</li> <li>- For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible.</li> <li>- 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).</li> <li>- Provide weather protection for building entries.</li> </ul> <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>design and is clearly defined.</p> <p>Mailboxes are accessible from the pedestrian entry to the basement and building.</p> <p>The building entry from Maroubra Road is partially covered.</p>	
<b>4.6</b>	<b>Internal circulation</b>		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> <li>- Providing natural lighting and ventilation where possible.</li> <li>- Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors.</li> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul>	<p>Building circulation requirements are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment).</p>	<p>Complies with the ADG.</p>
	<p>(ii) Use multiple access cores to:</p> <ul style="list-style-type: none"> <li>- Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites.</li> <li>- Articulate the building façade.</li> </ul>	<p>1 pedestrian access core is provided within the core of the building and a maximum of 4 units are provided on the ground floor level.</p>	<p>Yes</p>

DCP Clause	Control	Proposal	Compliance
	- Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units.		
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	Apartments are not provided off a double-loaded corridor.	N/A
<b>4.7</b>	<b>Apartment layout</b>		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> <p>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.</p> <p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>	<p>Apartment layouts are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment).</p> <p>Notwithstanding, all apartments have dual aspects and are naturally cross ventilated and provided with adequate natural light.</p>	Complies with the ADG.
	<p>(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.</p> <p>(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.</p>	All apartments are provided with compliant POS that complies with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment).	Complies with the ADG.
<b>4.8</b>	<b>Balconies</b>		
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m<sup>2</sup> and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p> <p>(i) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m<sup>2</sup>. All ground floor apartments are to have direct access to a terrace.</p>	All apartments are provided with compliant POS that complies with the ADG, which takes precedence over the RDCP for this development standard.	Complies with the ADG.
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	<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>	The proposal presents as a modern apartment building utilising primarily render, neutral colours, lightweight	Yes

D60/22

D60/22

DCP Clause	Control	Proposal	Compliance
	<p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> <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>metal recessive cladding and texture stone, with glass.</p>	
<b>4.12</b>	<b>Earthworks Excavation and backfilling</b>		
	<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>	<p>The proposed volume of excavation and relative setbacks of the basement level are considered satisfactory due to the topography and the need to facilitate basement parking.</p> <p>A condition is included within the consent which requires a dilapidation report (incorporating photographs of relevant buildings) to be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site and any other property or public land which may</p>	Yes



DCP Clause	Control	Proposal	Compliance
		be affected by the works.	
	<b>Retaining walls</b> (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (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).	Retaining walls are proposed for the basement garage. The retaining walls shall provide setbacks less than 900mm to the northern boundary for the basement. Appropriate conditions of consent shall be imposed.	Yes
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access for proposed development</b>		
	(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. (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.	No	See Key Issues for further discussion.
	(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.	No single aspect apartments are proposed.	Complies
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	Refer to Key Issues assessment.	Complies
	<b>Solar access for surrounding development</b>		
	(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.	The shadow diagrams submitted with the application demonstrates compliant solar access is maintained to the neighbouring properties.	Complies.
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		

D60/22

DCP Clause	Control	Proposal	Compliance
	(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.	All habitable rooms are provided with natural daylight via windows.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Appropriate sun shading devices have been provided.	Yes
	(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.	All habitable rooms are provided with window openings to outdoor areas.	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.	All habitable rooms are capable of natural ventilation.	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.	All apartments (100%) are cross-ventilated.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	All kitchens (100%) have access to natural ventilation.	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.	N/A	N/A
<b>5.3</b>	<b>Visual privacy</b>		
	<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"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> </ul>	Privacy measures shall be imposed to ensure no unreasonable impacts upon adjoining properties with regards to visual privacy.	Yes

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>		
<b>5.4</b>	<b>Acoustic privacy</b>		
	(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"> <li>- Double glazing</li> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>	Acoustic privacy will be achieved within the apartments due to separation of quiet areas from noisy areas.	Yes
<b>5.5</b>	<b>View sharing</b>		
	(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 from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.	Refer to Key Issues.  It is not considered that any unreasonable view loss impacts shall occur as a result of the proposed development.	Satisfactory
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Entry points to the building can be appropriately secured and will have clear lines of site.	Yes

D60/22

D60/22

DCP Clause	Control	Proposal	Compliance
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Direct, secure access is provided.	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.	All apartments are provided with openable habitable room windows that are capable of being secured.	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No obstruction to lines of sight is proposed.	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	A security door to the basement access is proposed.	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	A condition is recommended to ensure compliance with this part.	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	A condition is recommended to ensure compliance with this part.	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.	Casual surveillance will be achieved to the street and communal areas from living rooms and private open spaces.	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	A condition is recommended to ensure compliance with this part.	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	A condition is recommended to ensure compliance with this part.	Yes
<b>6.1</b>	<b>Location</b>		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Access to the basement car park is proposed from multiple points.	Yes
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The driveway length is minimised.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	The driveway is setback a minimum distance of 750mm from the eastern side boundary and this is considered satisfactory by Council's Engineer.	Satisfactory

DCP Clause	Control	Proposal	Compliance
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	There is no rear access.	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (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. (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.	Parking is proposed within the basement.	Yes
<b>6.2</b>	<b>Configuration</b>		
	(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.	The proposal is for off-street basement car parking accessed off Maroubra Road. Vehicles will be able to enter and exit the site in a forward direction with adequate turning space in the basement.	Yes
	(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.	Council's Engineer has confirmed the 5.5m wide basement is satisfactory.	Satisfactory
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (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. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades.	The proposed basement complies with the development standard.	Yes

D60/22



D60/22

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum.</li> <li>- Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.</li> </ul>		
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>Fencing</b>		
	<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"> <li>- Steel post and chain wire</li> <li>- Barbed wire or other dangerous materials</li> </ul> <p>(ii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	<p>Front and side fencing is proposed containing suitable materials.</p> <p>The front fence is rendered brickwork which is satisfactory.</p> <p>The side and rear boundary fence materials have not been shown on the architectural plans. As such, conditions have been imposed that the side boundary fences comply with the required materials.</p>	Satisfactory, as conditioned.
<b>7.2</b>	<b>Front Fencing</b>		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>(ii) The maximum height of front fencing is limited to 1200mm, as 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.</p> <p>(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.</p> <p>(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios:</p> <ul style="list-style-type: none"> <li>- Front fence for sites facing arterial roads.</li> <li>- Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade.</li> </ul> <p>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.</p>	<p>The front fence incorporates two levels of planter boxes. The height of the front planter closest to the boundary is approximately 1m from the level of the central pedestrian entry path. The second planter located behind the front planter is approximately 1.75m from the path level.</p> <p>Due to the slope of the street, the planter box heights are considered satisfactory as they respond to the natural fall in the topography and result in an acceptable visual impact to the streetscape.</p>	Satisfactory

DCP Clause	Control	Proposal	Compliance
	<p>(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.</p> <p>(vi) The preferred materials for front fences are natural stone, face bricks and timber.</p> <p>(vii) Gates must not open over public land.</p> <p>(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.</p>		
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	<p>(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).</p> <p>(ii) In the scenario where there is significant level difference 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>	The architectural plans do not specify the height of the rear or side boundary fences. As such, a condition has been imposed to ensure the boundary fences comply with Council's requirements stated in Part 7.3 of the RDCP.	Satisfactory, as conditioned.
<b>7.6</b>	<b>Storage</b>		
	<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 – 6m<sup>3</sup></p> <p>(a) 1-bedroom apartments – 6m<sup>3</sup></p> <p>(b) 2-bedroom apartments – 8m<sup>3</sup></p> <p>(c) 3 plus bedroom apartments – 10m<sup>3</sup></p>	Storage is provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment).	Complies with ADG.
<b>7.7</b>	<b>Laundry facilities</b>		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Adequate clothes drying facilities are proposed for the Units.	Complies
	(ii) Provide internal laundry for each dwelling unit.	Each unit is provided with an internal laundry.	Complies

DCP Clause	Control	Proposal	Compliance
	(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.	Adequate clothes drying facilities are proposed for the Units.	Complies
<b>7.8</b>	<b>Air conditioning units:</b>		
	<ul style="list-style-type: none"> <li>Avoid installing within window frames. If installed in balconies, screen by suitable balustrades.</li> <li>Air conditioning units must not be installed within window frames.</li> </ul>	The A/C units are not identified for the development. Therefore, a condition is included to ensure that the AC units are not located within balconies or the roof of the proposed development.	Subject to condition.

**Attachment/s:**

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/366/2021 - 456 Maroubra Road, MAROUBRA NSW 2035 - DEV - Ms D Hatzipilis

---

**Responsible officer:** Tegan Ward, Senior Environmental Planning Officer

**File Reference:** DA/366/2021

## Development Consent Conditions



D60/22

<b>Folder /DA No:</b>	DA/366/2021
<b>Property:</b>	456 Maroubra Road, MAROUBRA NSW 2035
<b>Proposal:</b>	Demolition of existing structures and construction of a 3 storey residential flat building comprising 8 residential units (4 proposed as affordable rental housing), basement car parking, landscaping and associated works.
<b>Recommendation:</b>	Approval

### GENERAL CONDITIONS

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

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

### Approved Plans & Supporting Documentation

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

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Site Plan (Drawing No. DA_001 – Issue C)	Ergo Architecture	28/04/2022	09/05/2022
Basement Plan (Drawing No. DA_100 – Issue E)		28/04/2022	09/05/2022
Ground Floor Plan (Drawing No. DA_101 – Issue D)		28/04/2022	09/05/2022
Level 1 Floor Plan (Drawing No. DA_102 – Issue D)		28/04/2022	09/05/2022
Level 2 Floor Plan (Drawing No. DA_103 – Issue D)		28/04/2022	09/05/2022
Roof Plan (Drawing No. DA_104 – Issue C)		28/04/2022	09/05/2022
South Elevation North Elevation (Drawing No. DA_300 – Issue D)		28/04/2022	09/05/2022
East Elevation West Elevation (Drawing No. DA_301 – Issue C)		28/04/2022	09/05/2022
Long Section Short Section (Drawing No. DA_400 – Issue C)		28/04/2022	09/05/2022

Window Schedule (Drawing No. DA_800 – Issue B)		12/03/2021	25/06/2021
External Finishes (Drawing No. DA_700 – Issue A)		12/03/2021	25/06/2021

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
1171506M_02	23/09/2022	26/09/2022

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
- A privacy screen having a height of 1.6m (measured above the finished floor level) shall be provided to the entire eastern and western side elevations of the front balconies at the ground, level 1 and level 2 floor levels.  
  
Privacy screen/s must be constructed with either:
    - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
    - Fixed lattice/slats with individual openings not more than 30mm wide;
    - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
  - The following windows must have a minimum sill height of 1.6m above floor level, or alternatively, the windows are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
    - WG.02, WG.03, WG.04, WG.05, WG.06, WG.07, WG.08, WG.11, WG.12, WG.13, WG.14, WG.15, WG.16, WG.17 at the ground floor level.
    - W1.02, W1.03, W1.04, W1.05, W1.06, W1.08, W1.11, W1.12, W1.13, W1.14, W1.15, W1.16, W1.17 at level 1.
    - W2.02, W2.03, W2.04, W2.05, W2.06, W2.07, W2.08, W2.11, W2.12, W2.13, W2.14, W2.15, W2.16, W2.17 at level 2.
  - The height of the side and rear boundary fences shall not exceed 1.8m as measured from the existing ground levels. For sloping areas, the fences must be stepped to follow the topography of the land, with each step not exceeding 2.2m above the existing ground level.
  - Ceiling fans shall be provided to the living room areas and bedrooms.

**Affordable Rental Housing Component**

3. Units G.01, G.02, G.03 and G.04 shall be provided as affordable rental housing in accordance with the SEPP (ARH) 2009.
- The dwellings to be used for the purposes of 'affordable rental housing', as per the provisions of the SEPP (ARH) 2009 shall be used as such for at least 10 years from the date of the issue of the Occupation Certificate.
  - The affordable rental housing component (secured for a minimum of 10 years) must be managed by a registered Community Housing Provider (CHP).
  - The CHP must ensure compliance with the occupant restriction and others provisions of the regulatory code established through regulations under the Housing Act 2001.



- d) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
- e) Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

**Loss of Affordable Rental Housing Contribution**

- 4. A monetary contribution of \$167,400.00 mitigating the loss of low-rental accommodation pursuant to Clause 51 of the SEPP Affordable Rental Housing (2009) shall be paid to Council in one complete payment prior to the occupation of the building associated with the subject works.

The contribution must be paid in cash and/or bank cheque.

- 5. The current tenants in Units 1, 2, 3 and 4 shall be:
  - a. Provided with a minimum of 3 months' Notice to Vacate.
  - b. Assisted to find alternative comparable accommodation. This shall include verified and genuine efforts in making enquiries with local real estate agents and or relevant community housing providers; and
  - c. Provided with a \$500 one-off payment to assist with relocation expenses.

The applicant shall inform the tenants of these units of this condition and documentary evidence shall be submitted to Council showing this and payment of the contribution prior to the issue of the Construction Certificate in accordance with Clause 50(2) of the SEPP Affordable Rental Housing 2009.

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

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

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

**Consent Requirements**

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

**External Colours, Materials & Finishes**

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

**Section 7.12 Development Contributions**

- 8. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$3,955,457 the following applicable monetary levy must be paid to Council: \$39,554.55.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an

index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

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

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

Where:

**IDC** = the indexed development cost

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

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

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

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

#### **Compliance Fee**

9. A development compliance and enforcement fee of \$8,306.45 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

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

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

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

#### **Security Deposits**

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

- \$10,000 - Damage / Civil Works Security Deposit

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

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

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

#### **Sydney Water Requirements**

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

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

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

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

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

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

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

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

#### **Telecommunications infrastructure**

13. Prior to the issue of a Construction Certificate in connection with this development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Principal Certifier that arrangements have been made for:

- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and;
- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

NOTE: Real estate development project has the meanings given in section 372Q of the Telecommunications Act.

#### **Survey Infrastructure**

14. Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:

A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.

- (a) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.

- (b) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

**Note:** Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any [survey mark](#) unless authorised to do so by the [Surveyor-General](#).

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

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

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

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

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

#### BASIX Requirements

16. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

#### Traffic Conditions

17. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation.
18. The proposed internal driveway shall be designed with a high point at least 150 mm (being twice the depth of flow) above the specified design alignment levels to protect the basement from predicted surface flooding in Maroubra Road during the 1% AEP (1 in 100 year) storm event (see also flooding conditions). Details demonstrating compliance with this condition are to be included in the construction certificate documentation.

19. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

**Design Alignment Levels**

20. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:

**Vehicle Access**

- RL 11.15 AHD (western edge of driveway)
- RL 10.72 AHD (eastern edge of driveway)
- Straight grade between the above two points

**Central Pedestrian Access**

- RL 11.30 AHD

**Western Pedestrian Access**

- RL 11.85 AHD

The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881.

21. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$884** calculated at **\$58.00** per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
22. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

**Flood Management & Stormwater Drainage**

23. The following amendments are required on plans submitted for the construction certificate to the satisfaction of the Principal Certifier to ensure adequate protection of the development against flooding during major storm events up to and including the 1% AEP (1 in 100yr flood);
- a) The internal driveway and pedestrian accesses shall be designed with high points a minimum of 150 mm (being twice the depth of flow) above the specified design alignment levels opposite to protect the basement level from predicted surface flooding in Maroubra Road during the 1% AEP (1 in 100 year) storm event.
  - b) The rear terraces of the proposed ground floor units (G03 & G04) shall be protected by a raised retaining wall (surrounding the terrace) and stair threshold such that the top wall/threshold level is a minimum of 160mm above the finished ground level



immediately adjacent. This is to ensure protection of units G03 & G04 from a minor overland flow path at the rear of the property.

- c) Adequate provision is to be made for a surface flow path along the eastern side boundary at the rear with all landscaping to comprise of minimal trunk sizes (less than 300mm fully grown) and with no masonry walls blocking the flow paths. Any fencing across the flow path must be minimal and is to be of a free and open form.

**Any enquiries on the above matters shall be directed to Council's Development Engineer on 9093-6881**

24. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:
- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
  - b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
  - c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
    - i. Roof areas
    - ii. Paved areas
    - iii. Grassed areas
    - iv. Garden areas
  - d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
  - e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
  - f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.
25. The site stormwater drainage system is to be provided in accordance with the following requirements;
- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
  - b) The stormwater must be discharged (by gravity) either:
    - i. Directly to the kerb and gutter in front of the subject site in Maroubra road or
    - ii. Directly into Council's underground drainage system located in Maroubra Road via a new and/or existing kerb inlet pit; or

- iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.

Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.

- c) Should stormwater be discharged to Council's street drainage system the maximum discharge from the site must not exceed 25L/S for all storm events up to the 1 in 20 year storm event. All stormwater run-off from the site exceeding this amount is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an average recurrence interval of 100 years (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1 in 100 year storm.

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;

i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.

- ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.

- iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)

- iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. road, laneway or reserve).

- e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.

- f) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.

- g) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
  - ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- h) If connecting to Council's underground drainage system, a reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
- i) Any new kerb inlet pits (constructed within Council's road reserve) are to be constructed generally in accordance with Council's standard detail for the design of kerb inlet pits (drawing number SD6 which is available from Council).
- j) Generally all internal pipelines must be capable of discharging a 5% AEP (1 in 20 year) storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
- k) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete or double brick.
- A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).

- Provision of a sign adjacent to the pit stating, "This sediment/silt arrester pit shall be regularly inspected and cleaned".

*Sketch details of a standard sediment/silt arrester pit may be obtained from Council's Drainage Engineer.*

- l) The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.

*(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).*

- m) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):
- 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
  - 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
  - 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
  - 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
  - Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

*Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.*

- n) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- o) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- p) Mulch or bark is not to be used in on-site detention areas.
- q) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

**Site seepage/Groundwater**

26. The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- Sub-soil drainage must not be connected or discharged directly or indirectly to Council's street gutter.
- Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).

- c) Sub-soil drainage systems (if provided) must comply with one or more of the following requirements:-
- i. The system may be connected directly to Council's underground drainage system (but only with the prior written approval of Council, as required under the *Roads Act 1993*).
  - ii. Any sub-soil drainage systems must be restricted from entering the basement areas of the building and the stormwater drainage system, by tanking/waterproofing the basement areas of the building.
  - iii. Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
- d) Details of the proposed stormwater drainage system including methods of sub-soil drainage, tanking/waterproofing (as applicable) must be prepared or approved by a suitably qualified and experienced *Professional Engineer* to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier**

#### Waste Management

27. A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.

The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- The use of the premises and the number and size of occupancies.
- The type and quantity of waste to be generated by the development.
- Demolition and construction waste, including materials to be re-used or recycled.
- Details of the proposed recycling and waste disposal contractors.
- Waste storage facilities and equipment.
- Access and traffic arrangements.
- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

*Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's Customer Service Centre.*

28. The garbage room shall be sized to contain a total of 11 x 240 litre bins (comprising 4 garbage bins, 5 recycle bins and 2 FOGO bins, with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
29. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

#### Public Utilities

30. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.



**Undergrounding of Site Power**

31. Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Maroubra Road. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.

**Landscape Plans**

32. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Gabi Park, dwg's 001-002, rev B, dated 17/03/22, as well as the current set of architectural plans, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

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

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

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

**Certification and Building Inspection Requirements**

33. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.  
  
A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
  - b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
  - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council are to be notified accordingly; and
  - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
  - e) at least two days' notice must be given to the Council, in writing, prior to commencing any works.

**Home Building Act 1989**

34. In accordance with section 4.17 (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, the relevant requirements of the Home Building Act 1989 must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.

#### **Dilapidation Reports**

35. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- as otherwise may be required by the *Principal Certifier*.

The dilapidation report shall include details of the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifier*.

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

#### **Construction Noise & Vibration Management Plan**

36. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

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

A *Construction Noise Management Plan*, prepared in accordance with the NSW EPA Construction Noise Guideline by a suitably qualified person, is to be implemented throughout the works, to the satisfaction of the Council. A copy of the strategy must be provided to the Principal Certifier and Council prior to the commencement of works on site.

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

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;

- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

#### **Demolition Work**

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

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

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

#### **Demolition & Construction Waste Plan**

39. A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 1300 722 542.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

#### **Construction Traffic Management**

40. An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Council's Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Maroubra Road for the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to

provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

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

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

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

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

42. Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

All conditions and requirements of the NSW Police, Roads & Maritime Services, State Transit Authority and Council must be complied with at all times.

#### **Public Utilities**

43. Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.

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

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

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

**Inspections during Construction**

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

**Restriction on Working Hours**

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

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

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

**Removal of Asbestos Materials**

46. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- Occupational Health & Safety legislation and WorkCover NSW requirements
  - Randwick City Council's Asbestos Policy
  - A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
  - On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
  - Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.



- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

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

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

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

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

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

48. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
49. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifier*:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
  - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
  - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
  - as may be required by the *Principal Certifier*.

The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifier*.

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

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

Details of the sediment and erosion control measures to be implemented on the site must be included in the Construction Management Plan and be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

**Public Safety & Site Management**

51. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:

- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

- e) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open out into the road or footway.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
- i) Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

**Site Signage**

52. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

#### Survey Requirements

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

- prior to construction (pouring of concrete) of the footings or first completed floor slab,
- upon completion of the building, prior to issuing an occupation certificate,
- as otherwise may be required by the Principal Certifier.

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

#### Building Encroachments

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

#### Site Seepage & Stormwater

55. Details of the proposed connection and or disposal of any site seepage, groundwater or construction site stormwater to Council's stormwater drainage system must be submitted to and approved by Council's Development Engineering Coordinator, prior to commencing these works, in accordance with section 138 of the *Roads Act 1993*.

Details must include the following information:

- Stormwater/De-Watering Management Plan (prepared by a suitably qualified Environmental Consultant);
- Detailed plans and specifications;
- Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council's drainage system
- Volume of water to be discharged
- Location and size of drainage pipes
- Duration, dates and time/s for the proposed works and disposal
- Details of water quality and compliance with the requirements of the *Protection of the Environment Act 1997*
- Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the *Protection of the Environment Act 1997* and associated Regulations and Guidelines
- Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water & Energy).
- Details of compliance with any relevant approvals and licences

#### Road/Asset Opening Permit

56. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:

- A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.
- Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works

(on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.

- c) Relevant *Road / Asset Opening Permit* fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
- d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* or occupation of the development (whichever is sooner).
- e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
- f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
- g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
- h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each day's activities and upon completion.
- i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.
- j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
- k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

**Traffic Management**

- 57. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- 58. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.
- 59. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

**Stormwater Drainage**

- 60. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.

The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

**Groundwater**

61. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site, in accordance with the requirements of Section 138 of the Roads Act 1993.

**Vegetation**

62. Due to their small size and insignificance, no objections are raised to removing any vegetation throughout this development site where needed to accommodate the works as shown, subject to full implementation of the approved Landscape Plans.

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

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

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

**Occupation Certificate Requirements**

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

**BASIX Requirements & Certification**

64. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifier* and Council upon issuing an Occupation Certificate.

**Street and/or Sub-Address Numbering**

65. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.

*Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.*

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

66. The owner/developer must meet the full cost for a Council approved contractor to:

- Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises to Council's specifications and requirements.
- Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
- Re/construct concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.



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

**Service Authorities**  
**Sydney Water**

69. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to [sydneywater.com.au/section73](http://sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council **prior to the issuing of an *Occupation Certificate***.

**Undergrounding of Power**

70. The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Maroubra Road. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.

NOTE : Any private poles must be removed prior to the issuing of an occupation certificate.

**Survey Infrastructure – Restoration**

71. Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey mark must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council prior to the issue of an occupation certificate.

The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey

Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.

#### **Flooding**

72. The Principal Certifier shall be satisfied that the completed development complies with the flood mitigation measures as specified in the conditions of this consent.
73. A "restriction on the use of land" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the flood protection measures required for basement and rear terraces are not compromised by any future works. Such restriction shall not be released, varied or modified without the consent of the Council.

#### **Notes:**

- a. The "restriction on the use of land" is to be to the satisfaction of Council. Please contact Council's Development Engineer on 9093-6881 for provision of appropriate wording.
- b. The works as executed drainage plan must be submitted to Council prior to the "restriction on the use of land" being executed by Council.
- c. Evidence of registration of the Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.

#### **Stormwater Drainage**

74. Should an OSD system be required, a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

#### **Notes:**

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
  - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
  - c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.
75. A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):
- Finished site contours at 0.2 metre intervals;
  - The location of any detention basins/tanks with finished surface/invert levels;
  - Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
  - Volume of storage available in any detention areas;
  - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
  - Details of any infiltration/absorption systems; and
  - Details of any pumping systems installed (including wet well volumes).
76. The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

D60/22

The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.

77. The applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter.

**Landscape Certification**

78. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Gabi Park, dwg's 001-002, rev B, dated 17/03/22, and any relevant conditions of consent.
79. Suitable strategies must then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

**Waste Management**

80. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
81. The waste storage areas shall be clearly signposted.

**OPERATIONAL CONDITIONS**

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

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

**External Lighting**

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

**Waste Management**

83. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.

**Plant & Equipment – Noise Levels**

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

In this regard, the operation of the plant and equipment shall not give rise to an LAeq, 15 min sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

**Air Conditioners**

85. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

**Use of parking spaces**

86. The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

**Stormwater Detention/Infiltration System**

87. Any provided On Site Detention/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

**Residential Parking Permits**

88. All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.
89. A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.

D60/22