

Randwick Local Planning Panel Meeting

Thursday 11 July 2019



RANDWICK LOCAL PLANNING PANEL

Notice is hereby given that a Randwick Local Planning Panel meeting of Randwick City Council will be held in the Council Chamber, 1st Floor, 90 Avoca Street, Randwick on Thursday, 11 July 2019 at 1:00pm

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.

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Roman Wereszczynski
ACTING DIRECTOR CITY PLANNING

Development Application Report No. D31/19

Subject: 15 Dutruc Street, Randwick
(DA/477/2018)



Folder No: DA/477/2018

Author: Barker Ryan Stewart, Pty Ltd

Proposal: Alterations to existing dwelling including two storey addition to rear, basement level car parking, laundry, storage and paint studio, alterations to existing pool, landscaping and associated works (Heritage Item).

Ward: North Ward

Applicant: Dr J C L Birch

Owner: Dr T M Fountaine

Cost of works: 1,287,579.00

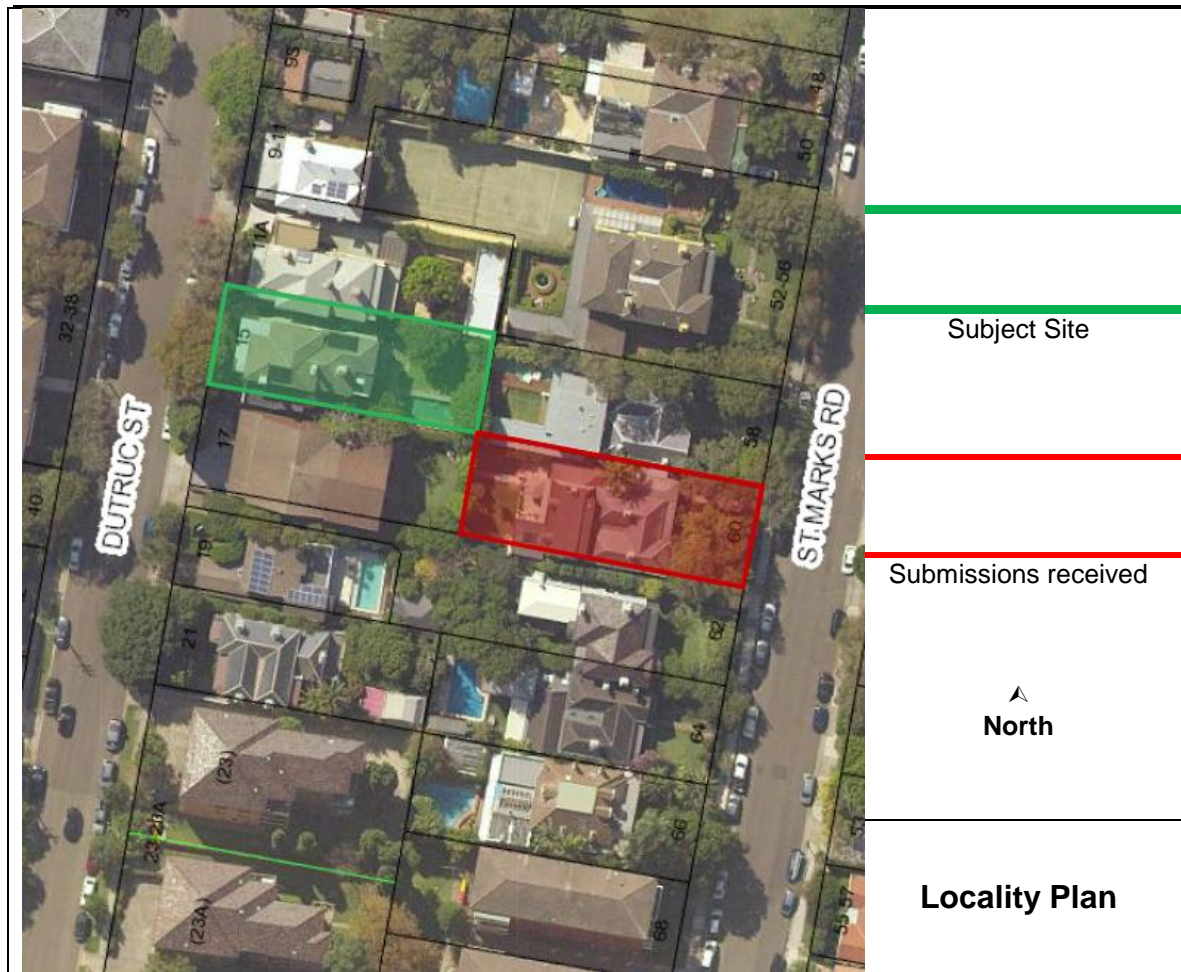
Reason for referral: Development involving the demolition of a heritage item

Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 477/2018 for Alterations and additions to the existing dwelling including a basement floor level, at No. 15 Dutruc Street, Randwick subject to the development consent conditions attached to this report.

D31/19

D31/19



1. Executive summary

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

- The development involves demolition of part of a heritage item.

The proposal seeks development consent for alterations and additions to the rear of the existing dwelling house, as well as the construction of a basement floor level. The application includes the demolition of the existing garage.

The key issues associated with the proposal relate to heritage and non-compliances with the DCP.

Heritage

The subject site is a nominated local heritage item pursuant to the Randwick LEP 2012. The subject application proposes a significant addition to the rear of the existing dwelling and the demolition of the existing garage.

Council's Heritage Planner has reviewed the application and provides the following comments in summary as it relates to the proposed rear addition,

The proposed addition will be wider than the existing addition, extending around 3m beyond the existing southern side wall of the front section of the dwelling. The addition however is set well to the rear and will not be prominent in the streetscape of Dutruc Street and will not impact on the main roof form. The proposed addition will be lower than the existing rear wing, having a ridge height below the eave height of the front section of the dwelling. The proposed rear addition adopts a pavilion-type form, separated from the original building by a glazed link. The scale of the proposed addition will remain secondary to the original building and will not visually

dominate, compete with or conceal the original form and massing of the existing buildings. The contemporary detailing of the proposed addition will distinguish it from the original building.

The proposal materials and finishes, including white rendered walls, colorbond roofing and black anodized aluminum windows, will be compatible with materials and finishes of the existing dwelling.

Further detailed comments are provided below by Council's Heritage Planner.

Non-Compliances with DCP

A detailed assessment of the proposed works against the applicable provisions of the DCP is included at Appendix 2. This assessment identifies non-compliances as they relate to wall height, excavation and setbacks and these variations are assessed in the key issues section of this report (see Section 8.1).

As part of this assessment, and in response to the variation to the side setback control of the DCP, an amendment is proposed, via condition, to the basement and ground floor level terrace to minimize the impact on the adjoining property at the southern side. Conditions 2.a. and 2.b. propose an increase to the setback to the southern side boundary to 1.0m.

While these DCP non-compliances represent small numerical variations to these controls the application is supported, subject to a minor amendment, as the development demonstrates consistency with the objectives of these controls.

The application is therefore recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is described as Lot 7 DP 245089 and known as 15 Dutruc Street, Randwick. The site is located on the eastern side of Dutruc Street with a total area of 625.8m². The site has a frontage to Dutruc Street of 15.215m and a depth of 41.05m, and is a rectangular shaped allotment.

The site supports large canopy tree plantings adjacent to the property boundaries. The site has a fall from the street to the rear with an average change of 3.2m in topography across the depth of the site.

The site currently supports a two storey painted brick and tile dwelling and attached single storey garage. The existing structures are identified as a late Victorian style dwelling and is listed as a local heritage item under the Randwick LEP 2012. The site is located in the St Marks Heritage Conservation Area. There is an in-ground swimming pool located in the south eastern corner of the site. Private open space areas are currently directed to the east and include the rear yard area as well as a ground floor level terrace.

Photographs 1 - 4 indicate the existing improvements on site.

D31/19



Photograph 1 – Existing Dwelling as viewed from Dutruc Street



Photograph 2 – Rear view of Existing Dwelling



Photograph 3 – Rear yard area and existing swimming pool



Photograph 4 – Southern side setback and trees proposed to be removed



Photograph 5 – Existing single storey garage proposed to be demolished

The site is surrounded by other residential dwellings on the eastern side of Dutruc Street, and the opposite side of Dutruc Street supports medium density residential unit developments.

3. Relevant history

There are no matters relating to this property. The history of the property is detailed in the Heritage Planners comments included in Appendix 1.

4. Proposal

The application seeks approval for alterations and additions to the rear of the existing dwelling house, including the construction of a basement floor level, two storey addition to the rear, civil works, landscaping and resurfacing of the existing swimming pool.

The application includes the demolition of the existing garage.

5. Notification

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

- 60 St Marks Road, Randwick

Issue	Comment
Loss of privacy to internal living areas and rear backyard.	<p>No. 60 St Marks Road is located to the east of the subject site and the proposed works are provided with 16m separation to the rear boundary. No. 60 does not share a common boundary with the subject site.</p> <p>This property is shown in photograph 3 above, taken from the ground floor level of the subject site.</p> <p>The subject works do not propose any modification to the landscape plantings established on site on the eastern and south eastern corner of the site. The canopy trees to be removed are located in the side boundary to the south of the site.</p> <p>Any opportunity for overlooking into the property would come from the first floor level and these are low use rooms. The existing screening adjacent to the common boundaries enhances the privacy between these two properties, and the topography and distance of separation additionally contribute to the protection of privacy to this property.</p>
Loss of winter sunlight to our living areas and backyard area, no shadow diagrams submitted to assess the impact to No. 60 St Marks Road.	<p>Upon review of the shadow diagrams submitted, the proposed additions will not impact on the adjoining property at No. 60 St Marks Road until the late afternoon period during the winter solstice.</p> <p>While the shadow diagrams haven't shown the location of No. 60 St Marks Road, the overshadowing assessment of the potential impact on No. 60 St Marks Road has been undertaken by the assessment officer using information extrapolated from the survey, aerial imagery and the shadow diagrams provided.</p> <p>Shadow cast will be in the afternoon period, during winter, and will impact a portion of the rear open space area. As a result of the orientation of the lot, the impact caused by the proposed additions will occur only during this period and will not impact on No. 60 St Marks Road for a period greater than 2 hours.</p> <p>This potential impact on No. 60 St Marks of up to 2 hours is consistent with the level of impact that the DCP allows and does not therefore warrant refusal of the application.</p>

Issue	Comment								
Stormwater run-off to our property and overflow arrangements from the rainwater tank. Where is the pool overflow discharged?	<p>Overflow from the proposed rainwater tank is to be directed to Dutruc Street and no overflow is proposed to be directed to the rear.</p> <p>The Landscape Plan submitted in support of the application includes additional subsoil improvements in the rear yard area with the replacement of the lawn and planting in the rear garden beds which will assist with overland flow absorption.</p> <p>There are no changes to the existing pool overflow discharge arrangements.</p>								
Tree removal and the loss of screening provided to No. 60 St Marks Road.	<p>Council's Landscape Officer has reviewed the application and provides comments in Appendix 1 to this report. The tree removal as proposed is supported in these comments.</p> <p>Smaller tree specimens are proposed as replacement tree plantings that will attain a maximum height between 4 – 8m along the southern boundary and will assist with the screening replenishment.</p> <p>Given the orientation and separation that is naturally afforded between the subject site and No. 60 St Marks Road, the proposed screen planting will support the protection of privacy of No. 60 St Marks Road.</p>								
The proposed rear additions offer no heritage value.	<p>The additions to the existing dwelling have been assessed by Council's Heritage Planner and these are included in comments provided below.</p> <p>The Heritage Planner supports the proposed works, subject to condition, and the practice of proposing additions that are not a direct replication of the original heritage style is consistent with Part B2 of the Randwick DCP.</p>								
There are inconsistencies in the SEE relating to the scale of the proposal. FSR, site cover and landscaping are misrepresented and the rear setback of 16m appears inaccurate.	<p>The Applicant submitted in response to the objection the following detail,</p> <table border="1" data-bbox="786 1485 1335 1619"> <thead> <tr> <th>Standard</th><th>Proposed</th></tr> </thead> <tbody> <tr> <td>FSR</td><td>0.53:1</td></tr> <tr> <td>Site Coverage</td><td>174m²</td></tr> <tr> <td>Deep Soil</td><td>230m²</td></tr> </tbody> </table> <p>The setback indicated on the plans is consistent with the survey plan submitted.</p> <p>The detail provided in the application is therefore considered to be reliable and in accordance with the Environmental Planning & Assessment Regulations 2000, to enable assessment</p>	Standard	Proposed	FSR	0.53:1	Site Coverage	174m ²	Deep Soil	230m ²
Standard	Proposed								
FSR	0.53:1								
Site Coverage	174m ²								
Deep Soil	230m ²								
The proposed works may affect the swimming pool in 60 St Marks Road and there is no geotechnical report submitted in support of this application.	<p>The Applicant has submitted a Geotechnical Assessment and this has been included in the subject assessment.</p>								

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1 (Clause 4.4(2A)(c) 0.6:1)	0.53:1	Yes
Height of Building (Maximum)	9.5m	9.5m	Yes

6.2.1. Clause 5.10 - Heritage conservation

The subject site is nominated as a local heritage item in Schedule 5 of the Randwick LEP 2012. The provisions of Clause 5.10 are therefore applicable to the subject application and consent is required pursuant to this clause.

The Applicant has submitted a Heritage Impact Assessment Report prepared by John Oultram Heritage & Design dated August 2018 and this report addresses the matters identified in items 4 and 5 of Clause 5.10 and provides the following comments;

There are many heritage items in the immediate vicinity and in the surrounding streets.

Despite this clustering of heritage items, it is considered that the proposed works will not have any major impact on the significance or setting of the heritage items in the vicinity.

The works are confined to the rear of the current building and the new rear addition will not be readily visible due to the large setback from the street. Only a small portion of the new work will be visible when viewed from the street along the southern boundary and this is in a traditional skillion form.

The new basement parking, garage doors and driveway will be visible from the street but replaces the existing garage and side driveway. Removal of the unsympathetic modern addition will have a positive impact on the streetscape.

No major trees or screen vegetation is proposed for removal. This is relevant for the heritage items at the rear of the site whose privacy will continue to be protected by the established screen plants.

The house is one of a pair with 11A Dutruc Street and the removal of the garage and the verandah infill will reinforce the pairing. The houses have lost their handed relationship at the rear though the works will have a similar alignment and roof form to the handed house.

While the application does propose tree removal in the southern side boundary, this is proposed to be replaced with screen planting to protect the amenity of surrounding properties.

The Heritage Impact Statement is considered to address the matters in Clause 5.10 of the Randwick LEP and the subject works are therefore supported. Further detailed comments are provided below by Council's Heritage Planner in Appendix 1.

There are no further provisions of the RLEP 2012 that are applicable to the subject application.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

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

Section 4.15 'Matters for Consideration'	Comments
	the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

The primary issue for the subject application relate to the heritage value of the site and the potential impacts created by the proposed works. This has been addressed in earlier sections of this report as well as in detailed comments provided by Council's Heritage Planner in Appendix 1.

Additional issues arise in non-compliances with the comprehensive DCP as addressed in detail in Appendix 2. Non-compliances arise against the provisions relating to wall height, setbacks and excavation. These are all largely related to the proposed basement carpark and result as a consequence of the topography of the site. The inclusion of the basement addition, which will accommodate a garage, is considered to be a positive outcome for the site and removes any impact on the street by proposed garaging.

The impacts that arise from the proposed excavation and reduced setbacks are managed in the circumstances of this application. Appendix 2 includes detailed discussion against the applicable objectives of these controls and the justification for the numerical variation to the controls are provided as follows;

Clause 3.2 – Building Height

The wall height control is intended to support the maximum building height control contained within the Randwick LEP 2012. The objective of this control is to *ensure the scale and mass of development complement the desirable streetscape character and achieve a suitable urban design outcome.*

The proposed variation to the building wall height control occurs at the rear of the proposed additions. The application seeks an 3.75% variation to the maximum 8m height control and is largely as a consequence of the topography of the site and the height of the existing dwelling. The location of the breach to the wall height will have no impact on the streetscape or the built character in this location given the generous setback to the street and the visibility of the proposed works.

The proposed additions are designed to match the heights of the existing floor levels that were more generous than envisaged by this DCP control. This is demonstrated by the variation to the wall height standard exhibited by the original component of the existing dwelling, and typical of the architectural style and form of the time.

It is therefore appropriate that the proposed additions are built to complement these existing scale relationships and the location of the proposed additions will result in a negligible impact on the streetscape character. The proposed variation can therefore be supported in the circumstances of this application.

Clause 3.3.2 - Side setbacks

The proposed additions will result in a variation to the side setback controls of this clause of the DCP. The setback to the northern side boundary continues the separation established by the existing dwelling and proposes a setback of 1.5m to the new works at each floor level. This is consistent with established building envelope of the existing dwelling and is complementary to the style and architectural form of the existing dwelling and is therefore supported.

The setback to the southern side boundary complies with the controls, with the exception of the basement floor level. The basement floor level is assessed against the setback controls as it sits approximately 1.5m above natural ground level. The basement proposes a nil setback to the side boundary.

The proposed variation to the basement floor level at the southern side boundary may result in impacts on the privacy and amenity of the adjoining property to the south. As such, it is recommended that the setback of the basement be increased to a 1.0m setback to the southern side boundary. This will allow for further separation at both the basement and ground floor level and will enable the retention of the existing fencing to this boundary. Conditions 2.a. and 2.b. provides

for modifications to the plans to allow this additional separation as well as minimizing the impact of the ground floor terrace that sits at an elevated level to the adjoining property.

The amended basement floor level will not impact on the amenity or privacy of the adjoining property given the height of this structure and that it is proposed to be used for non-habitable purposes. The ground floor level, adopts an increased setback to 2.4m, and combined with the additional amendments proposed via conditions, this separation will maximise separation and solar amenity to this boundary.

The subject site, across the footprint of the dwelling, including the proposed additions, exhibits a fall of approximately 2.15m. The proposed additions maximise the use of this fall by including a basement floor level for garage accommodation. The proposed garage, as amended by condition, will result in a 1.0m setback at the southern boundary and will allow sufficient turning area for vehicles to exit the site in a forward direction.

At the southern elevation, the proposed basement wall will not protrude past the existing fence height, and proposes a planter at the ground floor level which will screen the proposed works. The building element of the proposed basement is unlikely to be visible to the adjoining property at No. 17 Dutruc Street.

The southern side boundary will not be visible to Dutruc Street as a consequence of the topography, whereby the site falls away from the street. The height of the basement roof/planter will sit at the same level as the street.

The variation to the side setbacks in these circumstances will not have any impact on the streetscape or amenity of the adjoining properties and will therefore achieve the objectives of this control despite the numerical non-compliance.

Clause 5.1 – Solar Access and Overshadowing

The existing development impacts on the POS areas of the adjoining property at No. 17 Dutruc in the afternoon period only. The proposed additions will increase the extent of this impact, however as it only occurs during the later afternoon period, the adjoining property will still achieve the requirements of this clause.

North facing windows will be impacted by the additions at variable intervals throughout the day. Photograph 4 indicates the northern elevation of the adjoining property at No. 17 Dutruc Street.

There are 3 ground floor, north facing windows that are impacted by the proposal. The windows at the first floor level will have a limited impact and can achieve the requirements of this clause.

At 8am, the most western ground floor window on the northern elevation will be cast in shadow at 8am and remain in shadow for the day during the winter solstice. The middle window is impacted at 12 noon and the final window is impacted at 4pm. These windows sit at an elevated height of RL74.13 where NGL is 71.91 adjacent to this boundary. There is existing canopy tree and screen planting within the southern boundary of the subject site that would contribute to shading of these windows in the present circumstances.

While the proposed additions will impact on the windows of the adjoining property at No 17 Dutruc Street during the winter solstice period, the proposed additions will enable No. 17 to retain a portion of windows within the northern elevation with a minimum of 3 hours access to sunlight when considered across the extent of the northern elevation. On merit, the assessment of the subject additions allows consideration of the following elements;

- The proposed additions comply with the primary development standards as they apply to the site;
- The subdivision pattern of this location results in the allotments having an east/west orientation that limits the opportunity for solar amenity, and primary living and POS areas orientated towards the rear boundary;
- The topography of the site;
- The location of existing vegetation on site; and
- The sill height of the windows affected are elevated from the natural ground level.

It is therefore considered that on balance, despite the impact of the proposed development, the constraints on the land and the circumstances of the existing shadow, the proposed dwelling additions can be supported.

One submission was received in objection to this application and the matters raised in this submission have been addressed in further detail in Section 5.

The application performs against the objectives of the zone, complies with the primary development standards for the site, and meets the objectives of the DCP. The proposal will not impact on the amenity of adjoining properties and the proposed additions will have a minimal visibility in the streetscape.

9. Conclusion

That the application for alterations and additions to the existing dwelling, including a basement floor level, be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

Appendix 1: Referrals

1. Internal referral comments:

The following comments have been provided by the technical staff of Randwick Council and are subject to the conditions included;

1.1. Heritage planner

The Site

The site is occupied by a two storey Victorian style dwelling, part of a pair comprising nos.11A and 15 Dutruc Street, listed as a heritage item under Randwick LEP 2012. The property is also within the St Mark's heritage conservation area. The surrounding area comprises a mixture of Victorian villas and post war residential flat buildings. Immediately to the south are several 1970s dwelling houses. To the north of the site, at no.9S Dutruc Street is a heritage listed substation. To the south of the site, the Victorian villa at no.21 Dutruc Street is a heritage listed Victorian Italianate villa. To the rear of the site (east) is a substantial group of heritage listed Italianate houses comprising nos.48, 50, 52 – 56, 60, 62, 64 and 66 St Marks Road. The Randwick Heritage Study Inventory Sheet for the pair identifies the significance of each as *"one of a good matching pair of Victorian houses, and one of the better examples surviving on the former St. Marks Glebe estate."* The Inventory Sheet describes no.15 as *"one of a matching pair, each a mirror reverse of the other. grand two storey Victorian houses, both recently restored. Balconies and verandahs across whole front extending around side recess. Main roof hipped with bullnosed balcony. Outstanding features are original main doors with sidelights and skylights. Cast iron verandah posts with extensive lacework on balcony and verandah. Reconstruction authentic except for concrete roof tiles and balustrade rail to No. 15. No. 15 also has balcony without lace fringes and garage addition at side. Retains original tiles to verandah and path, which No. 13 has lost. No. 13 also has security grilles, and lattice work to balcony. These are not unsympathetic. Both retain very good palisade fences and decorative mouldings. Probably about 1880."*

Proposal

The application proposes alterations and additions to the dwelling comprising demolition of the existing two storey rear wing and construction a rear addition comprising two storeys over basement garage. At basement level, it is proposed to provide parking for 2 cars, laundry/mud room, paint studio, a store/heating and ac pool equipment area. An existing garage to the side of the dwelling is to be removed. At ground floor level, it is proposed to provide a pantry, kitchen, casual dining area, playroom area and rear terrace. At first floor level, it is proposed to provide three bedrooms, a study and two bathrooms. An existing partial enclosure of the side balcony is to be removed. The existing rear bedroom is to be partitioned to provide an ensuite bathroom and walk-in robe. Modifications are proposed to the existing stair to provide access to the rear addition, as well as changes to openings between spaces. An existing swimming pool in the rear garden is to be retained.

The application has been accompanied by a Heritage Impact Statement prepared by John Oultram. The HIS notes that the villas at nos.13 (11A) and 15 Dutruc Street were constructed in 1886 and converted into three self-contained flats by 1928. While the HIS suggests that no.11 Dutruc Street, constructed at the same time as nos.11A and 15, was demolished, it appears that it may survive behind a 1920s façade. The site included a coach house and stables at the rear. In relation to the exterior of the building the HIS notes that the house retains its original external form and much intact original detailing. In relation to the interior of the building the HIS notes that the floor plan and the principal spaces of the original villa survive substantially intact, but that conversion into self-contained flats and subsequent conversion back into a single residence means that many of the internal spaces have been altered and original decorative features removed, particularly to the rear. The HIS observes that the original spaces are no longer legible, and that the kitchen, laundry and bathrooms are all modern.

In relation to demolition and excavation, the HIS notes that the proposed demolition can be justified on the grounds that the rear of the building and many of the internal spaces have been heavily altered over time, while the main portion of the house with its Italianate façade, filigree verandah, substantially intact principal rooms, fireplaces and the internal decorative features will be conserved and maintained. In relation to alterations at ground floor and first floor level, the HIS makes

recommendations in relation to the enlarged opening between the hallway and formal dining room, and in relation to salvaged doors, floors and ceilings. In relation to the additions to the house, the HIS advises that the new work is linked to the old via a narrow skylight, thereby clearly distinguishing old from new, and that the new addition will have its own separated roof and will appear as a modern, separate pavilion style addition. In relation to the garage and driveway, the HIS considers that the demolition of the existing 1970s/1980s garage is a strong positive in heritage terms. The HIS notes that the new driveway from the front gates will alter the garden setting of the villa, but this impact will be mitigated by provision of additional garden beds, and could be further mitigated by designating the front portion of the drive (forward of the house) as twin concrete strips to reduce the extent of hard paving.

The HIS concludes that the proposal will have a limited and acceptable impact on the item and maintain its significance. The proposal will have no impact on the heritage items in the vicinity, a limited and acceptable impact on the surrounding conservation area and are in line with the heritage provisions of the DCP.

Controls

Clause 5.10(1) of Randwick LEP 2012 includes an objective of conservation of the heritage significance of heritage items including associated fabric, settings and views.

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

The Heritage section of Randwick Development Control Plan 2013 provides Objectives and Controls applying to development in a heritage conservation area, including Design and character; Scale and form; Verandahs and Balconies; and Garages, Carports, Carspaces and Driveways. In relation to Design and character, clause 2.2 of the DCP includes a Control that street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to minimise impact on the streetscape. A further Control requires that the design of any proposed additions or alterations must complement the existing building in its scale, form and detailing, but it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred. In relation to Scale and form, clause 2.3 of the DCP includes Controls that additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings, and must not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building. In relation to Verandahs and Balconies, clause 2.8 of the DCP includes a Control that original front verandahs and balconies must be retained and conserved, and consideration should be given to opening up verandah enclosures or infills, to reinstate an original open verandah. In relation to Garages, Carports, Carspaces and Driveways, clause 2.9 of the DCP includes a Control that carparking structures are to be located to the side, or preferably to the rear of the building. A further Control requires that large areas of concrete should be avoided and alternative materials such as pavers, gravel or permeable paving must be considered.

Council's electronic records list building applications for the property in 1977, 1981, 1988 and a development application in 1994.

Demolition of existing rear wing

The existing rear wing includes a number of original or early internal and external features including several windows, joinery, ceilings and a fireplace. As a result of a series of renovations however, the extent of the original rear wing and the original room layout is unclear, and the majority of original detailing has been replaced. The proposal affects secondary building fabric towards the rear which has been substantially altered, but retains primary building fabric at the front of the dwelling. A consent condition should be included requiring archival recording of areas of the building affected by the proposed works.

Driveway excavation and basement garage

There are no heritage objections to the removal of the existing garage to the side of the dwelling which has an unsatisfactory relationship to the dwelling. The removal of the existing garage will restore views of the south side elevation of the dwelling. The new basement garage is located to the rear of the building consistent with DCP requirements, and will not be prominent in the streetscape. Access to the basement garage is via a new excavated driveway along the south

elevation. Deep soil planters are to be provided to each side of the driveway to provide a transition between the level of the driveway and natural ground levels, and will contribute to the setting of the dwelling.

Ground floor changes to existing dwelling

The proposed enlarged opening between the hallway and formal dining room will apparently improve access between the two spaces. In accordance with the recommendations to the HIS, the opening should match the height of the existing door to allow existing ceilings to remain. An appropriate consent condition should be included. Drawings indicate that the proposed new opening between the dining room and the new link will reuse the existing door and joinery salvaged from the existing opening between the dining room and the hallway. The proposed enlarged opening between the hallway and the new link will affect an existing opening which is partially screened by the existing stair. Subject to consent conditions, there are no heritage objections to proposed changes at ground floor level.

First floor changes to existing dwelling

The proposed removal of the existing partial enclosure of the side verandah will reinstate the original first floor return balcony, to match the ground floor verandah. The original french doors were reused in the existing ensuite enclosure and can be reinstated in their original location. It appears that the original balcony railing was removed when the ensuite enclosure was constructed, and drawings indicate the new balcony balustrade is to match existing. Drawings indicate inward opening "second skin" internal doors to existing outward opening french doors to the front bedroom and the study nook. A consent condition should be included that the new internal doors be fitted to avoid damage to original french doors, fanlights, door frames and architraves.

The provision of a new ensuite bathroom and walk in robe within the existing first floor rear bedroom will involve new partitioning, blocking of an existing opening to the hall, and provision of two new openings to the front bedroom. In accordance with the recommendations of the HIS, any wall and floor tiling should be carried out by over-boarding existing finishes, rather than replacement, and the pressed metal ceiling should be retained, even if covered by a new lower ceiling. The original fireplace in the rear bedroom should also be retained. Appropriate consent conditions should be included.

The existing stair is to be modified to provide remove the existing intermediate landing, with one long flight providing access to the new rear first floor level and one short flight providing access to the existing front first floor level. Drawings note that existing stair and balustrades will be retained and repaired. The HIS notes that the works will require the alteration of the stair handrail and risers around the landing and provided that this is done is carried out by an experienced carpenter or stair company the detail can be such as to marry in with the existing detail with balusters salvaged for reuse or with new to match existing. An appropriate consent condition should be included.

The proposed enlarged opening between the hallway and the new link will affect an existing arched opening. The HIS notes that the opening will provide a detail commensurate with the scale of the primary section and the detail will retain an arch at this level. A consent condition should be included that the detail of the proposed arch does not seek to replicate the detail of the original arch, in order to allow the new enlarged opening to be distinguished from original fabric. An appropriate consent condition should be included. Subject to consent conditions, there are no heritage objections to proposed changes at first floor level.

Rear addition

The proposed addition will be wider than the existing addition, extending around 3m beyond the existing southern side wall of the front section of the dwelling. The addition however is set well to the rear and will not be prominent in the streetscape of Dutruc Street and will not impact on the main roof form. The proposed addition will be lower than the existing rear wing, having a ridge height below the eaves height of the front section of the dwelling. The proposed rear addition adopts a pavilion-type form, separated from the original building by a glazed link. The scale of the proposed addition will remain secondary to the original building and will not visually dominate, compete with or conceal the original form and massing of the existing buildings. The contemporary detailing of the proposed addition will distinguish it from the original building.

The proposal materials and finishes, including white rendered walls, colorbond roofing and black anodized aluminum windows, will be compatible with materials and finishes of the existing dwelling.

Recommendation

The following conditions should be included in any consent:

- A brief archival recording of the property shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. Two copies of the endorsed archival recording shall be presented to Council, one of which shall be placed in the Local History Collection of Randwick City Library.
- The enlarged opening between the hallway and formal dining room at ground floor level should match the height of the existing door opening to allow existing ceilings to be retained.
- The proposed inward opening "second skin" internal doors to the existing outward opening french doors to the first floor front bedroom and study are to be fitted to avoid damage to original french doors, fanlights, door frames and architraves.
- Any wall and floor tiling to the proposed ensuite bathroom and walk in robe within the existing first floor rear bedroom should be carried out by over-boarding existing floor and wall finishes, rather than replacement.
- Existing pressed metal ceilings within the existing first floor rear bedroom are to be retained in the proposed ensuite bathroom and walk in robe, even if covered by a new lower ceiling. The original fireplace in the rear bedroom is also to be retained in conjunction with the new works.
- Proposed alterations to the original stair handrail and risers around the landing are to be carried out by an experienced carpenter or stair company, balusters should be salvaged for reuse or alternatively new balusters should match existing, and new detail should marry in with the existing detail.
- The detail of the proposed enlarged opening between the hallway and the new link at first floor level should not seek to replicate the detail of the original arch, in order to allow the new enlarged opening to be distinguished from original fabric.

(Refer to conditions 5 and 11)

1.2. Development Engineer

Undergrounding of power lines to site

At the ordinary Council meeting on the 27th May 2014 it was resolved that;

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

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

Tree Management Comments

The site inspection of 25 January 2019 revealed two *Sapium sebiferum* (Chinese Tallowoods) on the public verge, being firstly, a mature, 12m tall specimen closest to the northern edge of the existing vehicle crossing, then a smaller, 6m tall tree immediately to its north, both of which are covered by the DCP and provide a positive contribution to the streetscape and St Mark's Conservation Area.

The plans show that the existing entry will be maintained in its current position, and will be used for machinery/truck access during the significant earthworks and excavations to be performed in the rear yard for the new basement level.

While this should not directly impact these trees, protection measures still need to be imposed to prevent mechanical damage, with clearance pruning to also be required, which will be wholly at the applicant's cost, with relevant conditions and a bond provided.

The other established street trees also growing in the verge, being a Gum and Paperbark beyond the northern site boundary, in front of no.11A, as well as the two Cypress Pines to the south, in front of no.17 should not be directly impacted by these works.

In the rear yard of the subject site, beyond the southeast corner of the existing dwelling, in the southern side setback/courtyard, close to the southern boundary, there is from west to east, a 10-12m tall *Brachychiton acerifolius* (Flame Tree), and then a similarly sized *Magnolia grandiflora* (Magnolia), which are both covered by the DCP, with their co-joined canopies observed to assist with partial privacy and screening between the subject site and the adjoining two story dwelling to the south, no17.

While both are recognized as desirable feature species, they were observed to only be in fair health and condition as past heavy pruning has affected their form and habit. In the case of the Flame tree, all lower growing branches and foliage have been removed to a height of about 6m above ground level, leaving it with an exposed, sparse crown; and for the Magnolia, almost its entire southern aspect has also been removed (presumably by the neighbor) in order to provide a clearance off their house, and also has a sparse upper crown, with its trunk being covered in climbing Ivy.

The plans show that significant earthworks will be performed in this same area for the new garage/basement, as well as for the casual dining and play rooms at the ground floor level, meaning that if the retention of either tree was sought, the exclusion zones required would prevent construction of the new driveway and parking arrangement altogether, with the southern half of the ground level also needing to be completely deleted from the plans.

While being established trees, and in a Heritage Conservation Area, any contribution they provide is minimal, and limited to the subject site and immediate area only, and for the reasons outlined above, their retention cannot be justified in this case given the major impacts this would have on the layout of the whole proposal, and as such, permission has been granted for their removal, subject to replacement screen planting that is suitable for the space available being provided in their place in this same area of the site.

The existing 6m x 6m tree on the rear/eastern site boundary, between the pool and dividing fence, was observed to provide effective screening between this site and the neighbours to the east, but as it is sited well away from all works, and will remain completely unaffected due to being excluded by the pool fence, conditions are not needed, and have not been provided.

There is a mature, 6-7 *Eriobotrya japonica* (Loquat) on the northern site boundary, of good health and fair condition due to past crown lifting, which is an exotic species that is covered by the DCP, and was observed to assist with screening and privacy by preventing overlooking into the area of private open space and pool from the two story dwelling on higher ground to the north, no 11A.

Dwg's DA02-03 show that the northeast corner of the new basement level (storage/pool equipment) and ground floor terrace will be constructed in roughly the same location as the existing terrace and stairs, at an offset of about 4335mm from its trunk, which is well outside of its SRZ, so will not result in any major impact, with relevant protection measures provided.

Landscape Plan Comments

Whilst these works will necessitate the removal of two existing canopy trees, the new landscape scheme will actually increase the amount of plant material at this site, and as it will result in a high quality treatment for the occupants, conditions in this report require that it be fully implemented as part of any approval at this site.

Appendix 2: DCP Compliance Table

2.1 Section B2: Heritage

The provisions of this section of the DCP have been addressed below and further in Appendix 1 in the Heritage Officer's comments.

DCP Clause	Controls	Proposal	Compliance
	Streetscape Analysis	The SEE and Heritage Impact Statement have addressed this requirement.	Yes
2.2	Design & Character <ul style="list-style-type: none"> i) Development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area (as detailed in the statements of significance and key characteristics outlined in this section of the DCP). ii) Common elements and features of the streetscape are to be identified in a streetscape analysis and incorporated into the design (e.g. view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations). iii) New development should be consistent with important horizontal lines of buildings in the streetscape, in particular ground floor levels and eaves lines, where appropriate. iv) Large blank areas of brick or rendered walls should be avoided. Where this is not possible in the design, contrasting building materials and treatments must be used to break up the expanse of wall. v) Street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to minimise impact on the streetscape. vi) The design of any proposed additions or alterations must complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred. vii) All new work and additions must respect the proportions of major elements of significant existing Heritage B2 fabric including doors, windows, openings and verandas. 	<p>The proposed additions are integrated into the design, however the additions are designed as a pavilion so as to differentiate between the old and new.</p> <p>The proposed works occur at the rear of the building and therefore have a limited visual presentation to the street.</p> <p>The Heritage Impact Statement has addressed in detail how the proposal responds to the heritage significance of the existing item.</p>	Yes
2.3	Scale & Form <ul style="list-style-type: none"> i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option. ii) Attic style additions may be permissible, but there should be no visible alteration to the 	<p>The existing dwelling is a large two storey dwelling and the proposed additions adopt a proportionate scale to the existing dwelling.</p> <p>The additions are</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>front of previously unaltered buildings. Front dormer windows are especially discouraged where a building itself is a heritage item, or part of a relatively unaltered semi-detached pair or row.</p> <p>iii) Dormer windows and skylights must not be located to street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style of the building.</p> <p>iv) Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings.</p> <p>v) Additions to heritage items must not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building.</p> <p>vi) Where single storey rear additions are proposed to dwelling houses, the addition must not compromise the integrity of the main roof and is to be lower in scale and secondary to it.</p> <p>vii) Upper floor additions to the main roof of any single storey dwelling house may be acceptable if contained wholly within the existing roof space without change to the roof pitch or eaves height.</p> <p>viii) Upper floor additions to the rear of any single storey dwelling house should preferably use pavilion-type forms, with a lower scale linking structure between the original building and any double storey addition.</p> <p>ix) If a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.</p> <p>x) Where rear lanes exist, it may be possible to provide additional floor space in an outbuilding at the rear of the site, rather than as an upper level addition to the dwelling itself.</p> <p>xi) Where rear additions are proposed to semi-detached dwellings, the additions must not compromise the symmetry and integrity of the front elevation or dominate the other house in the pair.</p> <p>xii) Where rear additions are proposed to attached dwellings (e.g. terrace houses), the additions must not compromise the integrity of the front elevation or the forms of relatively intact rear wings.</p>	<p>located at the rear elevation of the dwelling, and while they will have a presentation to the street via a side view point, the additions will not dominate the streetscape.</p> <p>The architectural style of the additions is complementary to the existing dwelling and does not introduce any competing style.</p>	
2.4	<p>Siting & Setbacks</p> <p>i) Development must conform to the predominant front setbacks in the streetscape.</p>	<p>With the exception of the southern side setback, the proposed setbacks</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>ii) Development must respect side setbacks and rear alignments or setbacks of surrounding development.</p> <p>iii) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features.</p> <p>iv) Any significant historical pattern of subdivision and lot sizes must be retained. Subdivision or site amalgamation involving heritage items or contributory buildings must not compromise the setting or curtilage of buildings on or adjoining the site.</p>	<p>adopt a consistent line to the existing dwelling. Notwithstanding, the southern setback is proposed to be amended to adopt a 1.0m separation from the boundary and this will allow separation consistent with the heritage character of the existing dwelling.</p> <p>While the application proposes tree removal in the southern side boundary, these are not considered to be prominent specimens as they are currently located behind the existing garage.</p> <p>The application does not propose any change to the arrangement of the existing allotment.</p>	
2.5	<p>Detailing</p> <p>ii) Retain and repair original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations. Original leadlight and coloured glass panes should be retained.</p> <p>iii) Where original windows, doors and façade detailing have been removed and replaced with modern materials, consideration should be given to reconstructing original features.</p> <p>iv) Authentic reconstruction is encouraged. Decorative elements must not be introduced unless documentary or physical evidence indicates the decorative elements previously existed. Undertake thorough research before attempting to reconstruct lost detail and elements.</p> <p>v) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors.</p> <p>vi) Alterations and additions should adopt a level of detailing which complements the</p>	<p>The subject additions include reinstating earlier components of the building at the ground and first floor level verandah.</p> <p>The new windows proposed in the rear pavilion are consistent in size and scale as the existing dwelling.</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	heritage fabric and should (in general) be less elaborate than the original.		
2.6	Materials, Finishes and Colour Schemes <ul style="list-style-type: none"> i) Materials for pathways and driveways must be consistent with the character of the heritage item or heritage conservation area. ii) Changes to materials (including roofs and walls) on elevations visible from a public place are not favoured. Original face brickwork must not be rendered, bagged or painted. The removal of external brickwork skin is not supported. iii) Matching materials must be used in repairing the fabric of external surfaces. In the case of new face brickwork, the colour and texture of the brick, the type of jointing and mortar colour should be carefully matched. iv) New or replacement roof materials must match existing materials. Alternative materials may be considered appropriate to the architectural style of the building and the streetscape context, and must be submitted for approval. v) Alterations and additions must use materials and colours similar to, or compatible with, the original material or colours. 	The application includes a schedule of external colours and finishes and these are considered to be compatible with the original dwelling.	Yes
2.7	Roofs & Chimneys <ul style="list-style-type: none"> i) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations. ii) Roofs must not be repitched or have their eaves line raised to allow for the provision of attic rooms. iii) Chimneys must be retained. 	The proposal allows for the retention of two of the existing three chimneys.	Yes
2.8	Verandahs & Balconies <ul style="list-style-type: none"> i) Consider the provision of front verandahs and balconies at a compatible scale where these are a characteristic feature of the heritage conservation area. ii) Original front verandahs and balconies must be retained and conserved. Consider opening up verandah enclosures or infills, to reinstate an original open verandah. iii) Infilling or enclosure of front verandahs and balconies is not supported. iv) Additional verandahs must not compete with the importance of the original and should be simple in design and based on existing detail or an understanding of appropriate designs for each period or style. 	The additions do not modify the existing front verandah at both the ground and first floor level, with the exception of reinstating a portion of the verandah at the first floor level.	Yes
2.9	Garages, carports, carspaces and driveways <ul style="list-style-type: none"> i) Existing rear lane access or side street access (where available) must be utilised for carparking in preference to front access. ii) Carparking structures are to be located to the side, or preferably to the rear of the building. Garages and carports must not be 	The application proposes the demolition of the existing garage and the construction of basement carparking. The basement is	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>located forward of the building line.</p> <p>iii) Open hard stand carspaces may be provided forward of the building line, but must be located adjacent to a side boundary, and generally not be greater than single car width.</p> <p>iv) Existing building fabric, including verandahs and balconies, must not be altered to allow for the provision of a carparking structure or an open stand carspace.</p> <p>v) Open hard stand carspaces must not dominate the setting of the building in terms of loss of planting, fencing or retaining walls.</p> <p>vi) Carparking structures are to be unobtrusive and must be of materials, form and details which harmonise with and do not obscure views of the building. They must not be made larger by the provision of a bulky pitched roof.</p> <p>vii) Existing driveways constructed of two separate wheel strips contribute to the character of the streetscape and must be retained where possible.</p> <p>viii) Large areas of concrete should be avoided and alternative materials such as pavers, gravel or permeable paving must be considered.</p> <p>ix) Buildings housing original stables, coach houses and interwar motor garages should be retained and conserved wherever possible.</p>	<p>accessible via the existing driveway within the southern side setback. This will not be a visible structure and is an improvement on the current circumstances.</p>	
2.10	<p>Fences</p> <p>(i) New and replacement front fences must not obscure building facades. High solid front fences are not appropriate.</p> <p>(ii) New fence heights and form must be appropriate to the character of the heritage item, or to the heritage conservation area.</p> <p>(iii) Lych gates must not be provided unless there is evidence that they originally existed.</p> <p>(iv) Side fencing forward of the building line must be simple with a level of detail and of materials and height compatible with the heritage item, contributory building or heritage conservation area.</p> <p>(v) Side and rear boundary fences should be preferably of traditional timber construction or otherwise of masonry construction. Colorbond metal fences are not appropriate.</p> <p>(vi) Retain, repair or reconstruct original fences and retaining walls where possible.</p> <p>(vii) Where an original fence has been lost, new fencing should try to match the original style.</p>	<p>Front and side fencing is not proposed to be amended as part of this application.</p>	Yes
2.11	<p>Gardens, garden elements, and swimming pools</p> <p>(i) Significant trees and landscape elements such as pathways, garden beds and structures must be retained.</p>	<p>The application proposes tree removal within the southern side boundary. These</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> (ii) Large areas of hard paving are to be minimised. (iii) Garden and ancillary structures must be appropriate to primary buildings in terms of scale, style and materials. (iv) Swimming pools must be located at the rear of the property and where possible should retain important trees and areas of soft landscaping. Swimming pools must not result in significant changes to ground levels on the site. 	<p>trees, while mature canopy plantings, are not significant specimens warranting particular retention.</p> <p>The existing swimming pool is located in the rear corner of the site and is only proposed to be resurfaced under this application.</p>	
2.12	Access & Mobility <ul style="list-style-type: none"> (i) Modifications and alterations to facilitate access and mobility must be sympathetic to the heritage values and heritage fabric of the original building. (ii) Alterations and additions to facilitate access and mobility must be reversible. (iii) Preserve heritage items or heritage fabric of higher significance if a compromise is required. 	<p>No modification is made to the existing pedestrian access to the site via the front door.</p> <p>The basement garage will only be accessible via the internal stair, although this does not degrade existing access which also has access restricted by stairs.</p>	Yes
2.14	Services & New Technologies <ul style="list-style-type: none"> (i) Air exhaust or ventilation systems, skylights, air conditioning systems, solar energy panels, TV antennae and satellite dishes should not be visible on the main elevation of the building or attached to chimneys where they will be obvious. Services and equipment should be installed at the rear, within the roof space or flush with the roof cladding and at the same pitch. They are to be of modest size and not prominent from the street. (ii) Essential changes to cater for electrical or telecommunications wiring, plumbing or other services should be limited to what is essential to permit the new use to proceed. (iii) Rainwater tanks are to be located at the rear or side of the dwelling and suitably screened. They should not be obvious from the street. 	<p>Services are proposed to be located within the basement floor level.</p>	Yes

2.2 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	
2	Site planning		
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP):	625.8m ²	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> R3 = 325sqm 		
	Minimum frontage		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 9m Existing = 15.215m	Yes
2.3	Site coverage		
	601 sqm or above = 45%	Site = 625.8m ² Proposed = 28%	Yes
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 625.8m ² Proposed = 36%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	601 sqm or above = 8m x 8m	Site = 625.8m ² Proposed = Min 15m x 15m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.6:1	Site area = 625.8m ² Proposed FSR = 0.53:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Existing = Approx 11.3m Proposed (New roof only) = 9.5m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing = Approx 9.3m Proposed = Approx 8.3m	No – Refer comments below.
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> 900mm for allotments with primary frontage width of less than 7m 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Minimum = 6m Existing = 5.57m Proposed = N/A	No change to the existing street setback.

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DCP Clause	Controls	Proposal	Compliance
3.3.2	Side setbacks: Dwellings: <ul style="list-style-type: none"> Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 1.2m and 1.8m Existing = 1.5m Proposed = 1.5m (north) and nil (south)	No – refer comments below. Condition 2 requires the setback of the basement garage to be increased by a minimum of 1m from the southern side boundary.
3.3.3	Rear setbacks <ol style="list-style-type: none"> Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> Existing predominant rear setback line reasonable view sharing (public and private) protect the privacy and solar access Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> Compatibility POS dimensions comply minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 8m Existing = 15.59m Proposed = 16.94m	Yes
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	The proposed additions are well articulated and proposed as a pavilion to the existing dwelling to reduce the massing of the wall length.	Yes
4.4	Roof Design and Features		
	<i>Rooftop terraces</i> <ol style="list-style-type: none"> on stepped buildings only (not on uppermost or main roof) above garages on sloping sites (where garage is on low side) <i>Dormers</i> <ol style="list-style-type: none"> Dormer windows do not dominate Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. Multiple dormers consistent Suitable for existing 	Not proposed	N/A

DCP Clause	Controls	Proposal	Compliance
	<i>Clerestory windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.		
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	A schedule of finishes and materials is included in the application.	Yes
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	Excavation for basement >1m and up to 2.5m. The proposed basement is setback with a nil setback to the southern side boundary. The retaining wall adjacent to the basement is setback 900mm to the southern side boundary. The proposed works will not be visible to the street.	No , however will achieve the objectives of the control and can be supported. See discussion above regarding setbacks.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Living areas provided with eastern and northern orientation, POS areas can achieve these controls.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct	Shadow diagrams have been submitted with this application and assessed against the provisions of	See comments below.

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DCP Clause	Controls	Proposal	Compliance
	<p>sunlight between 8am and 4pm on 21 June.</p> <p>v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	this clause below.	
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>		Yes
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). 	The proposed ground floor windows will be offset to the windows at the ground floor level of No. 17 Dutruc, as well as additional screen planting provided within the southern side boundary. Key living areas are	Yes

DCP Clause	Controls	Proposal	Compliance
	ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	orientated to the east. Similarly, windows to the northern elevation are offset to the ground floor windows on the southern elevation of No. 11A Dutruc.	
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	No upper floor balcony proposed. The additions propose an extension of the existing ground floor level terrace at the eastern elevation, with a wrap around pathway to the southern elevation. Privacy to the adjoining property is protected by the planter proposed, the small trafficable section of the terrace adjacent to the boundary, and the offset of windows in this elevation.	Yes
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows	Adequate separation provided.	Yes
5.5	Safety and Security		
	i) Dwelling's main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	Existing front entry is retained.	Yes
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views	Local neighbourhood views are retained.	Yes

D31/19

DCP Clause	Controls	Proposal	Compliance
	v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	Existing vehicle access is retained, driveway width is as existing 3.04m. Basement carparking proposed that will not be visible to the street.	Yes
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing	Nil side setback is provided to basement garage.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	3.05m width (existing)	Yes
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	The proposed basement garage does not present to the street.	Yes
6.6	Carport Configuration		
	i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open). ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling	A carport is not proposed.	N/A

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> iii) 3m maximum width. iv) 5.4m minimum length v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof. vi) No solid panel or roller shutter door. vii) front gate allowed (minimum 30% open) viii) Gate does not open to public land 		
6.7	Hardstand Car Space Configuration		
	<ul style="list-style-type: none"> i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions 	Carparking is proposed in the basement garage.	N/A
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	<ul style="list-style-type: none"> i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street 	No change to existing fencing.	N/A
7.2	Front Fencing		
	<ul style="list-style-type: none"> i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines. 	No change to existing fencing.	N/A
7.3	Side and rear fencing		
	<ul style="list-style-type: none"> i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites 	No change to existing fencing.	N/A

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished. 		
7.4	Outbuildings		
	<ul style="list-style-type: none"> i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> - finished external walls (not requiring maintenance; - no openings facing neighbours lots and - maintain adequate solar access to the neighbours dwelling v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> - Containing it within the roof form (attic) - Articulating the facades; - Using screen planting to visually soften the outbuilding; - Not being obtrusive when viewed from the adjoining properties; - Maintaining adequate solar access to the adjoining dwellings; and - Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises. 	Outbuildings are not proposed as part of this application.	N/A
7.5	Swimming pools and Spas		
	<ul style="list-style-type: none"> i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings. 	The proposed works only relate to the resurfacing of the existing pool, otherwise no changes are proposed to the location and siting of the existing swimming pool.	N/A
7.6	Air conditioning equipment		
	<ul style="list-style-type: none"> i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings. 	A/C enclosed in existing basement floor level.	Yes
7.7	Communications Dishes and Aerial Antennae		
	<ul style="list-style-type: none"> i) Max. 1 communications dish and 1 	Not proposed as	N/A

DCP Clause	Controls	Proposal	Compliance
	antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> - Located behind the front and below roof ridge; - minimum 900mm side and rear setback and - avoid loss of views or outlook amenity iii) Max. 2.7m high freestanding dishes (existing).	part of this application.	
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Existing clothes drying facilities retained.	Yes

D31/19

While the proposed additions do result in variations to the DCP controls as discussed above, the proposed works will achieve the overall objectives of the clauses and will result in a development that is consistent with the objectives of the DCP.

Attachment/s:

1.  Dev Consent Conditions - DA/477 2018 15 Dutruc Street Randwick

Development Consent Conditions



DA No:	DA/477/2018
Property:	15 Dutruc Street, Randwick NSW 2031
Proposal:	Alterations to existing dwelling including two storey addition to rear, basement level car parking, laundry, storage and paint studio, alterations to existing pool, landscaping and associated works (Heritage Item).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
DA00	Luigi Rosselli Pty Ltd	(Plot date) 8/7/2018
DA01 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA02 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA03 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA04 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA05 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA06 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA07 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA08 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA09 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA10 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
DA14 (Issue ----)	Luigi Rosselli Pty Ltd	30/7/2018
Landscape Plan Sheets LP01 – LP03 (Issue 01)	Dangar Barin Smith	01/08/2018

BASIX Certificate No.	Dated
A322102	30/7/2018

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The southern external wall of the garage at the basement floor level shall be setback at least 1m from the southern side boundary. The size of the internal laundry/mud room, paint studio and store/heading AC pool equipment room shall be reduced accordingly to allow for the accommodation of two car spaces with sufficient manoeuvring space to comply with the relevant Australian Standards.
 - b. The southern edge of the entire planter at ground floor level shall be setback at least 1m from the southern side boundary and the terrace area to the southern side of the dwelling house adjacent to the play room shall be deleted. The BBQ area shall be relocated accordingly.

Details of compliance with the above conditions are to be submitted to and approved by the Manager Development Assessment prior to the issue of the construction certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4.
 - a) The colours, materials and finishes of the external surfaces are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building and the streetscape.
 - b) Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments [or] the Certifying Authority prior to issuing a construction certificate for the development.

Heritage Conservation

5. A brief archival recording of the property shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 (2) of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. Two copies of the endorsed archival recording shall be presented to Council, one of which shall be placed in the Local History Collection of Randwick City Library.

6. The enlarged opening between the hallway and formal dining room at ground floor level should match the height of the existing door opening to allow existing ceilings to be retained.
7. The proposed inward opening "second skin" internal doors to the existing outward opening french doors to the first floor front bedroom and study are to be fitted to avoid damage to original french doors, fanlights, door frames and architraves.
8. Any wall and floor tiling to the proposed ensuite bathroom and walk in robe within the existing first floor rear bedroom should be carried out by over-boarding existing floor and wall finishes, rather than replacement.
9. Existing pressed metal ceilings within the existing first floor rear bedroom are to be retained in the proposed ensuite bathroom and walk in robe, even if covered by a new lower ceiling. The original fireplace in the rear bedroom is also to be retained in conjunction with the new works.
10. Proposed alterations to the original stair handrail and risers around the landing are to be carried out by an experienced carpenter or stair company, balusters should be salvaged for reuse or alternatively new balusters should match existing, and new detail should marry in with the existing detail.
11. The detail of the proposed enlarged opening between the hallway and the new link at first floor level should not seek to replicate the detail of the original arch, in order to allow the new enlarged opening to be distinguished from original fabric.

Section 7.12 Development Contributions

12. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$1,287,579 the following applicable monetary levy must be paid to Council: \$12,875.80.

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

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

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

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 Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Compliance Fee

13. A development compliance and enforcement fee of \$1,287.60 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

14. 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

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

- \$600.00 - Damage / Civil Works Security Deposit

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 civil works which confirms that there has been no damage to Council's infrastructure.

The owner/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 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 Director of City Services upon issuing of an occupation certificate or completion of the civil works.

Sydney Water

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

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

The Sydney Water [Tap in™](#) online service replaces the Quick Check Agents as of 30 November 2015

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information

- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

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

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

Driveway Design

17. 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.

Stormwater Drainage

18. Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the certifying authority. A copy of the plans shall be forwarded to Council, if Council is not the certifying authority.

The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the relevant conditions of this development approval.

19. Stormwater runoff from the (redeveloped portion) site shall be discharged either:

- a. To the kerb and gutter along the site frontage by gravity; OR
- b. To a suitably sized infiltration area. As a guide the infiltration area shall be sized based on a minimum requirement of 1 m² of infiltration area (together with 1 m³ of storage volume) for every 20 m² of roof/impervious area on the site.

Infiltration areas must be located a minimum of 3.0 metres from any structure (note: this set back 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) and 2.1 metres from any adjacent side or rear boundary.

Prior to the use of infiltration in rear draining lots (where there is no formal overland escape route to Council's kerb and gutter/street drainage system), a geotechnical investigation will be required to determine whether the ground is suitable for infiltration. Should rock and/or a water table be encountered within two metres of the proposed base of the infiltration pit, or the ground conditions comprise low permeability soils such as clay, infiltration will not be appropriate.

NOTE: Should the applicant be unable to obtain a private drainage easement over properties to the rear of the development site (to facilitate stormwater discharge in accordance with option b)); and ground conditions preclude the use of infiltration (Option c), consideration may be given to the use of a charged system or a pump out system to drain that portion of the site that cannot be drained by gravity to the kerb and gutter

at the front of the property.

20. 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.
21. 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 required 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 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 Stormwater Code.
22. All pump out water must pass through a stilling pit, located within the site, prior to being discharged by gravity to the kerb and gutter.
- Site seepage & Dewatering**
23. The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:
 - a) Seepage/ground water and subsoil drainage (from planter boxes etc) **must not** be collected & discharged directly or indirectly to Council's street gutter system
 - b) Adequate provision is to be made for the ground water to drain around the basement garage (to ensure the basement will not dam or slow the movement of the ground water through the development site).
 - c) The walls of the basement level of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level of the building and the stormwater drainage system for the development.
 - d) 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.
 - e) Details of the proposed stormwater drainage system including any methods of tanking the basement level and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Certifying Authority and details are to be included in the construction certificate. A copy of any proposed method for tanking the basement level must be forwarded to Council if Council is not the Certifying Authority.
- Landscape Plans**
24. The Certifying Authority/PCA must ensure that the Landscape Plans submitted as part of the approved Construction Certificate are substantially consistent with

Landscape Plans by Dangar Barin Smith, dwg's LP01-03 - D0418, issue 01, dated 01.08.18.

Street Tree Protection

25. In order to ensure retention of the two *Sapium sebiferum* (Chinese Tallowoods) on Council's Dutruc Street verge, between the northern side of the existing driveway and northern site boundary in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show the retention of both trees, with the position and diameter of their trunks and canopies to be clearly and accurately shown on all plans in relation to the works.
 - b. **The applicant is not authorised to perform any works to these public trees, and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar works appear necessary. If approval is given, a time-frame of approximately 2-3 weeks will be needed; can only be performed by Council; and will be wholly at the applicants cost, with payment to be received prior to any tree work being undertaken, and prior to the issue of any Occupation Certificate.**
 - c. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be installed along either of the sites side boundaries; or, against either side of the vehicle crossing, with all hydraulic services plans to be prepared and installed on-site in accordance with these requirements
 - d. Prior to the commencement of any site works, their trunks (and branches where necessary) shall be physically protected by wrapping layers of geo-textile, underfelt or layers of Hessian, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around the circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
 - e. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE, DO NOT REMOVE".
 - f. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble around their trunks, with all Site Management Plans needing to acknowledge these requirements.
 - g. Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly by hand (using only hand held tools, not machinery), with the affected area to be backfilled with clean site soil as soon as practically possible.
 - h. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

- i. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$2,500.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the trees.

The refundable deposit will be eligible for refund following the issue of an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).

Any contravention of Council's conditions relating to the tree at any time during the course of the works, or prior to the issue of an Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

Protection of tree in rear yard

26. In order to also ensure retention of the *Eriobotrya japonica* (Loquat) that is located in the rear yard of the subject site, along the northern boundary in good health, the following measures are to be undertaken:
 - a. All documentation submitted for the Construction Certificate application must also show its retention, with the position and diameter of both its trunk and canopy to be clearly and accurately shown on all plans in relation to the works.
 - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the rear yard must be consistent with what has been shown on the Concept Drainage Plans by M + G Consulting, dwg's C04-05, issue 3, dated 31/07/18.
 - c. The Construction Certificate plans must show that the northeast corner of the Basement Level will be offset a minimum distance of **4300mm**, measured off the outside edge of its trunk at ground level, as has been shown on the Ground Floor Plan, dwg DA03.
 - d. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **3 metres** to its west, south and east, measured off the outside edge of its trunk at ground level, matching up with the northern site boundary, in order to completely enclose this tree for the duration of works.
 - e. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
 - f. In order to prevent soil/sediment being washed over its root system, erosion control measures must be provided at ground level around the perimeter of the TPZ.
 - g. Ground levels within the TPZ must not be altered by more than 200mm, and other than the approved works, there must be no other structures such as continuous strip footings, planter boxes or similar to be located in

this area, which must remain as undisturbed, deep soil.

- h. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
- i. Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly by hand (using only hand held tools, not machinery), with the affected area to be backfilled with clean site soil as soon as practically possible.
- j. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

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

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

Structural Adequacy

- 28. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the *certifying authority (and the Council, if the Council is not the certifying authority)*, certifying the structural adequacy of the existing structure to support the proposed additions.

BASIX Requirements

- 29. 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.

Geotechnical Report

30. All recommendations of the Geotechnical Investigation by Assetgeo, Ref No 4985-R1, dated 15 June 2018 should be implemented during the relevant stages of construction and documented within the Construction Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority' (PCA), 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, PCA & Other Requirements

31. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work, 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 PCA 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 Certifying Authority*; and
 - e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

32. 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 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 Certifying Authority and Council.

Dilapidation Reports

33. 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 Certifying Authority*.

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 Certifying Authority*.

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

Construction Noise & Vibration Management Plan

34. Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents 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. A copy of the strategy must be provided to the Principal Certifying Authority and Council prior to the commencement of works on site.

Construction Site Management Plan

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

- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details.

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

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

Demolition Work Plan

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

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

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

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

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Inspections during Construction

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

Site Signage

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

Restriction on Working Hours

41. 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"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

42. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- Work Health & Safety legislation and SafeWork NSW requirements
 - Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and Randwick City Council's Asbestos Policy. A copy of the demolition work plan must be provided to Principal Certifying Authority and a copy must be kept on site and be made available for Council Officer upon request.
 - A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise

specified by SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.

- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifying Authority and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifying authority as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Public Safety & Site Management

43. 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) 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, and details are to be included in the *Construction site Management Plan*.
- a) 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.
- b) 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.

Support of Adjoining Land, Excavations & Retaining Walls

- 44. 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.
- 45. 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 Certifying Authority.

- 46. 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 Certifying Authority*:
 - 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 Certifying Authority*.

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 Certifying Authority*.

Building Encroachments

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

Tree Management

48. Approval is granted for removal of the following vegetation from within the subject site, subject to full implementation of the approved Landscape Plans:
- a. In the rear yard, beyond the southeast corner of the existing dwelling, in the southern side setback/courtyard, against the southern boundary, from west to east, a *Brachychiton acerifolius* (Flame Tree) and a *Magnolia grandiflora* (Magnolia), due both to their fair health and condition arising from past heavy pruning, as well as their direct conflict with the significant earthworks and excavations that will be performed in this same area for the new driveway and carpark at the Basement Level, as well as the Casual Dining and Play rooms at the Ground Floor Level, as is shown on dwg's DA02-03, with the major re-designs required not warranted in this case.

Road / Asset Opening Permit

49. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

Occupation Certificate Requirements

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

BASIX Requirements

51. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

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

Council's Infrastructure, Vehicular Crossings, street verge

52. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
53. 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.

Stormwater Drainage

54. The applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage-Stormwater Drainage) and the conditions of this development approval. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.

Landscaping

55. Prior to issuing any Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Dangar Barin Smith, dwg's LP01-03 - D0418, issue 01, dated 01.08.18.

56. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
57. That part of the nature-strip upon Council's footway which is damaged during the course of the works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to the issue of any Occupation Certificate

Swimming Pool Safety

58. Swimming pools are to be designed and installed in accordance with the relevant requirements of the Building Code of Australia and be provided with childproof fences and self-locking gates, in accordance with the Swimming Pools Act 1992 and the Swimming Pools Regulation 2008.

The swimming pool is to be surrounded by a child-resistant barrier (e.g. fence), that separates the pool from any residential building (as defined in the Swimming Pools Act 1992) that is situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with Australian Standard AS 1926.1 – 2012 (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).

Gates to pool area must be self-closing and latching at all times and, the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the Swimming Pools Regulation 2008, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

Notification of Swimming Pools & Spa Pools

59. The owner of the premises must 'register' the swimming pool [or spa pool] on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Act 1992*.

The Swimming Pool Register is administered by the NSW Office of Local Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.

Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifying Authority and Council accordingly.

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.

Use of Premises

60. The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.

External Lighting

61. 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.

Plant & Equipment

62. Noise from the operation of all plant and equipment upon 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Office of Environment & Heritage (EPA) Noise Control Guidelines.

Air Conditioners

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

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

Rainwater Tanks

64. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

ADVISORY NOTES

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

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

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or

non-complying building work, or to comply with the requirements of Council's development consent.

- A2 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:
- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
 - An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
 - Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.
- A4 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.
- A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:
- Install or erect any site fencing, hoardings or site structures
 - Operate a crane or hoist goods or materials over a footpath or road
 - Placement of a waste skip or any other container or article.
- For further information please contact Council on 9093 6971.
- A6 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or

- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A8 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A9 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A10 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

Development Application Report No. D32/19

Subject: 1B Yarra Road, Phillip Bay
(DA/788/2018)



Folder No: DA/788/2018

Author: William Jones, Senior Environmental Planning Officer

Proposal: Torrens title subdivision of an existing dual occupancy

Ward: South Ward

Applicant: Harrison Friedmann & Associates Pty Ltd

Owner: 1b Yarra Road Pty Ltd

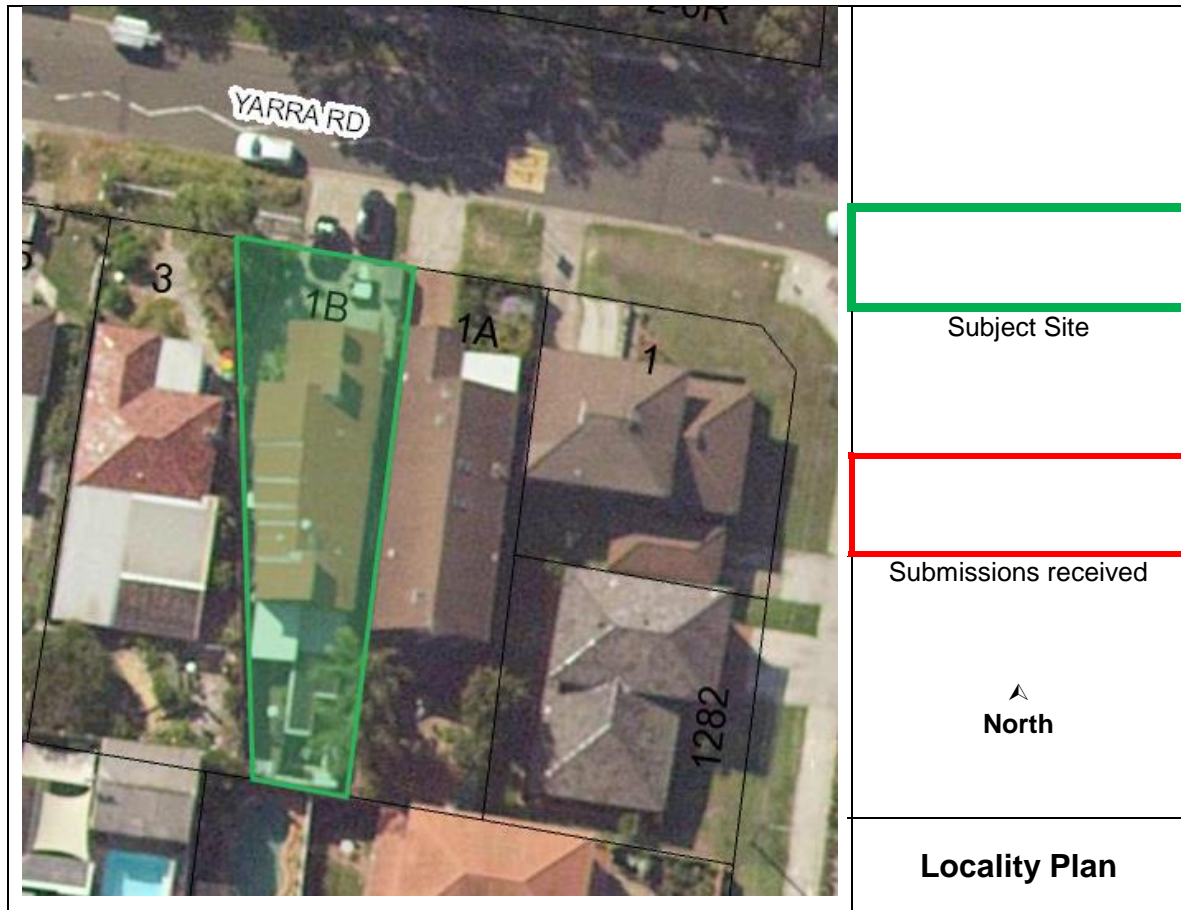
Cost of works: nil

Reason for referral: Variation to Clause 4.1D of RLEP 2012 exceeds 10%

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the minimum subdivision lot size and lot width development standard in Clause 4.1D of Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 788/2018 for Torrens title subdivision of an existing dual occupancy at No. 1B Yarra Road, Phillip Bay subject to the development consent conditions attached to this report.

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for minimum subdivision lot size and lot width by more than 10%.

The proposal seeks development consent for the Torrens Title subdivision of an existing dual occupancy into 2 allotments (lot 131 = 219m² with 8.3m lot width at the building line), and lot 132 = 189m² with 4.6m lot width at the building line).

The key issue relates to the non-compliance with the minimum subdivision lot size for dual occupancies (240m²) for which development consent was granted before 6 July 2018, and the minimum lot width measured at the building line (6m). The Applicant submitted a written request to vary the development standard pursuant to Clause 4.6 of the Randwick Local Environmental Plan 2012 (RLEP 2012) that has adequately addressed the matters that are required to be demonstrated by subclause (3) of Clause 4.6. The variation is supported given Council's *Subdivision Code* applies to the development, which states Torrens Title subdivision of a dual occupancy approved prior to 8 May 1995 is not subject to the minimum allotment size. The proposed development is within the public interest as it is consistent with the objectives of the R2 Low Density Residential zone and objectives of Clause 4.1 of the RLEP 2012.

The proposal is recommended for approval subject to standard conditions.

2. Site Description and Locality

The subject site is known as 1B Yarra Road and is legally described as Lot 13 in DP 598440. The site is 408m², is irregular in shape and has a 13.42m frontage to Yarra Road to the north. The site contains an attached dual occupancy and limited vegetation.

3. Relevant history

The existing attached dual occupancy was approved on 7 September 1990 (DA/246/1990) under delegated authority.

4. Proposal

The proposal seeks development consent for the Torrens Title subdivision of an existing dual occupancy into 2 allotments (lot 131 = 219m² with 8.3m lot width at the building line), and lot 132 = 189m² with 4.6m lot width at the building line).

5. Relevant Environment Planning Instruments

5.1. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed subdivision will provide for the housing needs of the community, contribute to the desired future character of the area (in that it is in accordance with the Subdivision Code), and will encourage housing affordability.

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

Clause	Development Standard	Proposal	Compliance
CI 4.1D: Subdivision of dual occupancies (attached) in Zone R2	Clause applies to a dual occupancy (attached) on land in Zone R2 for which development consent was granted before 6 July 2018.	The attached dual occupancy was approved in 1990.	Complies
	Torrens title lots to comply with Clause 6.4 of the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> .	Lot size and lot width does not comply (refer to assessment table below).	Does not comply – refer to clause 4.6 assessment below.

The table below assesses the proposal against each of the development standards contained in Clause 6.4 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*:

Development standard	Proposal	Compliance
There must only be 1 dwelling on each resulting lot at the completion of the development.	There will be only one dwelling per lot.	Complies
Each resulting lot must be at least 6m wide (measured at the building line) and have lawful access, and frontage to, a public road.	Lot 131 = 8.3m Lot 132 = 4.6m	Lot 132 does not comply – refer to clause 4.6 assessment below.

Development standard	Proposal	Compliance
The area of each resulting lot must be at least 240 square metres.	Lot 131 = 219m ² Lot 132 = 189m ²	Does not comply – refer to clause 4.6 assessment below.
The subdivision must not contravene any condition of any complying development certificate applying to the development.	No CDC applies to the site.	N/A

6. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.1D: Lot Size and lot width (min)	240m ² 6m at the building line	Lot 131 = 219m ² Lot 132 = 189m ² lot size, and 4.6m lot width.	21m ² 51m ² lot size, and 1.4m lot width.	8.75% 21.25% lot size, and 23.33% lot width.

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. However, the Applicant seeks to demonstrate that compliance is unreasonable or unnecessary based upon the second method,

being that the underlining objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in ***Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118** reinforces the previous decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether 'the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard'.

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there here are two respects in which the written request needs to be "sufficient".

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term 'sufficient' did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

6.1. Exception to the subdivision of dual occupancies (attached) in Zone R2 development standard (CI 4.1D)

The Applicant's written justification for the departure from the subdivision of attached dual occupancies development standard is contained in Appendix 2.

1. Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The Applicant's written request seeks to justify the contravention of the subdivision of attached dual occupancies development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the underlining objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The Applicant argues that the standard relating to minimum lot size and lot width is not relevant given the application of the Subdivision Code, which states:

**E. Dual Occupancy and Semi-Detached Dwellings.
(H223/1996-20/8)**

Council may permit the Torrens title subdivision of development in accordance with lines of occupation without regard to the minimum allotment sizes required by clause A (1) if:-

- (a) The building(s) was lawfully erected prior to 28 April, 1978;
- (b) The application to erect a dual occupancy was approved prior to 8 May 1995; or
- (c) The application to erect a dual occupancy was lodged prior to 8 May 1995; and subsequently approved.

Clause A (1) of the subdivision Code states:

**A. Subdivisions in Land Zoned
2(A1), 2(A2), 2(B1), 2(B2),
2(C1) and 2(D)**

1. That a subdivision of land shall not be approved in respect of an allotment of land:-
 - (a) within Zone No. 2(a1), 2(b1), 2(b2) or 2(c1) unless each separately created new allotment:
 - (i) has an area of not less than 325 square metres; and
 - (ii) is not less than 9 metres wide at the front alignment of the allotment; or
 - (b) within Zone No. 2(a2) or 2(d) unless each separately created new allotment:
 - (i) has an area of not less than 460 square metres; and
 - (ii) is not less than 15 metres wide at the front alignment of the allotment.

Given the Subdivision Code applies to the dual occupancy that was approved prior to 1995, the minimum allotment size and width is not applicable as part of the subject proposal and therefore compliance with the subdivision of attached dual occupancies development standard is unreasonable or unnecessary in the circumstances of the case.

2. Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The Applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the subdivision of attached dual occupancies development standard on the basis that the site is capable of containing the proposed subdivision without any environmental impacts.

The Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the minimum subdivision lot size standard and R2 Low Density Residential zone is provided below:

Assessment against objectives of the minimum subdivision lot size standard

- (a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,*

Assessing officer's comment: The subdivision will not result in any likely adverse impact on the amenity of neighbouring properties. Any future development of the lots will be subject to a separate assessment.

- (b) *to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,*

Assessing officer's comment: The subdivision relates to an existing dual occupancy and no new works are proposed. Any future development of the lots will be subject to a separate assessment.

- (c) *to ensure that lot sizes are able to accommodate development that is suitable for its purpose.*

Assessing officer's comment: The subdivision relates to an existing dual occupancy and no new works are proposed. The lots are suitably sized to accommodate the existing development. Any future development of the lots will be subject to a separate assessment.

The development is consistent with the objectives of the minimum subdivision lot size standard.

Assessment against objectives of the R2 Low Density Residential zone

The objectives of R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Assessing officer's comment: The proposal is consistent with the specific objectives of the zone in that the proposed subdivision will provide for the housing needs of the community, contribute to the desired future character of the area (in that it is in accordance with the Subdivision Code), and will encourage housing affordability.

The development is consistent with the objectives of the minimum subdivision lot size standard and the R2 Low Density Residential zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the minimum subdivision lot size standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the minimum subdivision lot size development standard.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 below.
Section 4.15(1)(a)(iiiia) – 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	No submissions were received.

Section 4.15 'Matters for Consideration'	Comments
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.

9. Conclusion

That the application for Torrens title subdivision of an existing dual occupancy 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 R2 Low Density Residential zone in that the proposed subdivision will provide for the housing needs of the community, contribute to the desired future character of the area (in that it is in accordance with the Subdivision Code), and will encourage housing affordability.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for the Torrens title subdivision of the existing dual occupancy development at the above site into 2 lots.

This report is based on the following plans and documentation:

- *Draft Subdivision Plans by Graham Kenneth Wilson;*
- *SEE*

General Comments

The above site was subject to a Dual Occupancy - DA/246/1990 & LA/200/2003.

No on-site detention was required for the subject site as it was not a requirement in 1990 plus it was also located outside future on-site detention catchments.

Assessing officer's comment: The Development Engineer's recommended conditions have been included.

Appendix 2: Applicant's written request seeking to justify the contravention of the development standard

Submission on Clause 4.6 of the *Randwick Local Environmental Plan 2012*

regarding DA/788/2018 for a Torrens title subdivision of an existing dual occupancy

at No. 1B Yarra Road, Phillip Bay NSW 2036 (Lot 13 in D.P. 598440)

On 12 November 2018, our client submitted Development Application number DA/788/2018 (the **DA**) to Randwick City Council with respect to proposed Torrens subdivision of an existing dual occupancy at No. 1B Yarra Road, Phillip Bay NSW 2036 (the **Property**).

On 9 January 2019, our client received an email from Alexandra Marks, Environmental Planning Officer of Randwick City Council with respect to the preliminary review of the DA. At that time, our client was advised that the two items of the DA had been deemed **non-compliant** with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the **Code**):

1. Minimum lot size, being 189m²; and
2. Minimum lot width, being 5.1m.

In accordance with Clause 4.6 of the *Randwick Local Environmental Plan 2012* (the **Act**), we seek to make a submission to justify the contravention of the applicable development standards on the following grounds:

1. **Compliance with the Development Standard for is unreasonable (Clause 4.6(3)(a))**

(a) Minimum Lot Size:

- i. Pursuant to Clause 6.4(1)(d) of Division 2 of the Code, the development standard specified for Torrens subdivision regarding minimum lot sizes of each resulting lots for a dual occupancy is:
 - (i) 60% of the minimum size specified for the subdivision of land for the purpose of a dual occupancy in the environmental planning instrument that applies to the land, or
 - (ii) if no minimum size is specified—200m² ...";
- ii. The lot size of the Property the subject of the DA is 189m²;
- iii. In accordance with Clause 3B.8 of the Code, the area of a lot for dual occupancy "must not be less than ... 400m² ...";
- iv. Accordingly, 60% of the minimum lot size, being 400m² is 240m²;
- v. The proposed variation is 51m², which as a percentage is 21.25% of the minimum lot size;
- vi. The existing dual occupancy the subject of the DA was approved by Randwick City Council and built on or about [DATE]; 7th SEPTEMBER 1990

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- vii. At that time the dual occupancy was submitted for approval, Clause E(b) of Randwick City Council subdivision code (the **Subdivision Code**), folder F2005/00282, stated that:

"Council may permit the Torrens title subdivision of development in accordance with lines of occupation without regard to the minimum allotment sizes required by clause A (1) if:-

...

(b) The application to erect a dual occupancy was approved prior to 8 May 1995 ...";

- viii. Accordingly, this Clause applied to the dual occupancy the subject of the DA;
- ix. Furthermore, Clause A (1) of the Subdivision Code states that each lot in a subdivision of land:

"(a) within Zone No. 2(a1), 2(b1), 2(b2) or 2(c1) unless each separately created new allotment:

(i) has an area of not less than 325 square metres; and

...

(b) within Zone No. 2(a2) or 2(d) unless each separately created new allotment:

(i) has an area of not less than 460 square metres ..."

- x. Whilst a lot size of 189m² is not equal or at least 60% of the specified minimum size of 240m², it was accepted by Randwick City Council as being compliant with Clause E(b) of Randwick City Council when the dual occupancy was approved; and
- xi. Accordingly, strict compliance with the development standard set out in Clause 6.4(1)(c) of the Code would be unreasonable and contrary to the approval of the dual occupancy the subject of the DA in the first instance.

(b) Minimum Lot Width:

- i. Pursuant to Clause 6.4(1)(c) of Division 2 of the Code, the development standard specified for Torrens subdivision regarding minimum lot width for each resulting lot *"must be at least 6m wide (measured at the building line) and have lawful access, and frontage to, a public road"*;
- ii. The width of the Property the subject of the DA is, as a result of the building line not being a straight line, best described as being:
 - A. 4.87m at the southern end;
 - B. 4.445 at the northern end; and
 - C. 5.1m as an average;
- iii. Access and frontage to the public road, being Yarra Road, is lawful and not in issue;

- iv. As stated in subparagraphs (a)(vi) and (vii) above, the relevant minimum allotment width size required by Clause A (1) was;

"(a) within Zone No. 2(a1), 2(b1), 2(b2) or 2(c1) unless each separately created new allotment:

...

(ii) is not less than 9 metres wide at the front alignment of the allotment; or

(b) within Zone No. 2(a2) or 2(d) unless each separately created new allotment:

...

(ii) is not less than 15 metres wide at the front alignment of the allotment".

- v. Whilst a minimum width of 4.87m and 4.445, together with an average width of 5.1m, is below the prescribed width, these allotment widths were already accepted by Randwick City Council as being compliant with Clause E(b) of Randwick City Council; and
- vi. Accordingly, strict compliance with the development standard set out in Clause 6.4(1)(c) of the Code would be unreasonable and contrary to the approval of the dual occupancy the subject of the DA in the first instance.

2. Compliance with the Development Standard is unnecessary (Clause 4.6(3)(a))

- (a) In light of the above, strict compliance with the development standards with respect to minimum lot sizes and minimum lot widths pursuant to Clauses 6.4(1)(c) and (d) of the Code would be unreasonable.
- (b) Pursuant to Clause 4.6 of the Act, exceptions to development standards are permissible:
 - "(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances".*
- (c) In circumstances where the minimum lot size and the minimum lot widths were approved at the time the dual occupancy was registered, there is strong justification for the contravention of the said development standards.
- (d) There is no hinderance or disadvantage experienced by the current owners and/or tenants of either of the properties the subject of the dual occupancy. The fact that the minimum lot size and minimum lot width of the Property the subject of the DA is below the specified development standard does not affect its suitability as a residence.
- (e) Accordingly, the objectives of the development standards with respect to minimum lot sizes and minimum lot widths are achieved despite the non-compliance identified with respect to the DA by applying a more flexible approach to the provisions of the Code.

3. *Environmental Planning Grounds (Clause 4.6(3)(b))*

- (a) The purpose of the DA is to seek a Torrens subdivision of an existing dual occupancy into two separate Torrens titles.
- (b) There is no building work to be undertaken, no modification to the current state of the property required.
- (c) Each of the properties the subject of the dual occupancy already has its own independent water, electricity and gas connections. Rates are issued by Randwick City Council to each of the properties.
- (d) Accordingly, there is no environmental impact to be considered with respect to the DA as each of the objectives stated in Clause 4.1 of the Act continue to be met:

"(a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,

(b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,

(c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose".



In light of the above, we submit that the approval of the DA would be in the public interest in accordance with Clause 4.6(4)(a)(ii) of the Act for being *"consistent with the objectives of the particular standard ..."*. By applying flexibility to the exercise of the development standard with respect to minimum lot sizes and minimum lot widths pursuant to Clauses 6.4(1)(c) and (d) of the Code, the objectives of the Act would not be defeated by the non-compliance of the DA. In circumstances where the DA simply seeks a Torrens subdivision of an existing dual occupancy, which has already been approved by Randwick City Council, the rejection of the DA would cause great disruption to the current owners and/or tenants and the neighbouring properties. Accordingly, the non-compliance of the DA is acceptable and appropriate as it will simply achieve the subdivision of an approved dual occupancy.

We thank you for your time and consideration.

Appendix 3: DCP Compliance Table**3.1 Section 2.1: Minimum Lot Size and Frontage**

DCP Clause	Control	Proposal	Compliance
2.1			
	i) The minimum frontage width for allotments resulting from the subdivision of land within Zone R2 (Low Density Residential) for the purposes of dwelling houses and semi-detached dwellings is 12m.	<p>The proposed Torrens title subdivision will result in the dual occupancy becoming x 2 semi-detached dwellings with frontages of 8.97m (Lot 131) and 4.44m (Lot 132).</p> <p>A variation to the RDCP is supported given the variation relates to an existing dual occupancy approved prior to 8 May 1995, and as such consent may be granted without regard to minimum allotment sizes pursuant to the Subdivision Code (refer to Section 6 – Clause 4.6 exception to a development standard).</p>	Variation is supported.
	ii) The minimum frontage width for allotments resulting from the subdivision of land within Zone R3 (Medium Density Residential) for the purposes of dwelling houses is 9m.	The site is zone R2.	N/A
	iii) Any subdivision of land within Zones R2 (Low Density Residential) and R3 (Medium Density Residential) must not create battle-axe or hatchet shaped allotments for the purposes of dwelling houses, semi-detached dwellings or dual occupancies (attached and detached).	Battle-axe shaped allotments are not proposed.	Complies
	iv) The minimum frontage width for the development of a dual occupancy (attached) within Zone R2 (Low Density Residential) is 15m.	A dual occupancy is not proposed.	N/A

Attachment/s:

1.   RLPP conditions - DA/788/2018 - 1B Yarra Road, PHILLIP BAY

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Sheet No.	Drawn by	Dated
Ref: 62997RH – Sheet 1 of 1	Surveyed/ drawn RH/PW	31 October 2018

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing a 'Subdivision certificate'.

These conditions have been applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works.

Sydney Water

- 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 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

A Section 73 Compliance Certificate must be completed before a subdivision certificate will be issued.

Easements

- The applicant shall create suitable rights of carriageway, easements for services, support and stormwater lines, as required. The applicant shall be advised that the minimum easement width for any stormwater line is 0.9 metres.

Public Utilities

- The applicant must meet the full cost for telecommunication companies, Jemena, Ausgrid and Sydney Water to adjust/relocate their services as required. This may include (but not necessarily be limited to) relocating/installing new service lines and providing new meters. The applicant must make the necessary arrangements with the service authorities.

Should compliance with this condition require works that are not exempt development, the necessary approvals must be obtained prior to any works being undertaken.

Road / Asset Opening Permit

5. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a subdivision certificate.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

Street and/or Sub-Address Numbering

6. 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.

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 a subdivision 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.

Subdivision Certificate

7. A formal application for a subdivision certificate is required to be submitted to and approved by the Council and all conditions of this development consent are required to be satisfied prior to the release of the subdivision plans.

ADVISORY NOTES

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

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

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards, as no construction works are approved as part of this consent.

Development Application Report No. D33/19



Subject: 25 Wansey Road Randwick
(DA/108/2019)

Folder No: DA/108/2019

Author: Perry Head, Environmental Planning Officer

Proposal: Alterations and additions to the dwelling including internal reconfiguration and enlargement of existing garage

Ward: West Ward

Applicant: Roth Architecture Workshop

Owner: H & K Gaynor

Cost of works: \$387 214

Reason for referral: Floor space ratio exceeds the LEP control

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 108/2019 for alterations and additions to the dwelling at No. 25 Wansey Road Randwick subject to the development consent conditions attached to this report.

D33/19



1. Executive summary

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

- The development contravenes the development standard for floor space ratio by more than 10%

The proposal seeks development consent for alterations and additions to the existing dwelling.

The key issues associated with the proposal relate to the provision of additional floor area to the existing dwelling house which resulted in the non-compliance with the floor space ratio standard.

The proposal is recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is known as 25 Wansey Road Randwick and is legally described as Lot A in DP 313599. The site is 327m², is rectangular in shape and has a 12.19m frontage to Wansey Road. The site contains a two storey dwelling with garages beneath.

The site slopes approximately from rear to front with a difference in levels of up to 2.75m.



3. Relevant history

There are no other relevant matters relating to this property.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling house, including internal floor plan changes at ground floor level with a new pantry and laundry, demolition of internal walls to provide for an open plan living area and installation of new windows to sides of the building, new bi-fold doors to the rear of the dwelling and new doors to the balcony at the front of the dwelling. Within the upper floor level, a new kitchenette is proposed. A new covered entry is proposed to the northern side of the dwelling and the southern side of the garage is to be enlarged to increase the internal depth of that side of the garage.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. No submissions have been received as a result of the notification of this application.

5.1. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 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 continue to meet the housing needs of the community within a low density residential environment, will recognize the desirable elements of the existing streetscape which contribute to the desired future character of the area.

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)	0.75:1	Existing 0.84:1 Proposed 0.85:1	No

CI 4.3: Building height (max)	9.5m	Same as existing (ie;11.8m)	No change to existing building height
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5.1.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standards are discussed in section 7 below.

6. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.75:1	0.85:1. NB: The existing building is at 0.84:1	3.3m ² additional floor area to the building	13.5%

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether ‘the applicant’s written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard’.

The grounds relied on by the applicant in their written request must be “environmental planning grounds” by their nature. Chief Justice Preston at [23] notes the adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there here are two respects in which the written request needs to be “sufficient”.

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term ‘sufficient’ did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development’s consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

6.1. Exception to the Floor Space Ratio (FSR) development standard (CI 4.4)

The applicant's written justification for the departure from the FSR standard is contained in Appendix 2.

1. Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the FSR development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the FSR standard are set out in Clause 4.4 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

(a) to ensure that the size and scale of development is compatible with the desired future character of the locality

The applicant's written justification demonstrates that this objective is satisfied by noting that the size and scale of the development remains largely unchanged and the realignment of the existing front wall will improve the appearance of the building in the streetscape which benefits the desired future character of the area.

(b) to ensure that buildings are well articulated and respond to environmental and energy needs

The applicant's written justification demonstrates that this objective is satisfied by noting that the alterations to the dwelling will improve access to natural light and ventilation through the proposed works to the rear of the dwelling.

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

The development is not within a conservation area or near a heritage item so the objective detailed in Clause 1(c) is not relevant to this development.

(d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The applicant's written justification demonstrates that this objective is satisfied by noting that due to the changes being predominantly internal the development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

2. Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR development standard as follows:

The applicant notes that the existing building already exceeds the maximum FSR being at 0.84:1 and strict compliance with the FSR control would require extensive renovation and demolition in order to remove the already non complying floor area.

It is noted that the existing character of the locality includes buildings of similar bulk and scale and an argument cannot be made that the small amount of additional floor area provided to the building would detract from the development standard by not being compatible with the established character of the locality.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R2 zone is provided below:

Assessment against objectives of floor space ratio standard

For the reasons outlined in the applicant's written request, the development is consistent with the objectives of the FSR standard.

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*

Assessing officer's comment: The desired future character of the locality is established in the LEP controls in relation to building height and floor space ratio controls.

The size and scale of the proposed development is compatible with the 'desired future character of the locality' as it will remain consistent with the existing built form to the surrounding lots and most importantly the actual additional floor area to the building is less than 4m² so any comparison with the existing building is almost negligible.

- (b) *to ensure that buildings are well articulated and respond to environmental and energy needs,*

Assessing officer's comment: There are no major changes to the existing building envelope. The only external changes to the building are additional windows to the southern and northern side boundaries, new bi fold doors to the rear and sliding doors to the façade providing access to the new balcony above the garage. The apparent articulation of the building remains unaltered by this proposal.

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

- (c) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

Assessing officer's comment: The development is not within a conservation area or near a heritage item so the objective detailed in Clause 3(c) is not relevant to this development.

- (d) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The assessment that must be made is whether or not the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

- Visual bulk: The visual presentation of the development remains as a two storey building with garages beneath.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Appendix 3 (Item 5.3 – Visual Privacy). The proposed development will not result in any unreasonable adverse privacy impacts.
- Overshadowing: A detailed assessment of the overshadowing impacts is provided in Appendix 3 (Item 5.1 – Solar access and overshadowing). This assessment shows that there are no significant additional overshadowing to the adjoining properties.
- Views: There are no affected views.

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The development is consistent with the objectives of the floor space ratio standard.

Assessment against objectives of the R2 zone

The objectives of R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To recognize the desirable elements of the existing streetscape and built form, or in precincts undergoing transition, that contribute to the desired future character of the area,
- To protect the amenity of residents,
- To encourage housing affordability, and
- To enable small scale business uses in existing commercial buildings.

Assessing officer's comment: The proposed development will satisfy the relevant objectives of the R2 zone as the building will continue to maintain housing within a low density residential environment, will not detract from the existing streetscape and will protect the amenity of residents.

The development is consistent with the objectives of the floor space ratio standard and the R2 zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(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	No submissions have been received.

Section 4.15 'Matters for Consideration'	Comments
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

The key issue in relation to this application is the additional floor area which increases the existing non complying floor space ratio. See discussion of the Clause 4.6 Objection in section 6 above.

The application includes a separate external door to the stairwell and kitchenette to the upper floor. These will easily allow for the physical separation and separate use of the two levels of the building. A condition of consent is included to require the removal of the external door to the stairwell and kitchenette from the application.

9. Conclusion

That the application to carryout alterations and additions to the building 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 R2 zone in that the building will continue to provide for housing and will not result in any adverse impact upon the amenity of the adjoining 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.

Appendix 1: Referrals

Internal referral comments:

Development Engineer

Permission is granted for the removal of the pencil Pine Tree located in the front yard at the southern side of the site.

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Appendix 2: Applicant's written request seeking to justify the contravention of the development standard



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Clause 4.6: Exception to Development Standards Statement

Client Name: **Harvey and Kerrie Gaynor**

Job Name: **GAYNOR**

Address: **25 Wansey Road
Randwick NSW 2031
Lot A DP 313599**

Date: **22 February 2019**

Issue: **A**

Council: **Randwick City Council**



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Introduction

This document is submitted to Randwick City Council in support of a Development Application, which seeks approval for alterations and additions to the existing terrace at 25 Wansey Road, Randwick 2031, legally known as Lot A DP 313599.

The application for works to 25 Wansey Road proposes alterations and additions to the existing dwelling including internal reconfigurations, an extension to the existing garage and associated landscaping works. The proposal responds to the existing site conditions, bulk, scale, setbacks and rhythms of the surrounding neighbourhood, while improving the amenity of the family home.

The purpose of this statement is to seek concessions to specific clauses of the statutory controls for the subject site without causing a precedent for future applications. This application should be read in conjunction with the following:

- ❑ Architectural Plans by Roth Architecture Workshop Pty Ltd (22/02/19)
- ❑ Statement of Environmental Effects by Roth Architecture Workshop Pty Ltd (22/02/19)
- ❑ Shadow Diagrams by Roth Architecture Workshop Pty Ltd (22/02/19)
- ❑ Survey Plan by Hill & Blume Consulting Surveyors (27/09/18)
- ❑ BASIX Certificate by Architecture Workshop Pty Ltd (22/02/19)
- ❑ Stormwater Drainage Plan by Northern Beaches Consulting Engineers (02/2019)
- ❑ Cost Report by Muller Partnership Quantity Surveyors (14/02/19)



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1. Development Standard to which the Clause 4.6 Exception Statement Applies

This Clause 4.6 Exception to Development Standards Statement responds to the Randwick City Council's Local Environmental Plan 2012, Floor Space Ratio Clause 4.4, and seeks concession to Clause 4.4 Subclause (2A), which states that:

"Despite subclause (2), the maximum floor space ratio for a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential is not to exceed: If the lot is more than 300 square metres but not more than 450 square metres—0.75:1"

The overall design is still in keeping with the objectives of 4.4 Floor Space Ratio in the Randwick LEP 2012.



Figure 1. Randwick Local Environmental Plan 2012, Floor Space Ratio Map and Key



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2. Objectives of the Applicable Zone

The subject site is zoned R2 – Low Density Residential. The objectives of this zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- To protect the amenity of residents.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

3. Objectives of the Floor Space Ratio Development Standard

The objectives of Clause 4.4 Floor Space Ratio are as follows:

- To ensure that the size and scale of development is compatible with the desired future character of the locality,
- To ensure that buildings are well articulated and respond to environmental and energy needs,
- To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,
- To ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.



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4. Reasons Given in Support of Floor Space Ratio Variations

The site area of 25 Wansey Road is 327m², with a maximum floor area of 245.25m² allowable. The existing floor area is 275.14m² and Floor Space Ratio is 0.84:1. The proposed floor area is 278.55m² and Floor Space Ratio is 0.85:1.

The proposal only seeks to make minor changes to the existing dwelling, most of which are internal reconfigurations. Furthermore, the proposed works at the rear of the site will enhance the dwelling's private open space and not affect the overall Floor Space Ratio. The main cause of increase in Floor Space Ratio is the removal and rearrangement of interior walls to improve the dwelling's access to amenities and create a more modern and functional space.

There are no negative impacts caused by the Floor Space Ratio non-compliance and the objectives of Clause 4.4 are reflected in the proposed design.

In conclusion, due to the works being minimal in nature, the existing dwelling not complying with Clause 4.4, and the proposal only adding approximately 3m² of floor area, we ask the Council to support this Clause 4.6 Exception to Development Standards Application in relation to Floor Space Ratio.



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5. How the Objectives of the Zone and the Objectives of the Standard Have Been Complied With

The objectives of Clause 4.4 have been met in that:

- (a) The size and scale of the development remains largely unchanged. By bringing the garage wall forward, the building better aligns with the average front setback of the adjacent developments which improves the streetscape and benefits the desired character of the locality;
- (b) The building remains well articulated and responds to environmental and energy needs by improving its access to natural light and ventilation through the proposed works to the rear of the dwelling;
- (c) The proposal does not change the scale or bulk of the existing dwelling and therefore views towards Royal Randwick Racecourse are unaffected;
- (d) Due to the changes being predominantly internal, the development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The objectives of Zone R2 – Low Density Residential have been met in that:

- (a) The extension of the garage wall brings the building in line with the setback of adjacent dwellings and improves the existing streetscape which preserving the desirable elements of the neighbourhood and its built form;
- (b) The amenity of residents is protected and enhanced by the proposal to the rear of the site in terms of private open space, access to natural sunlight and ventilation;
- (c) Housing affordability remains unchanged as the works are minor in nature and provide an improvement to a family home.



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ROTH ARCHITECTURE WORKSHOP PTY LTD – ABN 52 606 250 542
ROTH ARCHITECTS PTY LTD – ABN 60 115 903 174
ALEX ROTH NOMINATED ARCHITECT – REG 7276



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6. Why Compliance with the Standard is Unreasonable or Unnecessary in the Circumstances and Why Approval Will Not Cause a Precedent for Future Applications

Complying with Clause 4.4 is unreasonable in this case because it would require extensive renovation and demolition in order to remove enough of the existing dwelling to comply with the stipulated required ratio of 0.75:1. This would go against Clause 4.4's objectives and adversely affect its surrounding development in terms of bulk, privacy, compatibility and character.

The proposed reconfiguration of the ground floor allows the private open space to be better connected to the living areas of the house. This also creates better passive energy utilization with cross ventilation and natural light to the living areas of the subject site. The first floor bathroom provides better amenity to the proposed bedroom and along with the reorganization of the ground floor, the proposed design has a much more livable layout than that of the existing dwelling.

The proposed changes work within the set context of the site. The alterations have been designed to achieve the best possible amenity to the neighbours and subject site. The current proposal has no negative effects in terms of privacy issues, overshadowing and potentially blocking views. The proposed design remains as close to conforming with council intentions for the Floor Space Ratio as the existing dwelling while more closely reflecting the objectives of the DCP and LEP.

There are no significant negative impacts caused by the proposed breach to the Randwick Local Environmental Plan 2012 and the objectives of Clause 4.4 are reflected in the proposed design.



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Appendix 3: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	301 to 450 sqm = 55%	No change to existing site coverage	
2.4	Landscaping and permeable surfaces		
	i) 301 to 450 sqm = 25% i) Deep soil minimum width 900mm. ii) Maximise permeable surfaces to front iii) Retain existing or replace mature native trees iv) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. v) Locating paved areas, underground services away from root zones.	The existing area of landscaping is less than 2% of the site area, this is increased to 8% by way of perimeter planting	No, however a significant improvement from the existing situation
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	301 to 450 sqm = 6m x 6m	No change to existing POS	
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	Site area = 327m ² . Proposed FSR = 0.85:1	No, see Key Issues
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Existing = 11.8m	No change to existing
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing = 7.7m	No change to existing
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	No change to existing front setback	
3.3.2	Side setbacks:		
	Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and	Existing = 800mm to southern and 1600mm to northern boundaries. The new covered portico to the northern side of the building is sited up	No change to existing building other than the portico. There are no objections to the setback of the portico as there will not be any

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DCP Clause	Controls	Proposal	Compliance
	outbuildings	to the side boundary.	adverse amenity impacts to the adjoining building in relation to solar access or visual amenity.
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	Existing = 5.3m	No change to existing
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	The existing building design is generally unaltered	
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	The nominated colours and materials are satisfactory	Yes
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls.	The extent of earthworks is minimal and does not exceed the DCP	Yes

DCP Clause	Controls	Proposal	Compliance
	iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	controls	
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The existing solar access to the north facing windows and POS is not impacted by the proposed development	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	The existing solar access to the north facing living room windows and POS is not impacted by the proposed development	Yes
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:	The alterations and additions to the dwelling will improve light and ventilation	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>i) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>ii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i></p>	throughout the building	
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	There are no additional privacy impacts to the adjoining properties as the only new window to the northern side elevation is a high light window and to the southern side elevation a mid level kitchen splash back window	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	<p>i) Maximum 1 vehicular access</p> <p>ii) Locate off rear lanes, or secondary street frontages where available.</p> <p>iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling.</p> <p><i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i></p> <p>iv) Single width garage/carport if frontage <12m; Double width if:</p> <ul style="list-style-type: none"> Frontage >12m, Consistent with pattern in the street; Landscaping provided in the front yard. <p>v) Minimise excavation for basement garages</p> <p>vi) Avoid long driveways (impermeable surfaces)</p>	The existing vehicle access is maintained	Yes
6.3	Setbacks of Parking Facilities		
	<p>i) Garages and carports comply with Sub-Section 3.3 Setbacks.</p> <p>ii) 1m rear lane setback</p> <p>iii) Nil side setback where:</p> <ul style="list-style-type: none"> nil side setback on adjoining property; streetscape compatibility; safe for drivers and pedestrians; and 	The existing garage setbacks are maintained	As existing

DCP Clause	Controls	Proposal	Compliance
	- Amalgamated driveway crossing		
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The existing driveways are maintained	As existing
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	The southern side of the garage is to be enlarged to match the front setback of the other side of the garage and to increase the usable depth of the garage. The internal depth of the southern side of the garage is now to be 5.6m which complies with the DCP controls	Yes

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Attachment/s:

1.   Development Consent Conditions - 25 Wansey Road, Randwick

Development Consent Conditions



DA No:	DA/108/2019
Property:	25 Wansey Road, RANDWICK
Proposal:	Alterations and additions to existing dwelling at ground and first floor levels, changes to garages, landscaping and associated works.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
DA.02(G)	Roth Architecture	22/2/19
DA.04(G)	Roth Architecture	22/2/19
DA.05(G)	Roth Architecture	22/2/19
DA.06(G)	Roth Architecture	22/2/19
DA.07(G)	Roth Architecture	22/2/19
DA.12(G)	Roth Architecture	22/2/19
DA.13(G)	Roth Architecture	22/2/19
DA.14(G)	Roth Architecture	22/2/19
DA.15(G)	Roth Architecture	22/2/19
DA.16(G)	Roth Architecture	22/2/19
DA.17(G)	Roth Architecture	22/2/19
DA.22(G)	Roth Architecture	22/2/19

BASIX Certificate No.	Dated
A339964	22 nd February 2019

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a) The kitchenette in the upper level lounge shall be deleted.
 - b) The external door to the stairwell at the ground floor level shall be deleted.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

Section 7.12 Development Contributions

4. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$387 214 the following applicable monetary levy must be paid to Council: \$ 3 872.15.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Compliance Fee

5. A development compliance and enforcement fee of \$387.20 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

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

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

Sydney Water Requirements

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

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

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

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

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia & Relevant Standards

8. 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

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

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

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

10. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work and the requirements of the *Home Building Act 1989* must be satisfied accordingly; and

- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Construction Site Management Plan

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

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

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

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

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Inspections during Construction

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

Building & Demolition Work Requirements

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

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

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

Sediment & Erosion Control

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

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

Public Safety & Site Management

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

or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

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

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

Site Signage

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

Restriction on Working Hours

19. 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"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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.

Tree Management

20. Approval is granted for the removal of the Pine tree located at the front southern side of the site, as shown on the submitted plans.

Road / Asset Opening Permit

21. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

Occupation Certificate Requirements

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

BASIX Requirements & Certification

23. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority 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 Certifying Authority* and Council upon issuing an Occupation Certificate.

Council's Infrastructure, Vehicular Crossings, street verge

24. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
25. 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.

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.

26. The building is to be used as a single dwelling only and not for multi occupancy.

Use of parking spaces

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

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

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

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

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

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.
- Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.
- Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.
- A10 The necessary development consent and a construction certificate or a complying development certificate (as applicable) must be obtained for any proposed *cooling towers* and external plant and equipment, if not included in this consent.
- A11 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A12 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A13 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical

Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

D33/19

Development Application Report No. D34/19

Subject: 7 Seaside Parade, South Coogee
(DA/279/2019)



Folder No: DA/279/2019

Author: William Jones, Senior Environmental Planning Officer

Proposal: Installation of balustrading to the east-facing awnings at the entry level and first floor, installation of privacy screening at the entry level awning, enlargement of the first floor awning, and use of the awnings as balconies.

Ward: East Ward

Applicant: Santos Architecture

Owner: Ms M Eleftheriades

Cost of works: \$19,800

Reason for referral: 10 or more unique submissions by way of objection were received and a variation to Clause 4.3 of RLEP 2012 exceeds 10%.

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the maximum permitted building height development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 279/2019 for installation of balustrading to the east facing awnings at the entry level and first floor, installation of privacy screening at the entry level awning, enlargement of the first floor awning, and use of the awnings as balconies at No. 7 Seaside Parade, South Coogee, subject to the development consent conditions attached to this report.

D34/19

D34/19



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 10 or more unique submissions by way of objection were received and a variation to Clause 4.3 of RLEP 2012 exceeds 10% in relation to building height.

The proposal seeks development consent for installation of balustrading to the east facing awnings at the entry level and first floor, installation of privacy screening at the entry level awning, enlargement of the first floor awning, and use of the awnings as balconies.

Two S4.55(2) modification applications related to the subject awnings at the Entry Level and First Floor were refused by the RLPP on 9 May 2019. In addition to works, the modifications sought approval for the use of the approved awnings as balconies. The modifications were refused on the basis that the development could not be considered substantially the same as development for which consent was originally granted given the proposed use of the awnings as balconies. Subsequently, the Applicant has lodged this DA seeking consent for the use of the awnings as balconies and a new S4.55(2) modification application (DA/502/2018/B) seeking retrospective approval for works that have already been carried out to the Entry Level awning only, with no proposed change of use. Council has received legal advice in relation to the modification application advising that the modifications will result in a development that is substantially the same as development for which consent was originally granted. This DA for use of both awnings as balconies and future works is reliant upon approval of the modification application, which is also subject to determination by the RLPP.

The key issues associated with the proposed development relate to the non-compliant building height associated with the First Floor balcony including the balustrading and support column, impacts upon the Foreshore Scenic Protection Area, and visual privacy, acoustic and view loss impacts upon neighbouring properties.

With regards to building height, the proposed height is 10.9m (measured to the top of the glass balustrading) and the maximum permitted building height is 9.5m. The non-compliance is due to the measurement to existing ground level, which is taken to be beneath the slab of the Lower Ground Floor that has been excavated beneath original ground level. If measured to original ground level, the balcony would have a maximum height at approximately 6.2m. The Applicant's written request to vary the development standard pursuant to Clause 4.6 of the RLEP has adequately addressed the matters required to be demonstrated by subclause (3), and the proposal will be in the public interest in accordance with subclause (4).

With regards to impacts upon the Foreshore Scenic Protection Area, the proposal will result in a more regular shaped balcony at the First Floor compared to the approved triangular awning that will be more harmonious with the foreshore area and that is in-line with the approved balconies and awnings of the southern neighbouring property. The proposed clear glass balustrading, and 100mm x 150mm support column that is integrated with the 1.6m high privacy screening at the Entry Level balcony will not result in adverse bulk and scale.

With regards to visual privacy and acoustic impacts, the proposed balconies are not excessively sized and are proportionate to the size of the dwelling and the rooms they serve. The balconies are not the principal private open space for the dwelling, which is located at the lower levels. The Entry Level balcony that serves a living room is provided with privacy screening, and the First Floor balcony serves a bedroom, which is not a high-use room. With regards to view loss impacts, the proposal will reasonably maintain key views of the land and water interface from neighbouring properties.

The proposal is recommended for approval subject to non-standard conditions that require:

- the existing approved east-facing balconies located at the Entry Level and First Floor shall not be enclosed and shall form part of the new balcony areas.
- the area of the awning to the east of the First Floor balcony shall be non-trafficable.
- the clear glass balustrading shall not be highly reflective.

2. Site Description and Locality

The site is identified as 7 Seaside Parade, South Coogee and is legally described as Lot 3, Sec 3 in DP 9452. The site has a single street frontage to the eastern side of Seaside Parade. The site is irregular in shape and has an east-west orientation. The site slopes approximately 14 metres from the west (front) towards the east (rear) to the Pacific Ocean. The site is occupied by a part two and part five storey dwelling house that is in the final stages of construction.

The surrounding area is characterised by a mix of low density residential development comprising three to five storey dwelling houses on the eastern side of Seaside Parade and two and three storey dwelling houses on the western side of Seaside Parade as part of the R2 Low Density Residential zone pursuant to the RLEP 2012. To the south of the site at 9 Seaside Parade is a part 2 and part four storey dwelling house that is currently being constructed. To the north of the site at 5 Seaside Parade is a part 2 and part 3 storey dwelling house.

3. Relevant History

Refused Modification Applications

The following S4.55(2) modification applications were refused by the RLPP on 9 May 2019:

- DA/502/2018/A - Modification of approved development by enlargement of the rear awning at the entry level and making the awning trafficable with balustrading and provision of a support column.
- DA/655/2018/A - Modification of approved development by enlargement of the rear awning at the first floor level and making the awning trafficable with balustrading and provision of a structural column.

The modification applications were both refused for the following reason:

The Panel is not satisfied that the proposed modification is substantially the same as the development for which consent was originally granted, as required by Section 4.55 (2) (a) of the Environmental Planning and Assessment Act 1979, noting that the proposed modification would change the function/use of the structure as well as its shape and size.

With regards to DA/655/2018/A, the RLPP also noted in the minutes of the meeting that:

In addition, the Panel notes that if it could lawfully consider the proposal, the application for modification has not adequately addressed the matters referred to in Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 as are of relevance to the development subject of the application including impacts on views, and visual and aural privacy.

A separate S4.55(2) modification application has been lodged (DA/502/2018/B) that is also subject to determination by the RLPP and that seeks retrospective approval for works already carried out to the Entry Level awning only with no change of use proposed. The subject DA seeks consent for future works to the awnings that have not yet been carried out at both the Entry Level and First Floor (refer to section 4, Proposal description), and for the use of both awnings as balconies. In response to the RLPP's additional concerns, matters relating to view sharing and visual / acoustic privacy have been addressed in this report (refer to section 9.1, discussion of key issues). The proposal will not result in adverse amenity impacts upon neighbouring properties or the Foreshore Scenic Protection Area, subject to conditions.

It is noted that the physical differences between the refused modification applications and proposed works is a reduced trafficable area of the proposed First Floor balcony, and the addition of 1.6m high privacy screening to the northern and southern sides of the proposed Entry Level balcony.

It is also noted that both of the refused modification applications are subject to a Class 1 Appeal at the Land and Environment Court.

Other Relevant Applications

Other than the refused modification applications, the existing dwelling that is currently undergoing construction is subject to a number of DAs and modification applications as follows (from most recent):

- DA/502/2018 – Construction of a new awning above the rear outdoor terrace area located at the ground floor level. The awning was approved as a cantilevered structure without a support column and was not approved with balustrading and was non-trafficable from the entry level. Approved under delegated authority on 12 September 2018.
- DA/601/2017 - Amendments to approved development by:- At pool level, relocation of approved pool equipment room and shower room, addition of plant room between shower and external wall, raising of lawn level at lower ground level, relocation of external access stair to internal stair and extension of roof over cabana towards southern boundary. Approved 10 January 2019 by the Land and Environment Court.
- DA/655/2018 - Construction of entry level awning to rear of existing dwelling. Approved under delegated authority on 28 October 2018.
- DA/15/2017/B - Section 4.55 modification of the approved development by increasing the height of lift overrun by 410mm, new internal staircase from master bedroom to the roof level, increase the height of cabana roof at the rear ground floor level by 800mm. Approved under delegated authority on 4 May 2018.
- DA/924/2014/A - Section 4.55 modification of the approved development by filling in part of the void area at first floor level, extension of rooftop slab to create an awning along eastern side terrace on level 2, and increase the height of western section of the roof by 200mm. Approved under delegated authority on 4 May 2018.

- DA/15/2017 – Increase height of lift overrun and replacement of access stairs on southern boundary with internal stairs and extension of cabana roof. Approved by Council on 25 July 2017.
- DA/851/2015/A – Section 96 modification of the approved development to increase lift overrun & raising lawn level to lower ground floor level. Withdrawn 6 January 2017. DA/15/2017 was then lodged as a result.
- DA/851/2015 – Amendments to approved development consents DA/822/2013 and DA/924/2014 by enclosure of second floor southwest roof garden, increase in size of second floor roof terrace, alteration to floor level of swimming pool and surrounds, addition of privacy louvres on northern side, alterations to cabana, internal reconfiguration, deletion of first floor southern balcony. Approved by Council on 24 May 2016.
- DA/924/2014 – Amendment to the approved DA/822/2013 by altering the internal configuration of the dwelling, increase the floor area at lower ground and ground floor levels, new cabana at lower ground floor level, increase the size of the terrace area at ground and second floor levels, new balcony on the southern elevation at first floor level, changes to openings on all elevations, and increase the overall height of the dwelling to RL33.07 (variation to floor space ratio control). Approved by Council Committee on 8 September 2015.
- DA/822/2013 – Demolition of existing dwelling, construction of 5 level dwelling with lower level swimming pool with plant room/storage area, double garage landscaping and associated works (Variation to floor space ratio control). Approved by Council on 22 July 2014.

4. Proposal

Entry Level

- Make the awning trafficable so as to be used as a balcony.
- Installation of frameless clear glass balustrading.
- Installation of 1.6m high privacy screening to the northern and southern sides of the balcony.

The proposed works at the Entry Level will result in the awning becoming a balcony that serves the “games room”. A small balcony was approved off the “games room” via DA/822/2013 with access via a swinging single door, which is still depicted on the proposed Entry Level floor plan. According to the Applicant, a new access to the proposed balcony is not proposed, therefore access to the balcony will be via the approved access to the original balcony. It is unclear whether glazing is proposed to the eastern side of the original balcony as part of this DA. So that additional GFA is not approved via the potential for enclosure of the original balcony, a condition is recommended so that the existing approved east-facing balconies located at the Entry Level and First Floor are not enclosed and shall form part of the new balcony areas.

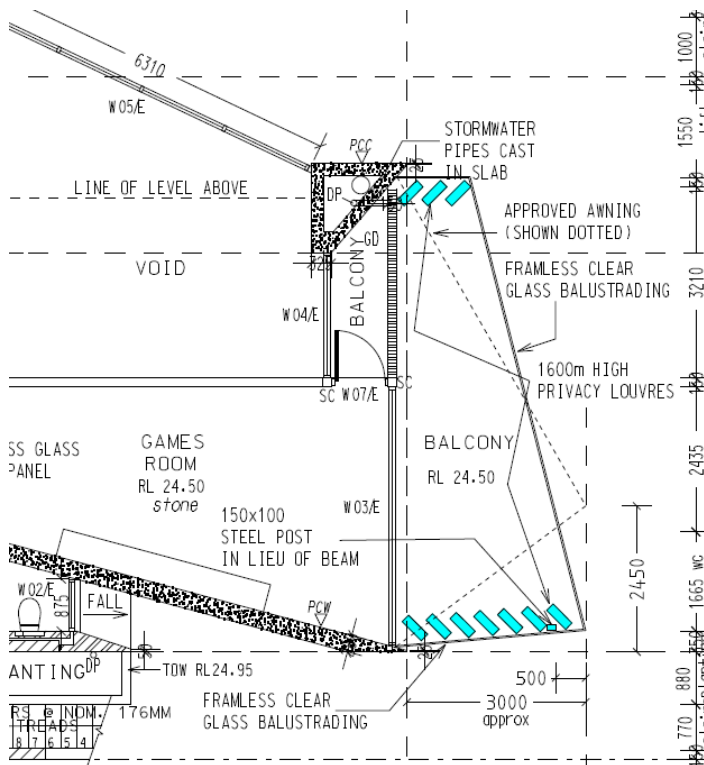


Figure 1 – Proposed Entry Level balcony area and privacy screening (blue), and approved awning outline (dotted).



Figures 2 & 3 - View south to living room balcony (level 4) of 9 Seaside Parade (left photo) and View north to the POS of 5 Seaside Parade (right photo).

First Floor Level

- Enlarge the area of the awning.
- Make a portion of the awning trafficable so as to be used as a balcony.
- Installation of frameless clear glass balustrading.
- Note: no changes proposed to roof above the proposed First Floor balcony.

The proposed works at the First Floor level will result in the awning becoming a balcony that serves "Bed 2". A small balcony was approved off the bedroom via DA/822/2013 with a sliding access door approved via DA/851/2015. According to the Applicant, the sliding access door will provide access to the proposed balcony. As stated above, so that additional GFA is not approved via the potential for enclosure of the original balcony, a condition is recommended so that the existing approved east-facing balconies located at the Entry Level and First Floor are not enclosed and shall form part of the new balcony areas.

The approved area of the awning was 15.6m² and the proposed new area of the awning / balcony is 19.9m². A portion of the awning is proposed to be trafficable. The depth of the approved awning is proposed to be reduced from the easternmost triangular point (refer to dotted outline of original approved awning in figure 4 below). To support the balcony / awning, a structural column is proposed under the southern side (can be viewed as the proposed “150x100 steel post in lieu of beam” shown in Figure 1 above).

According to the Applicant, the original size and shape of the awning as approved could not be constructed. Structural Certificates were submitted stating that the extension of the awning is necessary to permit the cantilevered section to the north and that the column is necessary to support the southern section. Formwork for the awning as proposed has been erected, however the slab has not yet been poured and therefore the proposed works have not yet been carried out (a stop-work order has been issued).

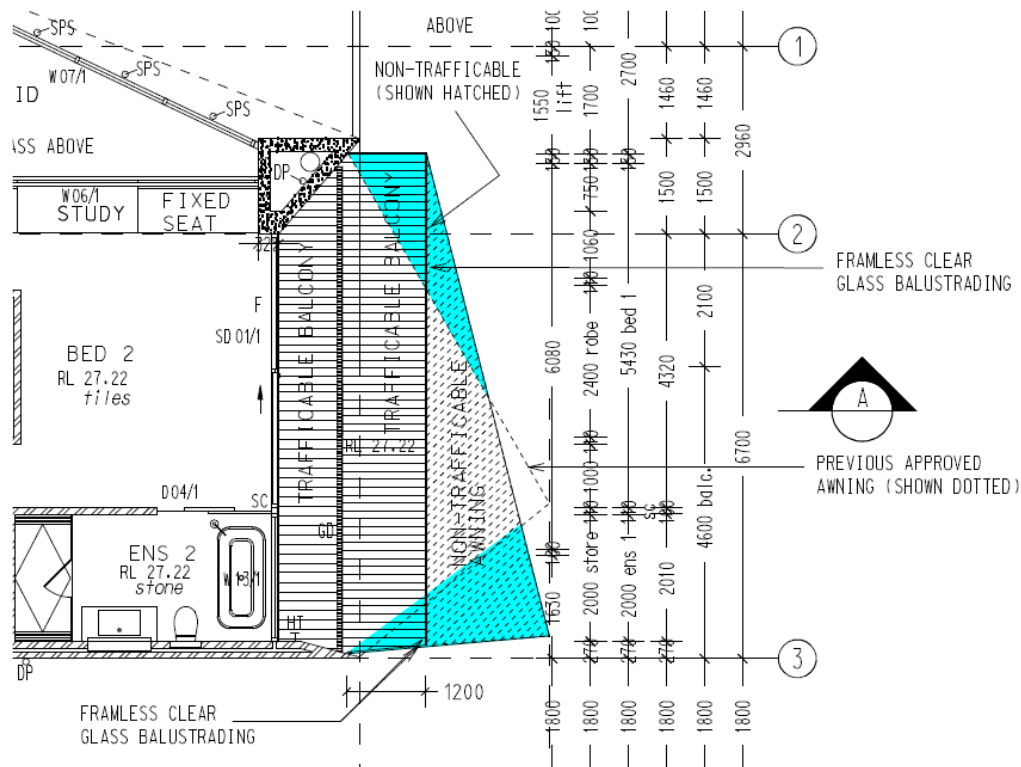


Figure 4– Proposed First Floor extension of awning (blue) and trafficable area (lined), and approved awning outline (dotted).



Figures 5 & 6 - View south to living room balcony below (Level 4) and bedroom balcony / awning above (Level 5) of 9 Seaside Parade (left photo), and view north-east to POS of 5 Seaside Parade (right photo).

5. Notification

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

- 4 Seaside Parade, South Coogee
- 5 Seaside Parade, South Coogee
- 6 Seaside Parade, South Coogee
- 8 Seaside Parade, South Coogee
- 9 Seaside Parade, South Coogee
- 10 Seaside Parade, South Coogee
- 15 Seaside Parade, South Coogee
- 12 Seaside Parade, South Coogee
- 21 Torrington Road, Maroubra
- 28 Edgecliffe Avenue, South Coogee
- 25 Amour Avenue, Maroubra
- 47 Cuzco Street, South Coogee
- 250 Storey Street, Maroubra
- 704/97 Boyce Road, Maroubra

Issue	Comment
The proposal will result in adverse visual bulk and scale that will impact the scenic quality of the Foreshore Scenic Protection Area and views to the coast from public areas.	The proposal will result in a more regular shaped balcony at the First Floor compared to the approved triangular awning that will be more harmonious with the foreshore area, and that is in-line with the approved balconies of the southern neighbouring property. The proposed clear glass balustrading and 100mm x 150mm support column that is integrated with the 1.6m high privacy screening at the Entry Level balcony will not result in adverse bulk and scale. The works are isolated to the rear of the existing building and will not disrupt view corridors from public places to the coast (refer to section 9.1, discussion of key issues).
The proposed development has already been refused and should not be approved. Request for the DA to be assessed by a different planning officer other than William Jones, who recommended approval for the related S4.55 modification applications that were refused by the RLPP.	The subject DA is a separate application that is considered on its own merit. The proposed works differ to the modifications proposed as part of the S4.55 modification applications that were refused by the RLPP, and the reason for refusal has been addressed in Section 3, relevant history.
There is an excessive number of applications applicable to the property, which should be reduced.	Previous applications that have already been determined cannot be withdrawn.
Development should not be approved beyond the Foreshore Building Line.	The proposed works are located behind the Foreshore Building Line pursuant to clause 6.6 of the RLEP 2012 (refer to section 9.1, discussion of key issues).
The support columns should not be provided beyond the rear building line as no other properties are provided with this.	The support column is integrated with the proposed privacy screening and is 100mm x 150mm, which will not result in adverse amenity impacts.
No trafficable awnings should be provided on the street side and no further works to the street elevation.	No street-facing balconies or works to the front elevation are proposed.

Issue	Comment
View loss from adjoining properties, particularly should privacy screens be required for the trafficable balcony. 5 Seaside Parade contains south-facing windows contrary to the submitted SEE.	The proposal will not result in adverse view loss from neighboring properties (refer to section 9.1, discussion of key issues).
Approval will set an undesirable precedent.	Future applications will be assessed on merit.
The originally approved smaller balconies will be filled in as additional GFA. The approval of awnings as balconies may result in further exceedance of the FSR control.	A condition is recommended to ensure the original balconies are absorbed / included as part of the proposed balcony areas, which are not counted towards gross floor area as defined in the RLEP.
Visual privacy impacts to adjoining properties. In particular, the First Floor balcony will have a view into 9 Seaside Parade's bedroom window. Any measures to mitigate privacy will result in view loss.	Adverse visual privacy impacts will not occur considering the balcony serves a bedroom that is not a frequented room and is not excessively sized. Some overlooking between properties is also a characteristic of the area (refer to section 9.1, discussion of key issues).
Noise impacts due to the excessive size of the balconies.	The balconies are not considered to be excessively sized and are proportionate to the size of the dwelling and the rooms that they serve. The balconies are not the principal private open space for the dwelling and therefore adverse noise impacts are not expected to occur.
The proposal is not in the public interest given retrospective approval of unauthorised works would undermine the faith of the community in the planning system. Council is reluctant to order demolition and the fines issued for unauthorised works are not a sufficient deterrent.	Retrospective approval is not sought under this DA, only works that have not yet been carried out. The S4.55(2) modification application (DA/502/2018/B) seeks retrospective approval for unauthorised works to the Entry Level awning, and is also subject to determination by the RLPP.
Parts of the awning that is not proposed to be trafficable will be used as part of the balcony.	A condition is recommended to enforce the non-trafficable area of the awning adjacent to the proposed balcony at the First Floor.
An additional structure has been built on the roof in addition to the increased height of the lift overrun that has also been retrospectively approved.	This issue has been raised with Council's Compliance team who is investigating the matter.
The proposed privacy screen will impact solar access to 9 Seaside Parade.	The main living areas / glazing and POS of 9 Seaside Parade is orientated to the east, which based upon the shadow diagrams submitted for the dwelling being constructed at 9 Seaside Parade (DA/303/2013), will receive >3 hours solar access.
The proposed support column is not in-line with the already constructed column below. Concerns whether the column can support the first floor balcony.	A standard condition is provide (condition 10) requiring the submission of a Certificate of Adequacy by an engineer certifying the structural adequacy of the existing structure to support the additional balcony / awning area as part of the First Floor as part of the Construction Certificate documentation.
The first floor balcony will impact views from the north-facing bedroom window of 9 Seaside Parade.	The proposal will not adversely impact water views from the balcony at Level 5 (RL 28.6 – eye-level at RL 30.2) of 9 Seaside Parade given views will be maintained over the top of the proposed balcony and awning at the First Floor (RL 27.2) and clear glass balustrading is proposed.

6. Relevant Environment Planning Instruments

6.1. SEPP (Coastal Management) 2018

The subject site is mapped as part of the coastal environment area, and the coastal use area pursuant to Clause 6 of the SEPP.

The aims of the Coastal Management SEPP are:

- “(a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.”*

Assessing officer's comment: In response to Clause 13 of Division 3 – Coastal environment area, the proposal will not impede public access to the foreshore or use of the surf zone, or impact ecological or coastal environmental values.

In response to Clause 14 of Division 4 – Coastal use area, the proposal will not impede access to the foreshore or impact views from public places to the foreshore, or the scenic qualities of the coast (refer to discussion regarding the Foreshore Scenic Protection Area in Section 9.1 of this report).

In response to Division 5 – General, the proposal will not increase coastal hazards.

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community, contribute to the desired future character of the area, and will protect the amenity of residents subject to conditions.

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

Clause	Development Standard	Proposal	Compliance
Cl 4.3: Building height (max)	9.5m	10.9m measured from the top of the proposed balustrading, 9.8m from the FL of the proposed balcony, and 9.6m from the top of the support column at the First Floor to existing ground level (taken to be beneath the slab of the existing Lower Ground Floor). The proposed Entry Level balcony, privacy screening is <9.5m.	The First Floor balcony, balustrading and top of the column does not comply.
Cl 4.4: Floor space ratio (max)	0.6:1	No change to the existing FSR subject to conditions so that the existing approved balconies are not enclosed and remain part of the proposed balcony areas.	N/A

6.2.1. Clause 4.6 - Exceptions to development standards

The non-compliance with the height of buildings development standard is discussed in Section 7 below.

6.2.2. Clause 6.7 Foreshore scenic protection area

The site is identified as being located within the Foreshore Scenic Protection Area pursuant to the Foreshore Scenic Protection Area Map referred to in clause 6.7 (2) of the RLEP 2012. The proposed development is located outside of the Foreshore Building Line pursuant to clause 6.6 of the RLEP 2012 (see figures below).

6.7 Foreshore scenic protection area

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

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

(2) This clause applies to land identified as "Foreshore scenic protection area" on the [Foreshore Scenic Protection Area Map](#).

(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and
- (b) contributes to the scenic quality of the coastal foreshore.

Assessing officer's comment: The proposal is not directly visible from Seaside Parade or surrounding streets, and therefore will not impact views to the coast from these public areas. The proposal is not perceivable when viewed from public areas along the coast further to the south-east (along Marine Parade). Therefore the key consideration is views to site from the water.

The proposed additional balcony and awning area on the First Floor is in-line with the approved balconies and awnings of 9 Seaside Parade (and lower than the uppermost balcony), with the structure reducing in size toward the northern side. The proposed additional balcony and awning area will result in a more regular shaped structure that is in keeping with the shape of the awning at the Entry Level below proposed via DA/502/2018/B, and existing balconies along the coast that will be less visually jarring compared to the approved triangular awning. The proposed balustrading is frameless and comprises glass, and the proposed privacy screening to the Entry Level balcony is 1.6m high that will not significantly contribute to bulk and scale. The proposal will therefore contribute to the scenic quality of the coastal foreshore.

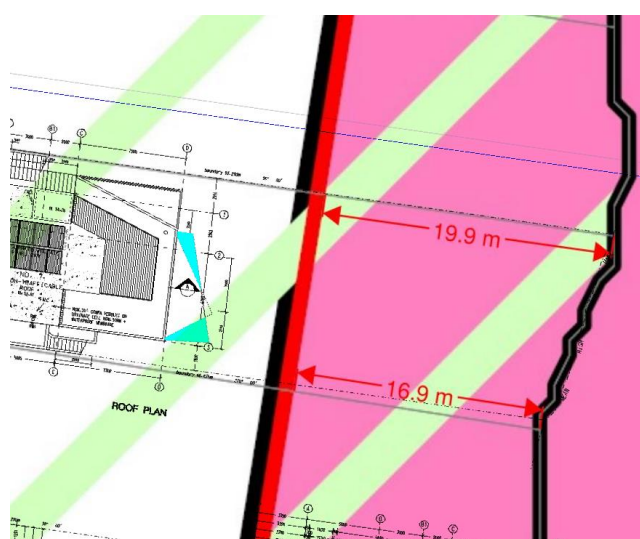


Figure 7 – Overlay of Council's Foreshore Building Line Map / Foreshore Scenic Protection Area Map Sheet CL1_008 with measurements to the foreshore Building Line (shaded pink) and proposed roof plan.

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Figure 8 – Approved triangular awnings (red arrow).

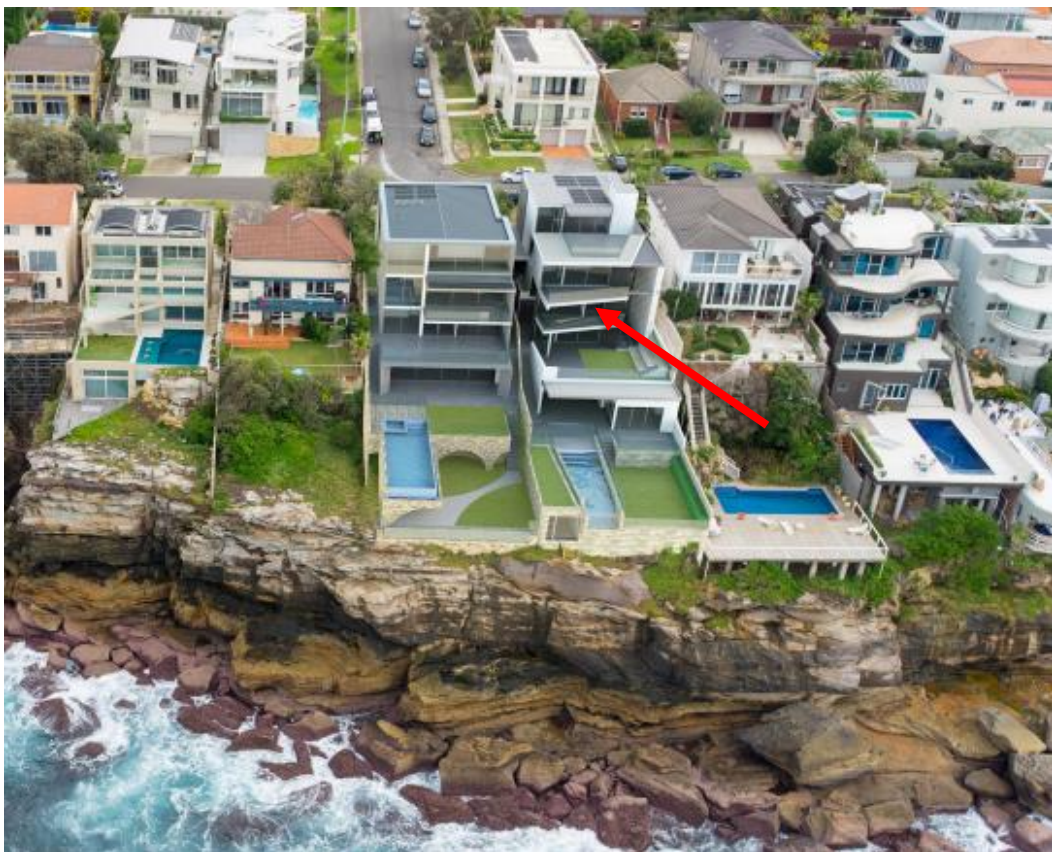


Figure 9 – Proposed balconies (red arrow).

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Existing	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3: Building height (max)	9.5m	17m measured from the top of the lift overrun to beneath the slab of the Lower Ground Floor.	10.9m measured from the top of the balustrading, 9.8m from the FL of the balcony, and 9.6m from the top of the column at the First Floor.	1.4m (balustrading), 0.3m (balcony), and 0.1m (top of column).	14.7% (balustrading), 3.1% (balcony), and 1% (top of column).

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether 'the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard'.

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there are two aspects in which the written request needs to be "sufficient".

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term 'sufficient' did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

7.1. Exception to the Building Height development standard (Clause 4.3)

The applicant's written justification for the departure from the Building Height standard is contained in **Appendix 1**.

1. **Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?**

The applicant's written request seeks to justify the contravention of the building height development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the building height standard are set out in Clause 4.3 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

(a) to ensure that the size and scale of development is compatible with the desired future character of the locality

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed balcony and balustrading is of a similar height of the balconies of 9 Seaside Parade, and the clear glass balustrading will not be highly visible.

(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

The development is not within a conservation area or near a heritage item so the objective detailed in Clause 1(b) is not relevant to this development.

(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed balcony is lower than the approved balcony on Level 5 of 9 Seaside Parade, and overlooking of the Level 4 balcony (containing POS accessed from a living area) will not occur given privacy screening is approved along the northern side of the Level 4 balcony. The balcony and clear balustrading will not result in adverse visual amenity impacts and will not impact views. Adverse overlooking will also not occur.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case.

2. **Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?**

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR development on the basis that there will be no amenity impacts and that the First Floor level to which the balcony serves complies with the building height standard.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Height of Buildings development standard and the R2 Low Density Residential zone is provided below:

Assessment against objectives of the height of buildings development standard

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*

Assessing officer's comment: The size and scale of the proposed development is compatible with the desired future character of the locality given the section of the building subject to the non-compliance is at a lesser height than the dwelling, and is isolated to the rear of the site and will not be perceived from the street. The balcony and awning is in-line with and at a lesser height than the uppermost balcony of 9 Seaside Parade. The balustrading comprises clear glass and the proposed support column measures 150mm x 100mm and is integrated behind the proposed privacy screening to the balcony off the Entry Level that will not result in adverse bulk and scale when viewed from the water or neighbouring properties. Therefore, the proposal is compatible with the desired future character of the locality.

- (b) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

Assessing officer's comment: The development is not within a conservation area or near a heritage item so the objective detailed in Clause 1(b) is not relevant to this development.

- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The assessment that must be made is whether or not the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

- Visual bulk: The proposed balcony including the clear balustrading and support column, will not result in adverse visual bulk noting that it is in-line with the approved balconies of 9 Seaside Parade, and reduces in depth towards the north.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Section 9.1, discussion of key issues. The proposal will not result in any unreasonable adverse privacy impacts.
- Overshadowing: Neighbouring dwellings are orientated to the east and will continue to receive more than 3 hours solar access to living room windows and private open space between 9:00am and 4:00pm on 21 June.
- Views: A view loss assessment is provided in Section 9.1, discussion of key issues. Existing view corridors will be reasonably maintained as a result of the proposed development.

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The development is consistent with the objectives of the building height standard.

Assessment against objectives of the R2 Low Density Residential zone

The objectives of R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community by improving upon the design of the existing dwelling house. The proposed development will contribute to the desired future character of the area by providing a balcony that is in-line with and lower than the approved uppermost balcony of 9 Seaside Parade, with the balcony provided at the rear of the site reducing bulk and scale. The proposed development will protect the amenity of residents that will occupy the building through improvements to the building design, and will not adversely impact the amenity of residents that will occupy neighbouring buildings.

The development is consistent with the objectives of the height of buildings standard and the R2 Low Density Residential zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the height of buildings standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the height of buildings development standard.

8. Development control plans and policies

8.1. 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.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant 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.

9.1. Discussion of key issues

9.1.1 Visual Privacy

Clause 5.3 of Part C1 of the RDCP 2013 requires upper floor balconies to be focused to the street or rear yard to minimise privacy impacts on adjoining properties. Privacy screening can be considered, and for sloping sites expansive areas of elevated outdoor recreation spaces shall be avoided. Both of the proposed balconies are orientated to the rear of the site and are not considered

to be expansive recreation spaces and are proportionate to the size of the dwelling and the rooms that they are proposed to serve.

The neighbouring building to the south at 9 Seaside Parade is currently under construction and will contain a part 2 and part 4 storey dwelling house approved via DA/303/2013. The neighbouring building to the north at 5 Seaside Parade is a part 2 and part 3 storey dwelling house.

The objective of Clause 5.3 is as follows:

- *To ensure development minimise overlooking or crossviewing to the neighbouring dwellings to maintain reasonable levels of privacy.*

Entry Level Balcony

The proposed Entry Level balcony serves the games room and although it is not the principal private open space of the dwelling, it is expected to be regularly used. The balcony is at RL 24.5 and will be located adjacent to the approved balcony of 9 Seaside Parade, which is at RL 25.3 and serves the principal living and dining area located at Level 4. The northern side of the approved balcony for 9 Seaside Parade is provided with fixed full height privacy screening approved via DA/303/2013/C. A north-facing living room window comprising clear glazing was approved via DA/303/2013/B.

The proposed privacy screening to the northern and southern sides of the Entry Level balcony will mitigate overlooking of habitable room windows and will reduce adverse overlooking to lower POS of both neighbouring properties. Although some angled, indirect overlooking of lower POS may occur, it is noted that the proposed balcony will not be the principal private open space, and some overlooking from upper level balconies is a characteristic of the area.

First Floor Balcony

The proposed First Floor balcony serves a bedroom and occupies a portion of the proposed extended balcony / awning area. Privacy screening is not proposed to the northern or southern sides of this balcony, which will overlook neighbouring properties. The proposed balcony is at RL 27.22 (eye level will be at RL 28.72) and will be located in between the approved balconies of 9 Seaside Parade at Level 5 (RL 28.6 – eye level at RL 30.1, serving a bedroom) and Level 4 (RL 25.3 serving the principal living and dining area).

The northern side of the approved balcony of 9 Seaside Parade at Level 5 (serving a bedroom) is not provided with privacy screening, and the northern side of the approved balcony at Level 4 (serving principal living and dining area) is provided with privacy screening. Therefore the proposed balcony will not overlook the lower Level 4 balcony, but will overlook and be overlooked by the Level 5 balcony (considered to be a low use balcony as it serves a bedroom). The northern side of the proposed balcony will in-turn overlook the lower POS of the neighbouring property to the north at 5 Seaside Parade.

Considering the restricted size of the balcony and that the balcony will serve a bedroom, which is not a high use room, and considering the increased side boundary setback to the northern neighbouring property, adverse privacy impacts are not expected to occur noting that some overlooking from upper level balconies is a characteristic of the area. Privacy screening to the sides of the balcony is not desirable, which due to its elevated nature will contribute to unnecessary bulk and scale within the foreshore Scenic Protection Area. A condition is recommended to enforce the non-trafficable section of the awning.

9.1.2 View Sharing

Clause 5.6 of Part C1 of the RDCP 2013 requires existing view corridors to be reasonably maintained. As the proposed works are located behind the front façade, the key affected properties are the neighbouring properties to the north (5 Seaside Parade) and south (9 Seaside Parade).

5 Seaside Parade

The proposal will not impact water views from the northern neighbouring property at 5 Seaside Parade given the building is set back behind the rear section of the approved building and living

areas are predominantly orientated to the east and north-east. As per the resident's submission however, it is noted that there is a south-facing living room window that can also be seen in the aerial image below.



Figure 10 – Aerial image of northern neighbouring property's south-facing living room window.

The proposed balconies and privacy screening will not impact views noting the line-of-sight from the northern property's south-facing window is obstructed by the approved full-height privacy screen adjacent to the northern side boundary (refer to Figure 11 below).

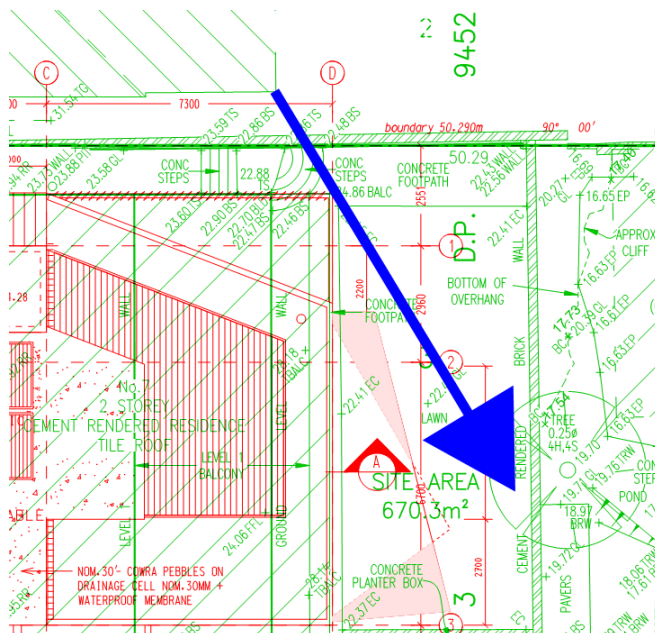


Figure 11 – Overlay of survey (green) with proposed roof plan (red) showing line-of-sight from northern neighbouring property's south-facing window.

9 Seaside Parade

The proposal will not impact water views from the living room balcony at Level 4 of 9 Seaside Parade given privacy screening is approved to the northern side of the balcony. The proposal will not adversely impact water views from the balcony at Level 5 (RL 28.6 – eye-level at RL 30.2) of 9 Seaside Parade given views will be maintained over the top of the proposed balcony at the First Floor (RL 27.2) and clear glass balustrading is proposed.

The north facing living room window at Level 4 of 9 Seaside Parade will lose views to Wedding Cake Island to the north-east as a result of the proposed privacy screening to the balcony at the

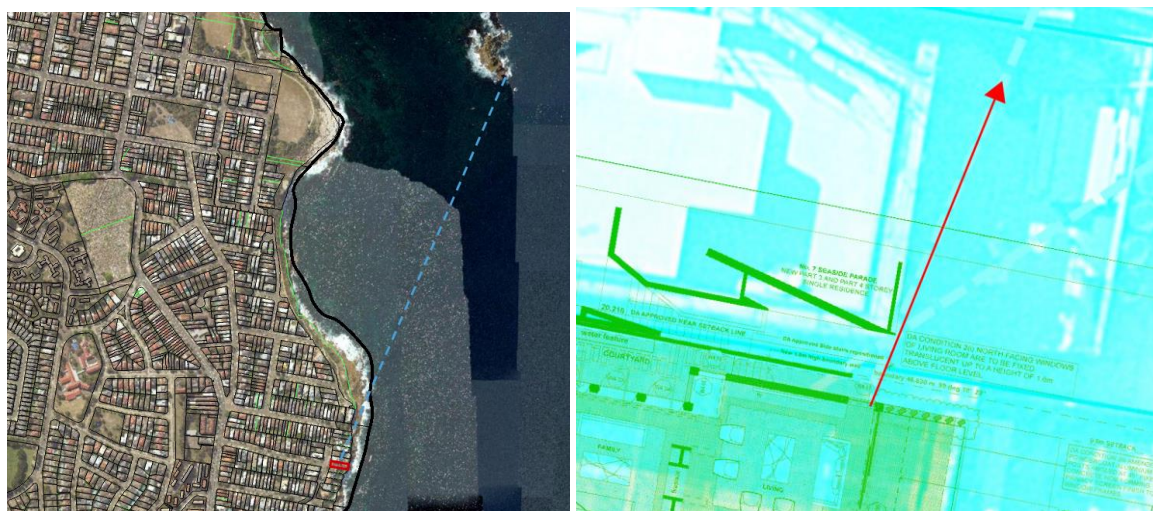
Entry Level. Although the top of the privacy screening is at RL 26.1 and eye level from the north-facing window of 9 Seaside Parade will be at RL 26.9, the angle of view downward to Wedding Cake Island will be obstructed as a result of the privacy screening, which is necessary to prevent direct overlooking.

To assess the reasonableness of the view loss from the north-facing living room window of 9 Seaside Parade, an assessment against the four-stage method established by the planning principal in the matter of Tenacity Consulting v Warringah (2004) NSWLEC 140 is carried out below.

1. Quality of Views:

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.

Assessing officer's comment: The affected view will be from the north-facing living room window at Level 4 of 9 Seaside Parade. The view is an unobstructed land and water interface view of Wedding Cake Island located to the north-east.



Figures 12 and 13 – View to Wedding Cake Island from 9 Seaside Parade (left) and overlay of aerial image (blue) and approved Level 4 floor plan showing existing view from north-facing living room window.

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

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.

Assessing officer's comment: Views are obtained across the side boundary from both a standing and a seated position.

3. An assessment of the extent of the impact.

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.

Assessing officer's comment: The view loss is assessed as moderate noting that the affected view is from a living room window.

4. *An assessment of the reasonableness of the proposal that is causing the impact.*
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.

Assessing officer's comment: The non-compliant building height relates to the proposed balcony at the First Floor, which does not result in adverse view loss. The proposed Entry Level balcony and privacy screening complies with the building height standard and other relevant planning controls. Therefore the assessment of the reasonableness of the proposal is based upon whether a more skilful design could be provided to provide the Applicant with the same amenity and to reduce impact on views.

In this case a more skilful design cannot be provided given the proposed privacy screening is necessary to mitigate direct overlooking of 9 Seaside Parade. The use of the awning as a balcony is reasonable as it will serve a living area that is not excessively sized and is in-line with the balconies at 9 Seaside Parade. In order to improve views either the privacy screening would need to be deleted, which is not supported, or the balcony would need to be significantly reduced, which would make it unusable. This is unreasonable considering it will serve a living area and is consistent with the balconies provided at 9 Seaside Parade.

Further, it is noted that it was Council's intention to require privacy treatment to the north-facing window at Level 4 of 9 Seaside Parade in accordance with the annotation provided on the approved northern elevation drawing (see Figure 14 below). However, the corresponding condition (DA/303/2013/C) incorrectly referenced the wrong level for the living area and therefore full height glazing was installed for this window.

Considering 9 Seaside Parade will maintain unobstructed land and water views to the east and partially to the north-east and south-east (which is the main orientation of dwellings in the area), the view loss is assessed as reasonable.

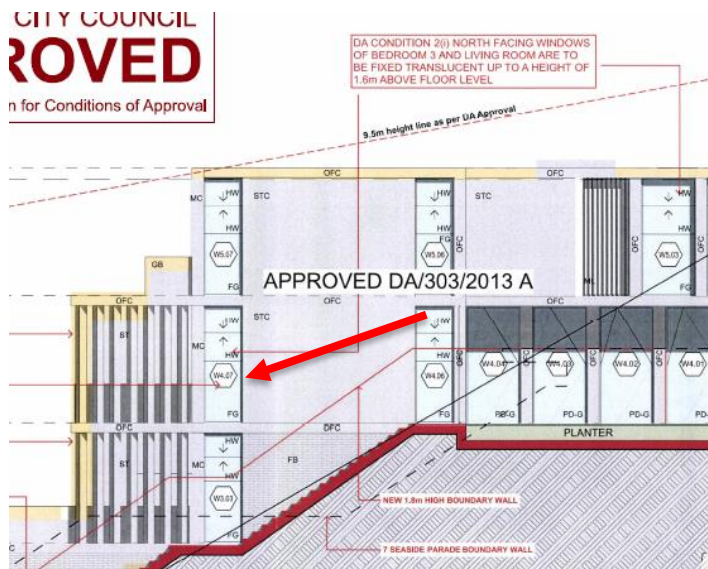


Figure 14 – Approved northern elevation of 9 Seaside Parade and annotation requiring privacy treatment, which conditions did not correctly reflect (red arrow identifies subject window).

10. Conclusion

That the application for installation of balustrading to the east-facing awnings at the entry level and first floor, installation of privacy screening at the entry level awning, enlargement of the first floor awning, and use of the awnings as balconies 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 R2 Low Density Residential zone in that the proposed activity and built form will provide for the housing needs of the community, contribute to the desired future character of the area, and will protect the amenity of 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 scenic qualities of the Foreshore Scenic Protection Area and will not adversely impact upon views to and from the coast.

D34/19

Appendix 1: Applicant's written request seeking to justify the contravention of the development standard

Clause 4.6 Submission: To vary the development standard of clause 4.3 Height of Building of the Randwick LEP 2012		
LEP Provision	Requirement (adopting that in <i>Ininal vs Woollahra Council</i>) Extracts from the Court Judgement	Planning response
Clause 4.3(2)	The permitted height for development on the subject land is 9.5m.	<p>The current First Floor Level complies with the Height Standard under its consents, as the development was measured above existing ground level as it existed at those times. Notwithstanding, due to the design of that approved development, which has included excavation of the site to provide for a Lower Ground Floor Level, it could now be interpreted that 'ground level (existing)', being the 'existing level of a site at any point', is now potentially lower than that formerly applicable to the dwelling currently under construction (and that, under its consents, it is deemed to be below the height standard). That the proposed structure might be deemed to be non-compliant with the standard, whilst the building upon which it is located and which rises above it is compliant, indicates that this is not the correct or satisfactory interpretation, as the DAs being amended are, in effect, themselves modifications of the original consents.</p> <p>The height of the approved building is above that of the proposed First Floor balustrade. The proposed First Floor balustrade is 10.87m (RL28.22, above RL17.35) (being the underside of the 0.15m depth of slab of the approved Lower Level (RL17.5) of existing dwelling on floor plan). The balustrade is frameless glass.</p>
Clause 4.6(2)	The proposal exceeds the HOB development standard permitted for the subject land.	The proposed balustrade is below the approved height of the existing building. The existing building, and the whole of the First Floor Level is below the 9.5m height control, though in this scenario, the balustrade may be interpreted as being 10.87m in height.
cl 4.6(4)(a)	The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii).	Advice Noted – no response required
cl 4.6(4)(a)(i)	The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the	<p>Advice Noted</p> <p>Noted</p>

	development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.	Undertaken below – Satisfied
cl 4.6(3)(a)	As to the first matter required by cl 4.6(3)(a), summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in <i>Wehbe v Pittwater Council</i> at [42]-[51].	Advice Noted – no response required
		Compliance with the development standard is unreasonable or unnecessary for the following reasons:
	The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: <i>Wehbe v Pittwater Council</i> at [42] and [43].	The Objectives of the Height Development Standard are to be achieved
	Assessment against the Development Standard objectives under clause 4.4	
4.3(1)(a)	to ensure that the size and scale of development is compatible with the desired future character of the locality	<p>The balustrade is unlikely to be discernible from any surrounding vantage points, due to its frameless glass design.</p> <p>The dwelling to which it is attached complies with the height standard to which its consents relate.</p> <p>The height of the balustrade on the balcony is, by comparison, comparable to that of similar balcony balustrading approved recently for construction on Level 5 of the neighbouring development at No.9 Seaside Parade to the south, at 10.7m (RL29.6 above RL18.9). The proposed balcony use is comparable to the level of the adjacent Level 5 terrace balcony of No.9. The design of the balustrade is also compatible, being frameless glass. On that basis alone, the size and scale of the development is considered to be compatible with the desired future character, as expressed at a similar height and location to that of No.9.</p>
4.3(1)(b)	to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item	Not applicable as the site is not within a heritage conservation area, nor near a heritage item.

<p>4.3(1)(c)</p>	<p>to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p>	<p>The proposed balcony, upon which the subject balustrade is located, is at RL27.22. This balcony is some 1.38m lower than the level of the closeby balcony on Level 5 of No.9 Seaside Parade. A person on the balcony would not be able to observe a person on that neighbouring balcony to Level 5 of No.9. Consent condition 2iii of DA303/ 2013/C applicable to No.9 requires a full height privacy screen alongside the northern side of its Level 4 balcony. A person on the proposed balcony could not look down onto the Level 4 balcony of No.9 due to that required privacy screen.</p> <p>The north-facing window to the bedroom on Level 5 of No.9 is required, by condition 2(i), to have either sill height of 1.6m, or have glazing that will not permit cross-viewing to No.7. That treatment will prevent cross-viewing from the proposed balcony (served by the balustrade) to the bedroom via that window.</p> <p>The proposed balustrade is frameless glass. It will not cast any shadows and will not add any bulk to the development.</p> <p>There are no evident views to the ocean to be affected by the proposed balustrade. There are no evident view lines through the area of the balcony that have been identified. The eyeline of a person on the Level 5 balcony of No.9 is about 1.88-1.98m above the upper-most height of the balustrade. Thus, any outlook to the north-east, across the side boundary with the subject land, from Level 5 of No.9 would be above the proposed location of the balustrade, and not level with it. In any event, as the balustrading is frameless glazing, were there the potential for some level of cross-viewing (which it is considered there would not be), such viewing would be through glass, and thus not be obstructed.</p> <p>The subject balcony is located beside, and elevated above, the Level 4 balcony of No.9. In terms of potential ocean views, the Level 4 balcony of No.9 is required, by its condition of consent 2(iii) to include a full height privacy screen, with angled louvres that do not allow for viewing over the subject land. Thus, there is no potential for any viewing from the Level 4 balcony of No.9 to the ocean to the north-east over the footprint of the proposed balcony. The balustrade will not hinder the potential for any available viewing to the ocean.</p>
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	A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: <i>Wehbe v Pittwater Council</i> at [45].	The underlying objective of the height standard is unnecessary in this instance, given the whole of First Floor is below the height standard, and the balcony will serve that level. The element is lightweight, and obscured to view. It will not generally be visible due to its frameless glass design (<i>Image 3</i>), such that it is unlikely to be visible from any surrounding vantage point and/or could only be viewed against the backdrop of the approved First Floor Level.
	A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: <i>Wehbe v Pittwater Council</i> at [46].	If the interpretation of height above existing ground level were adopted for the whole of the dwelling, the First Floor Level would be deemed greater than permitted under clause 4.3 (9.5m). Adopting the alternative approach, that height is above the revised ground level on the current construction site, it results in compliance with the 9.5m control not be able to be achieved for any form of development on First Floor Level irrespective of its minor nature, given the whole of this level would be deemed above 9.5m.
	A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: <i>Wehbe v Pittwater Council</i> at [47].	Applying the alternative interpretation for this application, both the First Floor Level and structures above of the existing building; and also Level 5 of recently approved and constructed No.9, are now both deemed above 9.5m, despite being in character with the area, when they were approved. The approved development in both cases have responded to the desired future character objectives of the locality, achieving a scale of development that generally is envisaged for the locality. Thus, if this interpretation is to be adopted, it could be argued for the subject land at No.9 at least, the Council the development standard has been abandoned for the purposes of all future applications, albeit with good planning reason.
	A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: <i>Wehbe v Pittwater Council</i> at [48]. However, this fifth way of establishing that compliance with the development	The current R2 zoning is appropriate.

	<p>standard is unreasonable or unnecessary is limited, as explained in <i>Wehbe v Pittwater Council</i> at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.</p>	
cl 4.6(3)(b)	<p>As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.</p> <p>The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient".</p> <p>First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWCA 248 at [15].</p> <p>Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 90 at [31].</p>	<p>There are sufficient environmental planning grounds for the development to contravene the development standard, given balcony balustrade of the First Floor Level serves the existing (under-construction) dwelling which itself is compliant with the Height of Building development standard. The frameless glass balustrade is incorporated within the envelope of the existing building, and reflects the design of other balconies on the building, and neighbouring development.</p> <p>There are no evident planning grounds by which to object to the balustrade, with the amenity of the neighbourhood and adjacent properties safeguarded.</p> <p>There is improved amenity to the bedroom that the balcony will serve (as is achieved for the similar designed balcony for the bedroom on Level 5 of No.9 Seaside Parade).</p> <p>The development will satisfy the objects of the Environmental Planning and Assessment Act 1979 ("Act") (section 1.3). In particular: it will promote the orderly and economic use and development of land, by achieving a development satisfying the desired future character of the locality without adverse impact upon neighbouring land or the locality (Object (c)).</p> <p>As per the approach as was adopted for the existing building, the development retains the promotion of good design and amenity of the building environment, being of a contemporary nature with a high standard accommodation (meeting relevant BASIX requirements (Object (g))).</p>

		The development will satisfy the most relevant aim of the LEP (clause 1.2). In particular, in providing this balcony space, the development achieves: <i>a high standard of design in the private and public domain that enhances the quality of life of the community</i> (Aim (d));
	The consent authority, or the Court on appeal, must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by cl 4.6(3)(a) and (b). As I observed in <i>Randwick City Council v Micaul Holdings Pty Ltd</i> at [39], the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction regarding the matters in cl 4.6(3)(a) and (b), but only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3)(a) and (b). The applicant bears the onus to demonstrate that the matters in cl 4.6(3)(a) and (b) have been adequately addressed in the applicant's written request in order to enable the consent authority, or the Court on appeal, to form the requisite opinion of satisfaction: see <i>Wehbe v Pittwater Council</i> at [38].	The above planning submission adequately addresses the matters contained clause 4.6(3)(a) and (b).
cl 4.6(4)(a)(ii)	The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under cl 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in cl 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in cl 4.6(4)(a)(ii). The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest <i>because</i> it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development	The development will be in the public interest as it is consistent with the objectives of the development standard, as addressed in turn, in the consideration of cl 4.6(3)(a) above (within this submission). In addition, the development is also consistent with the relevant objective of the R2 zone pertinent to the scope of the development, dealt with below:

	standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).	
Zone R2 Objective Dot 4	To protect the amenity of residents.	As addressed under clause 4.3(1)(c) above, the balustrade will not result in any impact upon the amenity of residents. The balcony is generally screened from view, and will only serve a bedroom. It is of a frameless glass design, such as to be unlikely to be discernible when viewed against the approved dwelling.
cl 4.6(4)(b)	The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.	Randwick City Council is identified in the written notice attached to the Planning Circular PS 18-003 as having the Secretary's concurrence.
cl 4.6(5)	the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: <i>Fast Buck\$ v Byron Shire Council</i> (1999) 103 LGERA 94 at 100; <i>Wehbe v Pittwater Council</i> at [41].	There are no evident matters of significance for State or regional environmental planning in this instance. There is no public benefit in maintaining the development standard in this instance, for the reasons identified in the assessment under clause 4.6(1)(3) and 4.6(1)(4) above. The development represents an a minor modification of the design of the as-constructed development on a level wholly approved in accordance with the height standard in a form that is envisaged for the site, of a height, scale and bulk that does not result in any adverse impact upon amenity, of either neighbouring land, or the wider locality. There are no other evident matters to be considered by the Council before granting its concurrence.

Appendix 2: DCP Compliance Table

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 below.

(Note: a number of control provisions that are not related to the proposal have been deliberately omitted)

Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
3.3	Setbacks		
3.3.2	Side Setbacks		
	1.2m Ground storey and First storey, 1.8m second storey and above.	1.8m to both balconies to southern side boundary, and 4.7m to northern side boundary.	Complies
3.3.3	Rear Setbacks		
	25% of allotment depth or 8m, whichever is the lesser.	8m min required and 24m proposed.	
5	Amenity		
5.1	Solar Access and Overshadowing		
	<p>Solar access to neighbouring development:</p> <p>iii) A portion of the north-facing living area windows of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.</p> <p>iv) The private open space of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. The area covered by sunlight must be capable of supporting passive recreation activities.</p>	<p>The north-facing living room window of 9 Seaside Parade will be additionally overshadowed by the proposed works. However, the main living areas / glazing and POS is orientated to the east, which based upon the shadow diagrams submitted for the dwelling being constructed at 9 Seaside Parade (DA/303/2013), will receive >3 hours solar access.</p>	Minor non-compliance is supported.
5.3	Visual Privacy		
	<p>iii) Focus upper floor balconies to the street or rear yard of the site. Any elevated balconies or balcony returns on the side facade must have a narrow width to minimise privacy impacts on the adjoining properties.</p> <p>iv) Where a balcony, deck or terrace is likely to overlook the private open space or windows of the adjacent dwellings, privacy screens must be installed in positions suitable to mitigate the loss of privacy.</p>	The proposed rear-facing balconies will not result in adverse visual privacy impacts.	Refer to Section 9.1, discussion of key issues.

DCP Clause	Controls	Proposal	Compliance
	<p>Privacy screens must be permanently fixed and have a minimum height of not less than 1600mm as measured from the finished floor level. Privacy screens must achieve a minimum of 70% opaqueness and may be constructed with:</p> <ul style="list-style-type: none"> - Translucent or obscured glazing - Fixed timber or metal slats mounted horizontally or vertically - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings <p>v) Screen planting and planter boxes may be used as a supplementary device for reinforcing privacy protection. However, they must not be used as the sole privacy protection measure.</p> <p>vi) For sloping sites, any ground floor decks or terraces must step down in accordance with the landform, and avoid expansive areas of elevated outdoor recreation space.</p>		
5.6	View Sharing		
	<ul style="list-style-type: none"> i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used) 	The proposed rear-facing balconies will reasonably maintain views to neighbouring properties.	Refer to Section 9.1, discussion of key issues.



Section B10: Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass 	<p>The proposed balconies are in-line with the rear balconies of the southern adjoining property.</p> <p>The clear balustrading, 150mm x 100mm column, and privacy screening will not result in adverse additional bulk and scale and demonstrates</p>	Complies

	<ul style="list-style-type: none"> v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone. 	<p>appropriate design that integrates well with the dwelling and coastal environment.</p> <p>A condition is recommended to ensure that the clear glass balustrading is not highly reflective.</p>	
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D34/19

Attachment/s:

1.   RLPP Conditions - DA/279/2019 - 7 Seaside Parade, SOUTH COOGEE

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

1. 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:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>
1002 'B'	Santos Architecture	19 June 2019
1003 'B'		
2001 'B'		22 May 2019
2002 'B'		

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. A privacy screen having a height of 1.6m (measured above the floor level of the balcony) shall be provided to the northern and southern sides of the rear-facing balcony at the Entry Level.

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.
3. The existing approved east-facing balconies located at the Entry Level and First Floor shall not be enclosed and shall form part of the new balcony areas.
4. The area of the awning to the east of the First Floor balcony shall be non-trafficable.
5. The reflectivity index of the clear glass balustrading shall not exceed 20 percent.

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 finishes of the external surfaces are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building and the streetscape.

Sydney Water

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

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

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

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

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia

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

Structural Adequacy

10. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the *certifying authority* (and the Council, if the Council is not the *certifying authority*), certifying the structural adequacy of the existing structure to support the additional balcony / awning area as part of the First Floor.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority' (PCA), 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, PCA & Other Requirements

11. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work, 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 PCA 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 Certifying Authority*; and
 - e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

12. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the 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 Certifying Authority and Council.

Dilapidation Reports

13. 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 Certifying Authority*.

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 Certifying Authority*.

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

Construction Noise & Vibration Management Plan

14. Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents 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. A copy of the strategy must be provided to the Principal Certifying Authority and Council prior to the commencement of works on site.

Construction Site Management Plan

15. 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 fencing / hoardings to the perimeter of the site;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction;
 - provisions for public safety;
 - dust control measures;
 - site access location and construction;
 - details of methods of disposal of demolition materials;
 - protective measures for tree preservation;

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

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

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

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

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

Site Signage

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

Restriction on Working Hours

18. 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"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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.

Public Safety & Site Management

19. 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) 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, and details are to be included in the *Construction site Management Plan*.
- 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.

Support of Adjoining Land, Excavations & Retaining Walls

20. 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.

Building Encroachments

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

Occupation Certificate Requirements

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

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

23. 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.

ADVISORY NOTES

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

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

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:
- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
 - An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
 - Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.
- A4 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.
- A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:
- Install or erect any site fencing, hoardings or site structures
 - Operate a crane or hoist goods or materials over a footpath or road
 - Placement of a waste skip or any other container or article.
- For further information please contact Council on 9093 6971.
- A6 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or

- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

D34/19

Development Application Report No. D35/19

Subject: 7 Seaside Parade, South Coogee
(DA/502/2018/B)



Folder No: DA/502/2018/B

Author: William Jones, Senior Environmental Planning Officer

Proposal: Modification of approved development by re-shaping awning footprint at the Entry Level and provision of a support column below on the southern side of the awning.

Ward: East Ward

Applicant: Santos Architecture

Owner: Ms M Eleftheriades

Cost of works: \$19,800 (original DA)

Reason for referral: The application is made under Section 4.55(2) of the Environmental Planning and Assessment Act (1979) and 10 or more unique submissions by way of objection were received.

Recommendation

That the RLPP, as the consent authority, approve the application made under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. 502/2018 for modification of approved development by re-shaping awning footprint at the Entry Level and provision of a support column below on the southern side of the awning at 7 Seaside Parade, South Coogee, in the following manner:

- **Amend Condition 1 to read:**

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp:

Plan	Drawn by	Dated
1000 'A'	Santos Architecture	26/06/2018
1002 'A'	Santos Architecture	26/06/2018
1003 'A'	Santos Architecture	26/06/2018
2001 'A'	Santos Architecture	26/06/2018
2002 'A'	Santos Architecture	26/06/2018

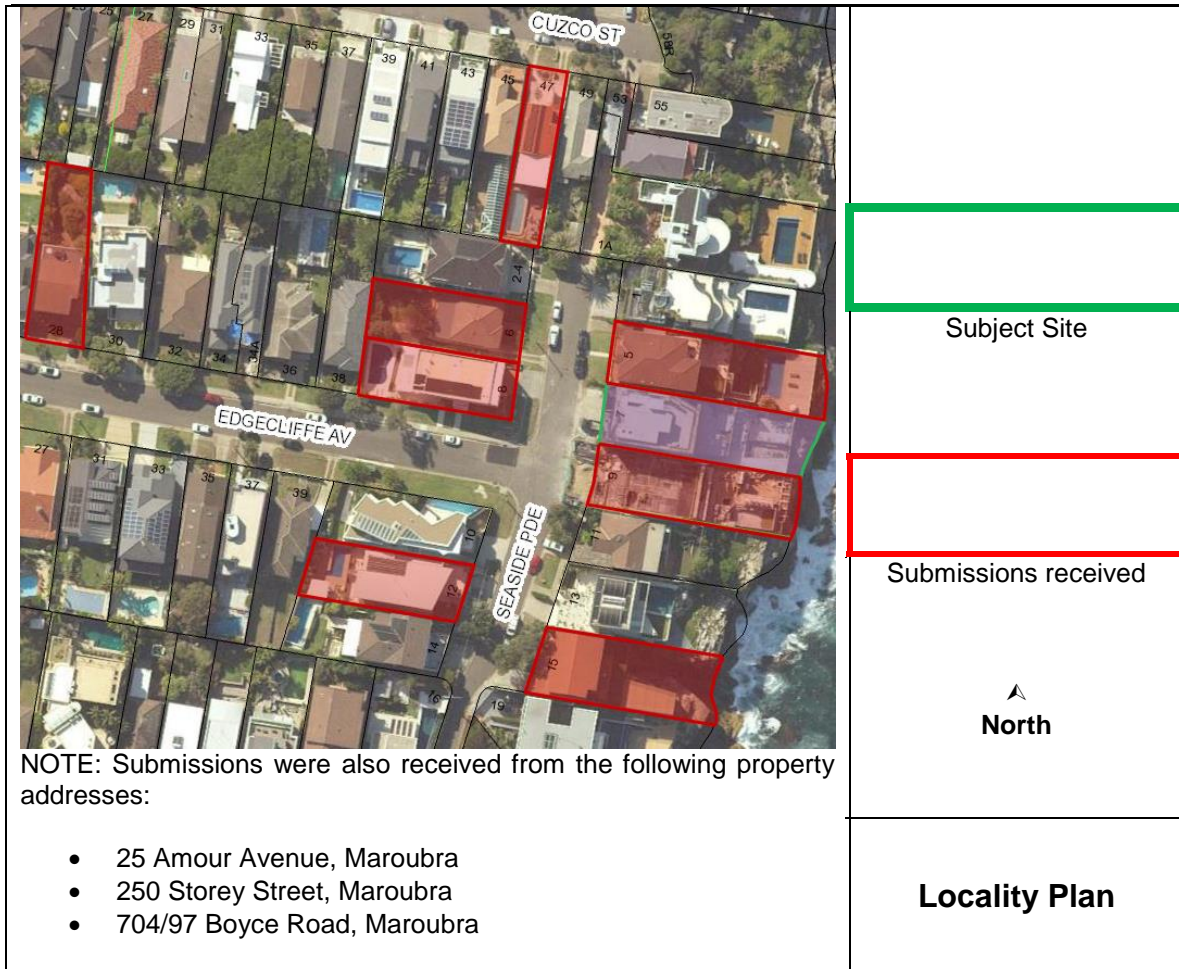
EXCEPT where amended by:

- Council in red on the approved plans; and/or
- Other conditions of this consent; and/or
- the following Section 4.55 plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 plans and detailed in the Section 4.55 application:

Plan	Drawn by	Dated
1002 'A'	Santos Architecture	24/05/2019
2001 'A'	Santos Architecture	24/05/2019
2002 'A'	Santos Architecture	24/05/2019

D35/19

D35/19



1. Reason for referral

This application is referred to the Randwick Local Planning Panel (RLPP) as more than 10 unique submissions by way of objection were received.

It is noted that DA/279/2019 is also subject to determination by the RLPP and relates to the same site for installation of balustrading to the east-facing awnings at the Entry Level and First Floor, installation of privacy screening to the sides of the Entry Level awning, enlargement of the First Floor awning, and use of the awnings as balconies.

2. Site Description and Locality

The site is identified as 7 Seaside Parade, South Coogee and is legally described as Lot 3, Sec 3 in DP 9452. The site has a single street frontage to the eastern side of Seaside Parade. The site is irregular in shape and has an east-west orientation. The site slopes approximately 14 metres from the west (front) towards the east (rear) to the Pacific Ocean. The site is occupied by a part two and part five storey dwelling house that is in the final stages of construction.

The surrounding area is characterised by a mix of low density residential development comprising three to five storey dwelling houses on the eastern side of Seaside Parade and two and three storey dwelling houses on the western side of Seaside Parade as part of the R2 Low Density Residential zone pursuant to the RLEP 2012. To the south of the site at 9 Seaside Parade is a part 2 and part four storey dwelling house that is currently being constructed. To the north of the site at 5 Seaside Parade is a part 2 and part 3 storey dwelling house.

3. Details of Current Approval

The original development application DA/502/2018 was approved by Randwick City Council under delegated authority on 12 September 2018 for a new awning at the Entry Level above the rear outdoor terrace area. The awning was approved as a cantilevered structure without a support column and was not approved with balustrading and was non-trafficable.

4. Relevant History

Refused Modification Applications

The following S4.55(2) modification applications were refused by the RLPP on 9 May 2019:

- DA/502/2018/A - Modification of approved development by enlargement of the rear awning at the entry level and making the awning trafficable with balustrading and provision of a support column.
- DA/655/2018/A - Modification of approved development by enlargement of the rear awning at the first floor level and making the awning trafficable with balustrading and provision of a structural column.

The modification applications were both refused for the following reason:

The Panel is not satisfied that the proposed modification is substantially the same as the development for which consent was originally granted, as required by Section 4.55 (2) (a) of the Environmental Planning and Assessment Act 1979, noting that the proposed modification would change the function/use of the structure as well as its shape and size.

DA/502/2018/B seeks retrospective approval for works already carried out to the Entry Level awning with no change of use to a balcony proposed. Council has received legal advice in relation to the subject modification application advising that the modifications will result in a development that is substantially the same as development for which consent was originally granted.

It is noted that both of the refused modification applications are subject to a Class 1 Appeal at the Land and Environment Court.

Other Relevant Applications

Other than the refused modification applications, the existing dwelling that is currently undergoing construction is subject to a number of DAs and modification applications as follows (from most recent):

- DA/502/2018 – Construction of a new awning above the rear outdoor terrace area located at the ground floor level. The awning was approved as a cantilevered structure without a support column and was not approved with balustrading and was non-trafficable from the entry level. Approved under delegated authority on 12 September 2018.
- DA/601/2017 - Amendments to approved development by:- At pool level, relocation of approved pool equipment room and shower room, addition of plant room between shower and external wall, raising of lawn level at lower ground level, relocation of external access stair to internal stair and extension of roof over cabana towards southern boundary. Approved 10 January 2019 by the Land and Environment Court.
- DA/655/2018 - Construction of entry level awning to rear of existing dwelling. Approved under delegated authority on 28 October 2018.
- DA/15/2017/B - Section 4.55 modification of the approved development by increasing the height of lift overrun by 410mm, new internal staircase from master bedroom to the roof level, increase the height of cabana roof at the rear ground floor level by 800mm. Approved under delegated authority on 4 May 2018.

- DA/924/2014/A - Section 4.55 modification of the approved development by filling in part of the void area at first floor level, extension of rooftop slab to create an awning along eastern side terrace on level 2, and increase the height of western section of the roof by 200mm. Approved under delegated authority on 4 May 2018.
- DA/15/2017 – Increase height of lift overrun and replacement of access stairs on southern boundary with internal stairs and extension of cabana roof. Approved by Council on 25 July 2017.
- DA/851/2015/A – Section 96 modification of the approved development to increase lift overrun & raising lawn level to lower ground floor level. Withdrawn 6 January 2017. DA/15/2017 was then lodged as a result.
- DA/851/2015 – Amendments to approved development consents DA/822/2013 and DA/924/2014 by enclosure of second floor southwest roof garden, increase in size of second floor roof terrace, alteration to floor level of swimming pool and surrounds, addition of privacy louvres on northern side, alterations to cabana, internal reconfiguration, deletion of first floor southern balcony. Approved by Council on 24 May 2016.
- DA/924/2014 – Amendment to the approved DA/822/2013 by altering the internal configuration of the dwelling, increase the floor area at lower ground and ground floor levels, new cabana at lower ground floor level, increase the size of the terrace area at ground and second floor levels, new balcony on the southern elevation at first floor level, changes to openings on all elevations, and increase the overall height of the dwelling to RL33.07 (variation to floor space ratio control). Approved by Council Committee on 8 September 2015.
- DA/822/2013 – Demolition of existing dwelling, construction of 5 level dwelling with lower level swimming pool with plant room/storage area, double garage landscaping and associated works (Variation to floor space ratio control). Approved by Council on 22 July 2014.

5. Proposal

Modification of approved development by re-shaping the awning footprint at the Entry Level and provision of a support column below on the southern side of the awning.

The approved area of the awning was 12.5m² and the proposed new area of the awning is 17m². The awning is not proposed to be trafficable as part of this modification application. Compared to the original approved awning, the depth is proposed to be reduced from the easternmost triangular point. To support the awning, a structural column is proposed from the ground floor level on the southern side. A Structural Certificate was submitted stating that the extension of the awning is necessary to permit the cantilevered section to the north and that the column is necessary to support the southern section.

The proposed modifications have already been carried out and therefore retrospective approval is sought to legitimise the use of the additional works as an awning.

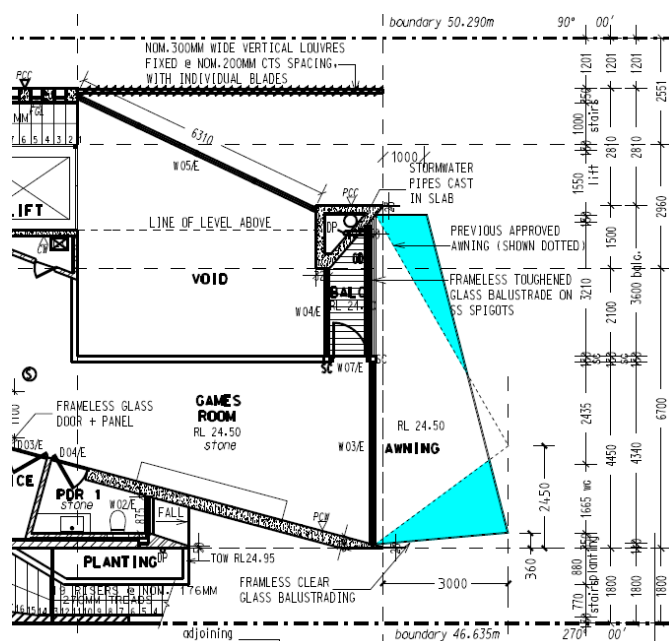
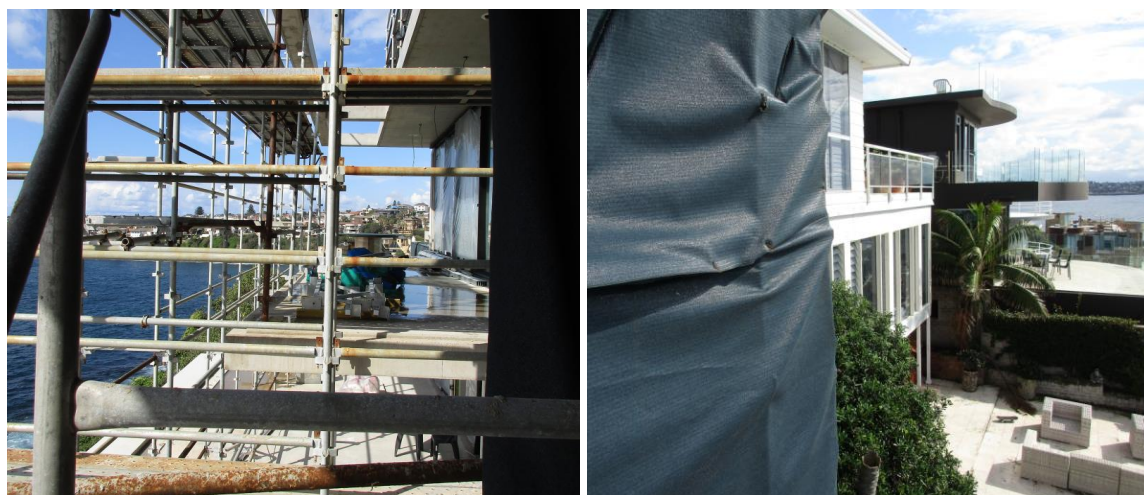


Figure 1 – Proposed awning (blue) at the Entry Level.



Figures 2 & 3 - View south to living room balcony (Level 4) of 9 Seaside Parade (left photo) and view north to the POS of 5 Seaside Parade (right photo).

6. Section 4.55 Assessment

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:-

1. it is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
2. it has consulted with any relevant public authorities or approval bodies, and
3. it has notified the application & considered any submissions made concerning the proposed modification

An assessment against the above criteria is provided below:

1. Substantially the Same Development

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development noting that the approved use of the awning is not proposed to change, and the support column is ancillary to the approved use. Council has received legal advice in relation to the subject modification application advising that the modifications will result in a development that is substantially the same as development for which consent was originally granted.

2. Consultation with Other Approval Bodies or Public Authorities:

The development is not integrated development or development where the concurrence of another public authority is required.

3. Notification and Consideration of Submissions:

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

- 5 Seaside Parade, South Coogee
- 6 Seaside Parade, South Coogee
- 8 Seaside Parade, South Coogee
- 9 Seaside Parade, South Coogee
- 12 Seaside Parade, South Coogee
- 15 Seaside Parade, South Coogee
- 47Cuzco Street, South Coogee
- 28 Edgecliffe Avenue, South Coogee
- 21 Torrington Road, Maroubra
- 25 Amour Avenue, Maroubra
- 250 Storey Street, Maroubra
- 704/97 Boyce Road, Maroubra

Issue	Comment
The proposed awning is much larger in scale than the approved awning and will result in adverse visual bulk and scale that will impact the scenic quality of the Foreshore Scenic Protection Area and views to the coast from public areas.	The proposal will result in a more regular shaped awning compared to the approved triangular awning that will be more harmonious with the foreshore area, and that is in-line with the approved balconies of the southern neighbouring property. The works are isolated to the rear of the existing building and will not disrupt view corridors from public places to the coast (refer to section 7, discussion of key issues).
The proposed awning now requires a support column, which means that it is much larger than approved and not substantially the same.	The proposed awning is 4.5m ² larger than the approved awning, which is not considered to be a significant increase, and proposes a reduced overall depth (i.e. increased eastern boundary setback). The column is ancillary to the awning and a Structural Certificate was submitted stating that the extended awning was necessary to permit the cantilevered section to the north.

Issue	Comment
The proposed development has already been refused and should not be approved. Request for the application to be assessed by a different planning officer other than William Jones, who recommended approval for the related S4.55 modification applications that were refused by the RLPP.	The subject S4.55(2) modification application is a separate application that is considered on its own merit. The proposed modification application differs to the refused modifications in that use of the awning as a balcony is not proposed. The proposed use of the awnings as balconies is now considered under a separate DA for use (DA/279/2019), which is also being determined by the RLPP.
There is an excessive number of applications applicable to the property, which should be reduced.	Previous applications that have already been determined cannot be withdrawn.
Development should not be approved beyond the Foreshore Building Line.	The proposed works are located behind the Foreshore Building Line pursuant to clause 6.6 of the RLEP 2012 (refer to section 7, discussion of key issues).
The support columns should not be provided beyond the rear building line as no other properties are provided with this. The support column will permit extension of the balcony beyond the Foreshore Building Line.	The support column is necessary to support the proposed awning. It is located on the southern side of the awning and is not excessively sized and will not result in adverse amenity impacts. Any future development will be assessed on merit.
The proposed support column has already been constructed.	Noted. Retrospective approval for the column and awning that has also been constructed is sought as part of this S4.55(2) modification application.
View loss from adjoining properties, particularly should privacy screens be required for the trafficable balcony. 5 Seaside Parade contains south-facing windows contrary to the submitted SEE.	The proposal will not result in adverse view loss from neighboring properties (refer to section 7, discussion of key issues).
Approval will set an undesirable precedent.	Future applications will be assessed on merit.
The originally approved smaller balconies will be filled in as additional GFA. The approval of awnings as balconies may result in further exceedance of the FSR control.	Balconies are not proposed as part of this S4.55(2) modification application.
Noise and privacy impacts due to the excessive size of the balconies.	Balconies are not proposed as part of this S4.55(2) modification application.
The proposal is not in the public interest given retrospective approval of unauthorised works would undermine the faith of the community in the planning system. Council is reluctant to order demolition and the fines issued for unauthorised works are not a sufficient deterrent.	This S4.55(2) modification application seeks to legitimise the unauthorised works to the Entry Level awning.
Concerns that the construction has further breached existing approvals.	Any concerns related to unauthorised works can be forwarded to Council's Compliance department for investigation.
The proposed additional awning area and support column will impact solar access to 9 Seaside Parade.	The main living areas / glazing and POS of 9 Seaside Parade is orientated to the east, which based upon the shadow diagrams submitted for the dwelling being constructed at 9 Seaside Parade (DA/303/2013), will receive >3 hours solar access.

Issue	Comment
The proposed support column will impact views from the north-facing living room window of 9 Seaside Parade.	The living room window in question is provided at Level 4 of 9 Seaside Parade (RL 24). The top of the support column is located below the FL of Level 4 at RL 24.5. Therefore the column will not obstruct views from the living room of 9 Seaside Parade.

7. Key Issues

Foreshore Scenic Protection Area

The site is identified as being located within the Foreshore Scenic Protection Area pursuant to the Foreshore Scenic Protection Area Map referred to in clause 6.7 (2) of the RLEP 2012. The proposed development is located outside of the Foreshore Building Line pursuant to clause 6.6 of the RLEP 2012 (see figures below).

6.7 Foreshore scenic protection area

(1) *The objectives of this clause are as follows:*

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

(2) *This clause applies to land identified as “Foreshore scenic protection area” on the [Foreshore Scenic Protection Area Map](#).*

(3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and*
- (b) *contributes to the scenic quality of the coastal foreshore.*

Assessing officer's comment: The proposal is not directly visible from Seaside Parade or surrounding streets, and therefore will not impact views to the coast from these public areas. The proposal is not perceivable when viewed from public areas along the coast further to the south-east (along Marine Parade). Therefore the key consideration is views to site from the water.

The proposed additional awning area at the Entry Level is in-line with the approved balconies and awnings of 9 Seaside Parade, with the structure reducing in size toward the northern side. The proposed additional awning area will result in a more regular shaped structure that is in keeping with the shape of balconies along the coast and will be less visually jarring compared to the approved triangular awning. The proposal will therefore contribute to the scenic quality of the coastal foreshore.

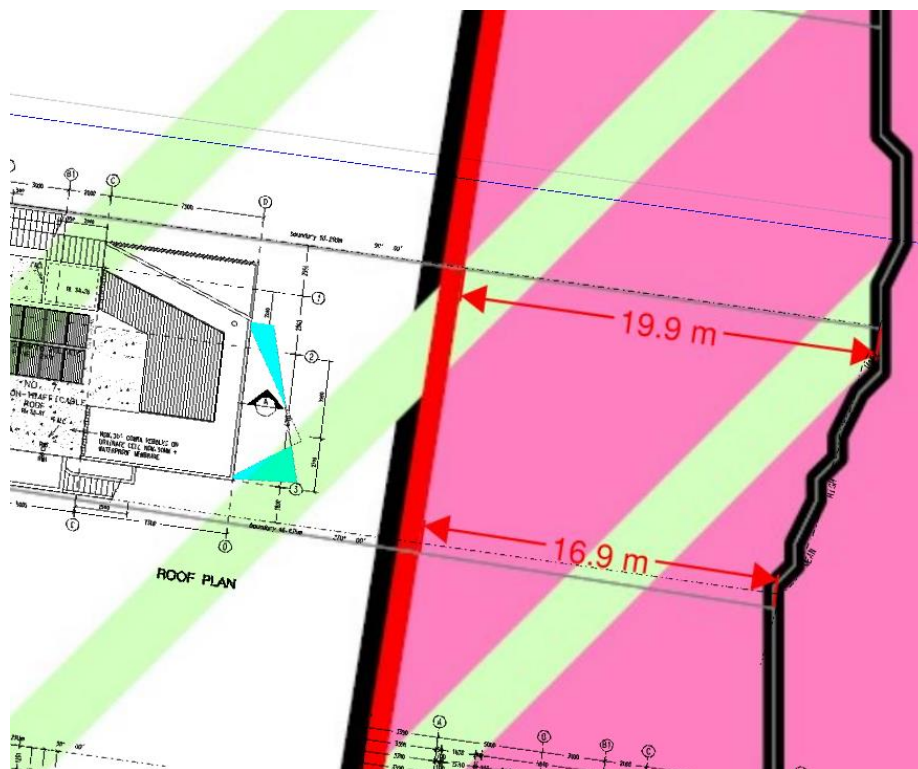


Figure 4 – Overlay of Council's Foreshore Building Line Map / Foreshore Scenic Protection Area Map Sheet CL1_008 with measurements to the foreshore Building Line (shaded pink) and proposed roof plan.



Figure 5 – Approved triangular awnings (red arrow).

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Figure 6 – Proposed awning (red arrow).

View Sharing

Clause 5.6 of Part C1 of the RDCP 2013 requires existing view corridors to be reasonably maintained. As the proposed works are located behind the front façade, the key affected properties are the neighbouring properties to the north (5 Seaside Parade) and south (9 Seaside Parade).

5 Seaside Parade

The proposal will not impact water views from the northern neighbouring property at 5 Seaside Parade given the building is set back behind the rear section of the approved building and living areas are predominantly orientated to the east and north-east. As per the resident's submission however, it is noted that there is a south-facing living room window that can also be seen in the aerial image below.

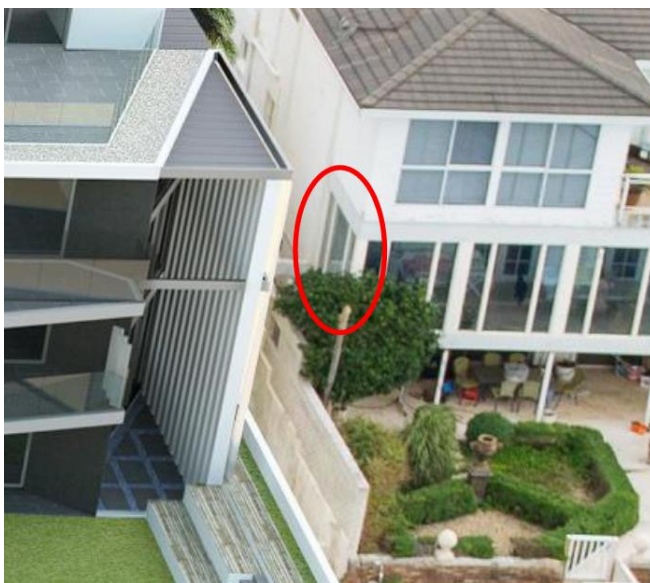


Figure 7 – Aerial image of northern neighbouring property's south-facing living room window.

The proposed awning will not impact views noting the line-of-sight from the northern property's south-facing window is obstructed by the approved full-height privacy screen adjacent to the northern side boundary (refer to Figure 8 below).

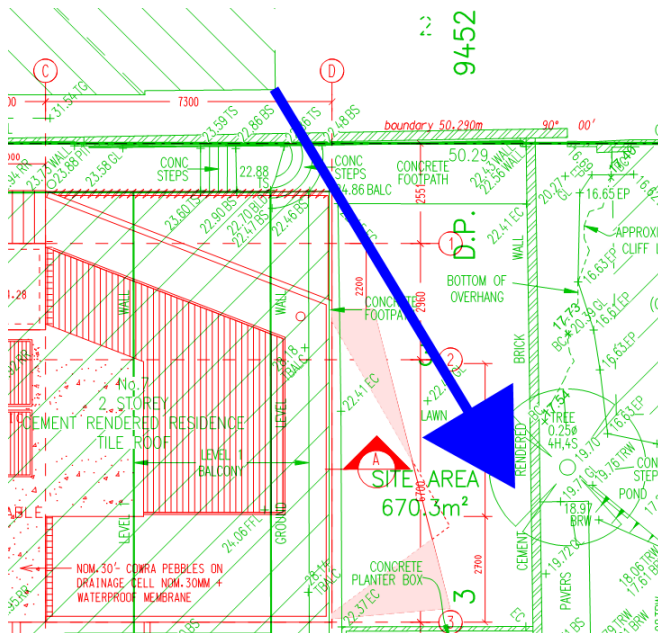


Figure 8 – Overlay of survey (green) with proposed roof plan (red) showing line-of-sight from northern neighbouring property's south-facing window.

9 Seaside Parade

The proposal will not impact water views from the living room balcony at Level 4 of 9 Seaside Parade given privacy screening is approved to the northern side of the balcony. The north facing living room window at Level 4 of 9 Seaside Parade will not lose views to Wedding Cake Island to the north-east given the additional awning area is isolated to the northern and southern sides of the approved awning and no other works are proposed to the awning that might obstruct views.

It is noted that it was Council's intention to require privacy treatment to the north-facing window at Level 4 of 9 Seaside Parade in accordance with the annotation provided on the approved northern elevation drawing (see Figure 9 below). However, the corresponding condition (DA/303/2013/C) incorrectly referenced the wrong level for the living area and therefore full height glazing was installed for this window.

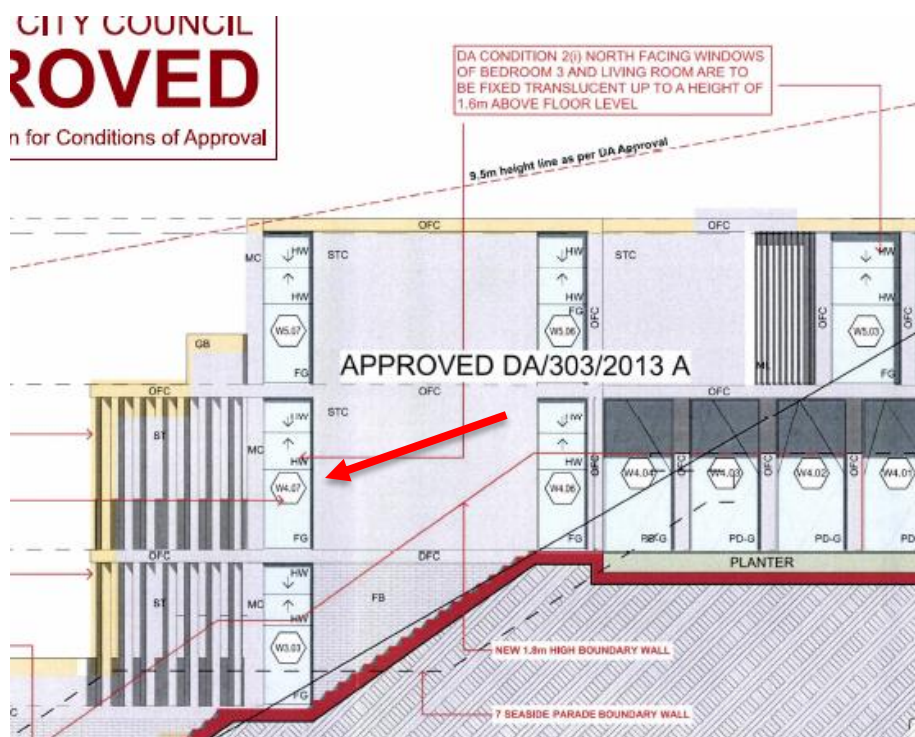


Figure 9 – Approved northern elevation of 9 Seaside Parade and annotation requiring privacy treatment, which conditions did not correctly reflect (red arrow identifies subject window).

8. Section 4.15 Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.</p> <p>Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>Randwick Local Environmental Plan 2012</p> <p>The proposed modifications are ancillary to the approved development, which will remain substantially the same. The development remains consistent with the general aims and objectives of the RLEP 2012.</p>
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 development remains compliant with the objectives and controls of the Randwick Comprehensive DCP 2013.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.

Section 4.15 'Matters for Consideration'	Comments
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	The proposed modifications have responded appropriately to the relevant planning controls and will not result in any significant adverse environmental, social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development and is considered to meet the relevant objectives and performance requirements in the RDCP 2013 and RLEP 2012. Further, the proposed modifications will not adversely affect the character or amenity of the locality.</p> <p>Therefore the site remains suitable for the modified development.</p>
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal 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.

9. Conclusion

The application is recommended for approval for the following reasons:

- a) The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- b) The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality.

Attachment/s:

Nil

Development Application Report No. D36/19



Subject: 200 Oberon Street, Coogee
(DA/407/2018)

Folder No: DA/407/2018

Author: Louis Coorey, Senior Environmental Planning Officer

Proposal: Demolition of existing structures and construction of a 3 storey residential flat building comprising of 5 residential units above a basement level containing a total of 7 car parking spaces.

Ward: East Ward

Applicant: Gelder Architects

Owner: Mr B Inglesias & Mrs C Inglesias

Cost of works: \$2,360,924

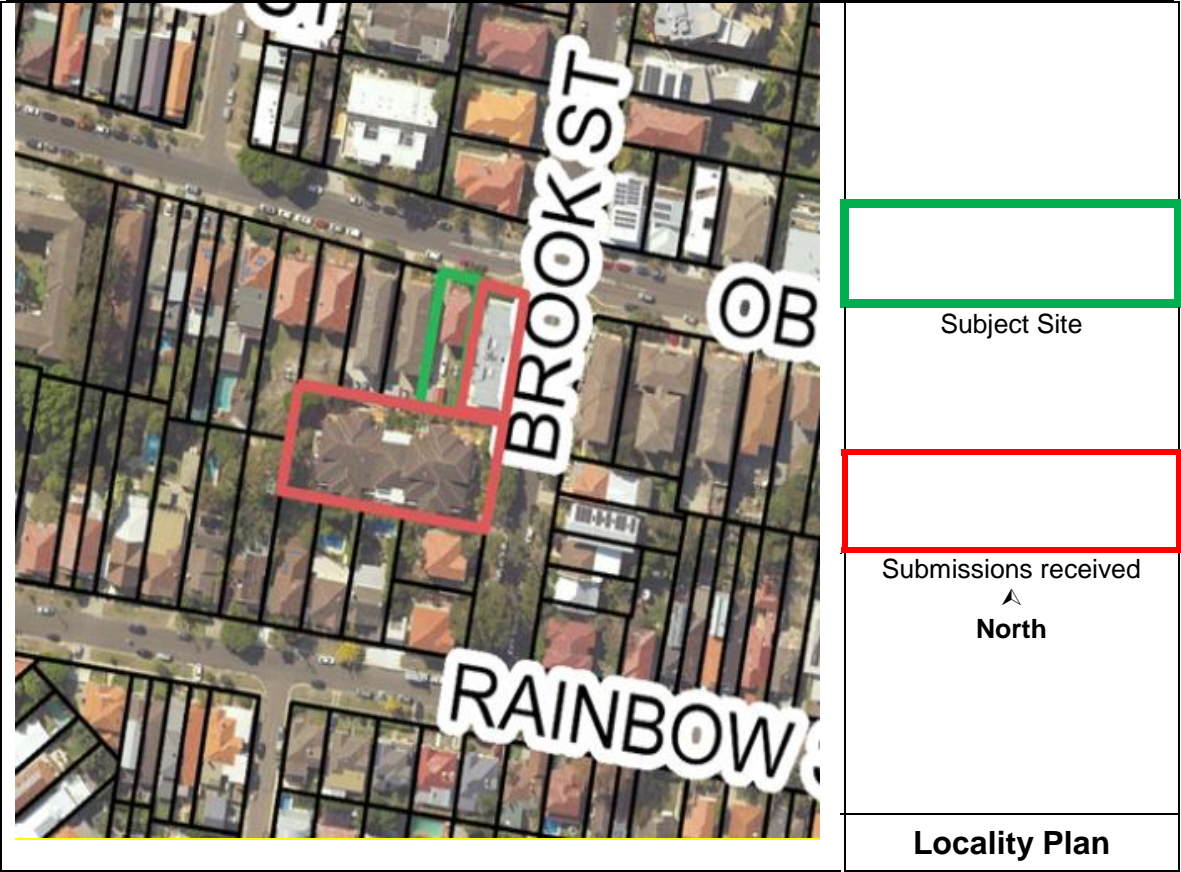
Reason for referral: The proposal is subject to SEPP 65

Recommendation

- A. That the RLPP is satisfied that the matters detailed in Clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the Floor Space Ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 4074/2018 for Demolition of existing structures and construction of a 3 storey residential flat building comprising of 5 residential units above a basement level containing a total of 7 car parking spaces at No. 200 Oberon Street, Coogee, subject to the development consent conditions attached to this report.

D36/19

D36/19



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as it is for a residential flat building subject to State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65).

The proposal as amended seeks development consent for demolition of existing structures and the construction of a 3 storey residential flat building comprising 5 residential units above a basement level accommodating a total of 7 car parking spaces.

The original scheme was not supported as a result of issues with the following aspects of the development:

- Lack of articulation at the top level;
- Significant exceedance of the 0.9:1 maximum floor space ratio (FSR) standard in the Randwick Local Environmental Plan 2012 (RLEP) and requirement to include the horizontal lobby spaces (not including required landings or void spaces at top level);
- Exceedance of the external wall height control in the Randwick Comprehensive Development Control Plan 2012 (RDCP)
- Non-compliance with the rear setback control in the RDCP;
- Poor amenity of the undercroft communal open space area at the rear;
- Provision of stacker car parking spaces which unnecessarily raises the height of the development and
- Raised carpark structure and wall along the western side boundary resulting adverse visual impact on the neighbouring property at No. 198 Oberon Street.

The applicant amended the application by removing the car stackers which allowed for a reduction in the size and scale of the development resulting in only a minor variation to the maximum 10.5m external wall height control at the rear; increased rear setback to 6m which is greater than the 5.66m

required under the RDCP; introduced a mix of materials and stepped in elements across the top level improving articulation; and relocated the undercroft communal open space area to the rear.

The key issue associated with the amended proposal relates to non-compliance with the maximum floor space ratio standard applying to the site (0.9:1 or 381.69sqm). The proposal seeks 392.58sqm of gross floor area which represents an FSR of 0.916:1 equivalent to 10.69sqm over or 2.85% above the maximum FSR standard. An assessment of the applicants Clause 4.6 application seeking to demonstrate environmental planning grounds for the variation is considered to satisfy the objectives of both the FSR standard and the R3 medium density residential zone.

The proposal also has a maximum 10.8m external wall height at the middle rear elevation exceeding the 10.5m maximum control for medium density development in the RDCP. Despite the exceedance, the proposal represents an appropriate response to the sloping topography of the site, whereby the exceedances are limited to the lowest parts of the site. The majority of the development complies with the maximum external wall height control and the front of the building is well below 10.5m being between 8.64m and 9.71m.

The proposal is recommended for approval subject to non-standard conditions that require privacy planting to the rear yard, and design requirements for balcony privacy screens.

2. Site Description and Locality

The subject site is known as 200 Oberon Street and is legally described as Lot A in DP 340998. The site is 424.1m², is generally rectangular in shape except for a skewed longer front boundary than rear boundary that is endemic to the surrounding area. The site has an 11.595m frontage to Oberon Street to the north and a rear boundary width of 11.2m. The site contains a dual occupancy.

The site slopes approximately 2.2m from front to rear and a slope of around 1.8m from the eastern side (adjoining No. 202 Oberon Street to the east) down to the western side boundary alongside No. 196 Oberon Street.

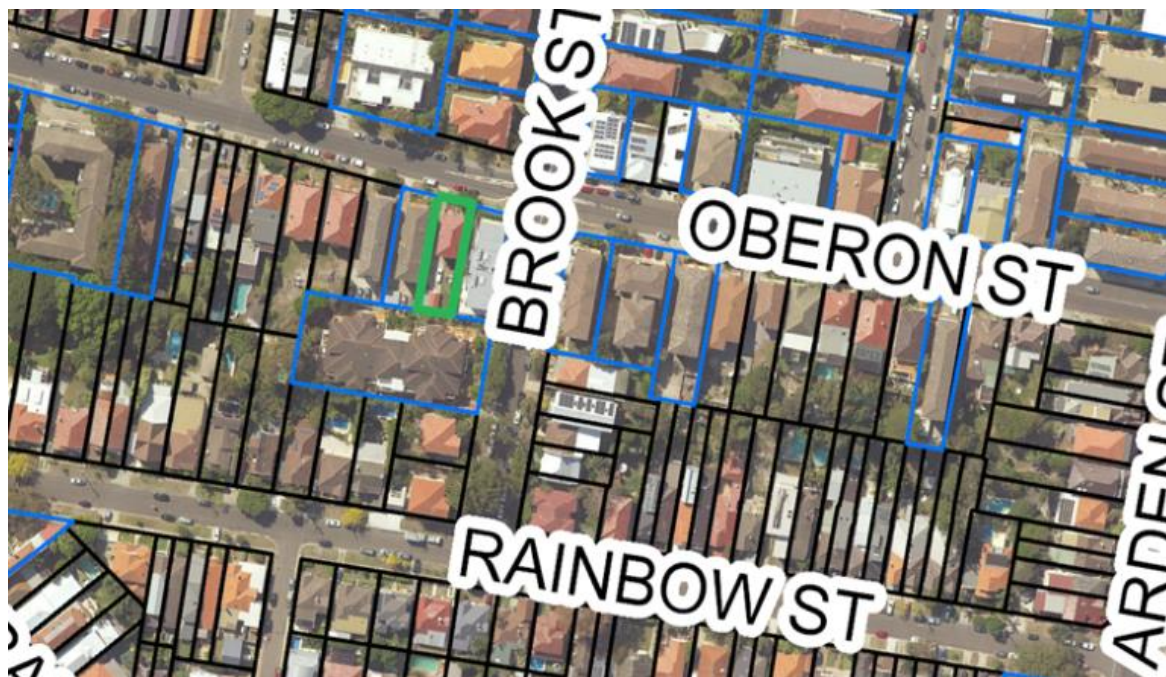


Figure 1: Aerial view of subject site (green outline) and surrounding area. Blue outlined properties contain strata titled properties.

3. Relevant history

No relevant history

4. Proposal

The proposal seeks development consent for:

Demolition of the existing dual occupancy on site and construction of a three storey residential flat building detailed as follows:

Basement:

- 7 car spaces
- Storage spaces
- Waste room
- Lift
- Front and rear stair access
- Communal open space at rear

Ground level:

- 1 x 1 bedroom dwelling (50.61sqm)
- 1 x 2 bedroom dwelling (75.65sqm)

First floor level:

- 1 x 1 bedroom dwelling (50.61sqm)
- 1 x 2 bedroom dwelling (76sqm)

Second floor level:

- 1 x 3 bedroom dwelling (124.75sqm)

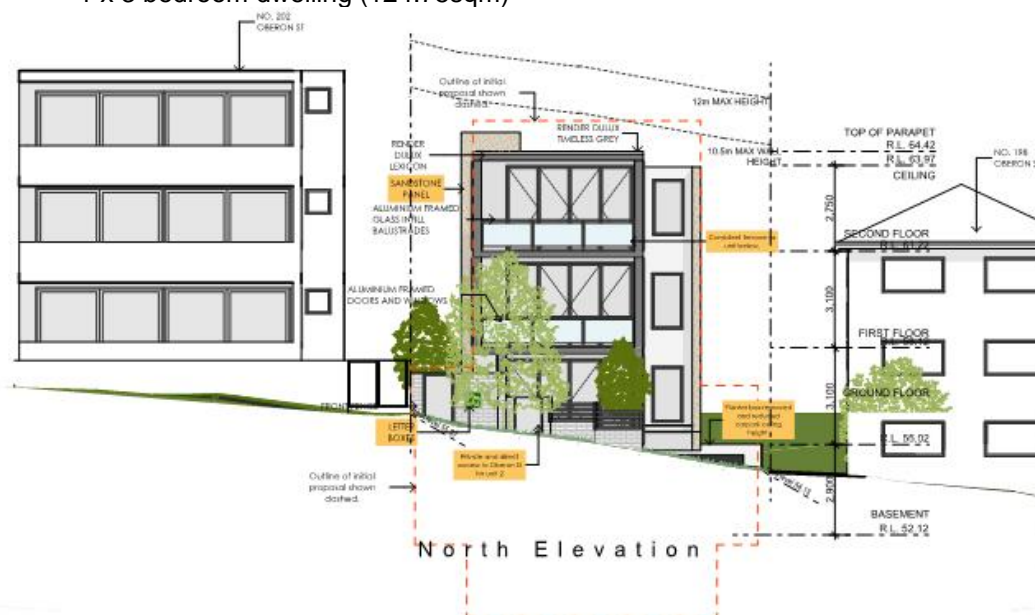


Figure 2: proposed development at the front as amended showing a reduced size and scale compared with the dashed outline of the original proposal. At left is a more recent development at No. 202 Oberon Street and at right is the walk up flat building at No. 198 Oberon Street.



Figure 3: Photomontage of proposed development showing at left more recently built part three part four storey development at No. 200 Oberon Street and at right existing four storey walk up flat building built circa 1965.

Note: The basement level projects above existing ground level along a portion of the western side and southern rear parts of the site in response to the slope of the land and the need to accommodate car parking.

Amended plans received by Council on 14 December 2018 include the following amendments:

- Introduce stepped in elements along the side of the second floor level improving articulation;
- Reduction of floor area at the rear and second floor level;
- Reduction of the external wall height and overall height by deleting car stackers
- Increasing the rear setback;
- Relocating the communal open space to the rear
- Reducing the height of the carpark wall along the western side boundary.

Note: The amended plans substantially address the issues raised however the application continues to seek a variation to the FSR standard under Clause 4.6 of the RLEP. The variation sought is reduced from 8.7% (0.979:1) down to 2.85% (0.916:1). The applicant also provided a shadow analysis showing the difference between the impacts from a compliant scheme compared to the proposed scheme.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The amended proposal was not required to be re-notified given it was considered to result in a reduction in potential adverse impacts. The following submissions were received as a result of the notification process:

- 17/174-178 Brook Street
- 2/200 Oberon Street (Resident)

Issue	Comment
Impact from demolition and rebuild including loss of light	Conditions are included to minimise impacts during demolition and construction of the development. Shadow diagrams showing the difference between the proposed development as amended and a compliant wall height at the rear show the rear neighbours property will still retain sufficient levels of solar access during the winter solstice.
The proposal will affect traffic safety due to vehicles waiting on the street	Traffic movements associated with a small number of apartments is unlikely to result in any significant wait times on the street.
How are garbage bins brought out for weekly pick up	Bins will be moved through the driveway or lift via the eastern side of the building.
Lack of open space	The proposal provides sufficient areas of open space across the site.
<p>The proposed development will result in adverse impacts associated with the following:</p> <ul style="list-style-type: none"> • Greater light pollution; • Increase in negative carbon impacts; • Pressure on local sewage system and other utilities; • Additional pressure on local school population; • On street parking demand due to no visitor parking spaces; 	The adverse impacts associated with this development are not considered of significance such that it would preclude the economic and orderly development of land. The shortfall in visitor parking is not a significant impact in that the surrounding area contains availability of parking and given the site constraints it is considered more appropriate to provide additional parking for the residents of the site.
<p>Lack of communal open space and not demonstrating that it achieves sufficient solar access or demonstrated equitable access which would be reduced if a disabled access ramp is proposed.</p> <p>An alternative basement design or reduced yield ought to be pursued to facilitate sufficient usable communal open space.</p>	Under the ADG whether or not communal open space is provided to a development is subject to design guidance assessment whereby the necessity for communal open space is lessened where the proposal contains a low number of units and the site is located in close proximity to neighbouring open space usable for passive and active recreation. The subject site meets both guidance principles and is therefore not reliant on the need to provide communal open space. Notwithstanding, the communal open space contains sufficient dimensions for the low number of units. Solar access is limited and a consequence of the sites orientation rather than any inappropriate site coverage or built form. A chair lift system at the rear can also be installed from basement level to the communal open space.
Insufficient information has been provided to demonstrate compliance with the privacy requirements in the ADG	The side facing windows are highlight windows (1.6m above internal floor level) which are considered sufficient to not warrant additional treatment or offsetting from windows on the neighbouring properties.

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves the development of a residential flat building being 3 storeys and more in

height containing four or more dwellings. The proposal has been considered by Council's Design Review Panel. The Panel's comments are included in the referral comments section further below. Clause 28 of SEPP 65 requires the consent authority to consider the Apartment Design Guide (ADG). An assessment is carried out against the key ADG design criteria requirements in Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide. Any non-compliance to the design criteria includes a merits based assessment as per the design guidance of the ADG. Minor variations are assessed within the table with more significant variations assessed as part of the Key Issues section above:

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

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) came into effect in NSW on 25 August 2017.

The aims of the Vegetation SEPP are:

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

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

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). No significant vegetation exists on site however a street tree is located at the front which is the subject of assessment by Council's Landscape Officer

Council's Landscape Officer has assessed the street tree and the Landscape plan submitted with the application raising no objections to the proposed landscaping which will significantly increase the amount of vegetation on site and will afford a high level of residential amenity.

6.3. State Environmental Planning Policy (BASIX) 2004

In accordance with the SEPP BASIX, all new housing in NSW is required to meet a designated target for energy and water reduction. A BASIX Certificate was submitted with the application, which indicates that the proposal meets the required reduction targets. The proposal therefore satisfies the requirements of BASIX.

6.4. 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 sit comfortably within the site contributing to the streetscape character and will not result in any significant adverse impacts on the amenity of the neighbouring properties.

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)	0.9:1	0.916:1	No – see Section 6.5.1 and 7 below.
Cl 4.3: Building height (max)	12m	11.42m	Yes

6.4.1. Clause 4.6 - Exceptions to development standards

The non-compliance with the FSR development standard is discussed in section 7 below. Note: the Clause 4.6 submitted is seeking a 15.75sqm variation however 4.86sqm of that space is stair landing and is excluded from the GFA resulting in an exceedance of 10.89sqm.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.9:1	0.916:1	10.89 m ²	2.85%

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in ***Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision** in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether 'the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard'.

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there here are two respects in which the written request needs to be “sufficient”.

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term ‘sufficient’ did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development’s consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

7.1. Exception to the Floor Space Ratio (FSR) development standard (Cl 4.4)

The applicant’s written justification for the departure from the FSR standard is contained in Appendix 2.

1. **Has the applicant’s written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?**

The applicant's written request seeks to justify the contravention of the FSR development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the FSR standard are set out in Clause 4.4 (1) of RLEP 2012 which read as follows:

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality*
- (b) *to ensure that buildings are well articulated and respond to environmental and energy needs*
- (c) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- (d) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The applicant has addressed the objectives as follows:

- *The proposed variation is minor in nature, noting that revision to the massing of the building within the second floor has been undertaken to follow all articulation, recesses and redesigned to be consistent with the storey below combined with the balconies scaled back will have a positive impact on reducing the bulk and scale of the proposal three storey residential flat building, noting compliance with building height and front and rear setback. As such the proposed revision of the design scheme, even if it slightly increases the overall FSR actually results in a suitable density, bulk and scale relative to the existing three storey built form along the southern side of Oberon Street.*
- *The proposed departure of the floor space ratio control has no additional adverse impact on nearby heritage items and conservation areas when considering the proposal complies with the height and front and rear setback controls that applies to the development.*
- *The proposed development will permit the site to develop to its full zoning potential whilst complementing the existing three storey built form character along the southern side of Oberon Street. Furthermore, the development provides an attractive 3 storey built form that is to address its frontage and comply with the majority of the key planning controls applying to the development.*
- *The exceedance of 15.75m² will be undiscernible when viewed from Oberon Street and adjoining properties, and result in no material impact when viewing the site and development from the public domain.*
- *The proposal has been designed to ensure that privacy impacts are mitigated and that the proposal will not obstruct existing view corridors with the development providing a built form that comply with the prescribed height controls under the LEP.*
- *Detailed shadow analysis demonstrates that neighbouring properties bounding the subject site achieves adequate solar access to open space and living areas during midwinter despite the non-compliance.*
- *The proposal is not located within a low-density area and the proposal represents an appropriate built form on the site.*

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

The objectives of the FSR standard are set out in Clause 4.4 (1) of RLEP 2012 which read as follows:

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

The following assessment comments are also noted:

- In regards to objective (a)
- In regards to objective (b) The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.
- In regards to objective (c) the development is not within a Heritage Conservation Area or near a Heritage Item so the objective is not relevant to this development.
- In regards to objective (d) with regards to overshadowing, it is considered that the amended scheme with a reduced wall height, and a greater than minimum rear setback inclusive of a shadow impact analysis of neighbouring properties demonstrates no appreciable difference in overshadowing of neighbouring properties comparing overshadowing caused by the proposed scheme and a compliant wall height and rear setback. It is noted that the majority of the scheme particularly towards the front is wholly below the maximum 10.5m maximum wall height control in the RDCP.
- In relation to objective (d) in relation to amenity, the proposed development displays appropriate setbacks and the reduced footprint proposed to the southern and side neighbours comparing a compliant wall height with that of the amended wall height demonstrating compliant solar access to the rear neighbours balconies are amendments fundamental to satisfying this clause as it relates to overshadowing of neighbouring properties and ensuring no adverse visual amenity impacts;

2. Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR development standard by demonstrating that the proposed development will have a size and scale that is consistent with the bulk and scale of the developments within Oberon Street and that envisaged by the standards for the medium density residential zone, that there are no additional adverse impacts on the amenity of the neighbouring properties having regard to overshadowing, that appropriate setbacks are provided from the front, sides and rear to ensure that the visual amenity of neighbouring properties and from the public domain will be suitably, that views are not impacted given the fully compliant height and side setbacks and that neighbour's privacy is also well protected.

Assessing officer's comment: The environmental planning grounds focus on satisfying objectives (a), (b) and (d) by stating that the proposed development as amended will contribute to the existing and desired streetscape character, has suitable articulation and minimises additional adverse impacts on neighbours beyond those anticipated by the standard and applicable Council controls.

The applicant's Clause 4.6 is considered to provide sufficient environmental planning grounds to justify contravening the development standard. Specific to the site and surrounding area is the natural topography of the site which falls down to the south-western corner of the site where the proposals bulk and scale is most pronounced hence non-compliance with the maximum wall height control in the RDCP. Despite this, the proposal as amended by significantly reducing wall and overall heights across the development also provides increased rear setbacks and side setbacks required for longer and wider sites in the LGA. The applicant also suitably demonstrates that the proposed development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy (as conditioned), overshadowing and views as assessed below.

In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the FSR standard and the R3 medium density residential zone is provided below:

Assessment against objectives of floor space ratio standard

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*

Assessing officer's comment: The size and scale of the proposed development is compatible with the 'desired future character of the locality' as it will present as a three storey development by virtue of the amendments reducing the size and scale, increasing front and rear setbacks which fundamental to satisfying this objective.

- (b) *to ensure that buildings are well articulated and respond to environmental and energy needs,*

Assessing officer's comment: The proposed development is well articulated on all facades with stepped in elements and mix of materials a matter raised by the Design Excellence Panel (DEP).

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

- (c) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

Assessing officer's comment: There are no heritage items nearby or Heritage Conservation areas therefore this objective is not applicable.

- (d) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The assessment that must be made is whether or not the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

- Visual bulk: The development presents a scale that is generally consistent with the scale of adjoining buildings. The proposal also provides suitable setbacks from the site boundaries ensuring suitably visual amenity.
- Loss of privacy: Subject to compliance with recommended part condition 2 requiring design criteria for the privacy louvres to the sides of balconies, the proposed development will not result in any unreasonable adverse privacy impacts.
- Overshadowing: The proposed development is sited at least 6m from the rear boundary which is more than that required under the RDCP. Appropriate side setbacks are provided which are equal to the deeper side setbacks required for a wider site under the RDCP. Moreover, the development readily complies with the maximum height of buildings standard and only marginally exceeds the maximum external wall height control along the low parts of the site. Further still, the applicant submitted a shadow analysis demonstrating that the difference in shadows between that caused by the proposal as amended and a compliant wall and setback scheme would result in negligible difference in impacts. It is also noted that the orientation of the site on a north-south axis with the southern neighbour set further below the subject site means that the southern neighbour's property is particularly vulnerable to overshadowing.
- Views: This assessment shows that the overall bulk and scale of the proposed development having regard to massing, and separation from rear and side boundaries complies with the relevant RDCP controls and will not result in any significant adverse impacts on high quality views in a forward direction from neighbouring properties.

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The development is consistent with the objectives of the floor space ratio standard.

Assessment against objectives of the R3 Medium Density Residential zone

The objectives of R3 zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*

The development will cater for the need for housing within a medium density residential environment.

- *To provide a variety of housing types within a medium density residential environment.*

The development will provide variety in housing via the apartment's size, layout and aspects.

- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*

The proposal provides a predominately three storey scale and will not be out of character with built forms in the surrounding area which have similarly responded to the characteristic sloping topography of land. The proposal as amended reflects a suitable envelope including fenestration and façade treatment and setbacks beyond those required by the RDCP, where the encroachment above the height standard will not deter from its contribution to the desired streetscape character of the area.

- *To protect the amenity of residents.*

As indicated in the assessment carried out in this report the proposed development will suitably protect the amenity of the residents.

- *To encourage housing affordability.*

The proposal does not provide affordable housing as defined under the SEPP Affordable Rental Housing, however it will provide housing choice where the degree of affordability is to a large extent dictated by improving the amenity and liveability of new housing stock closer to current standards of acceptability under SEPP 65.

Assessing officer's comment: The development is consistent with the objectives of the floor space ratio standard and the R3 Medium Density Residential zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

8. Development control plans and policies

8.1. 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 4.

9. Environmental Assessment

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

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

9.1. Discussion of key issues

State Environmental Planning Policy 65 (SEPP 65) – Apartment Design Guide (ADG)

This part of the report contains the key elements of non-compliance to the design criteria controls and includes a merits based assessment against the design guidance provided for in the Apartment Design Guide. Where relevant reference is also made to controls and or objectives under Part C2 of the RDCP 2013 relating to Medium Density Residential development.

- 3F-1 Visual Privacy

The ADG requires for the purposes of visual privacy of neighbouring properties that habitable areas including attached balconies be separated by a minimum of 6m from boundaries and 12m combined separation from habitable areas (including balconies) on neighbouring properties as shown in figure 4 below.

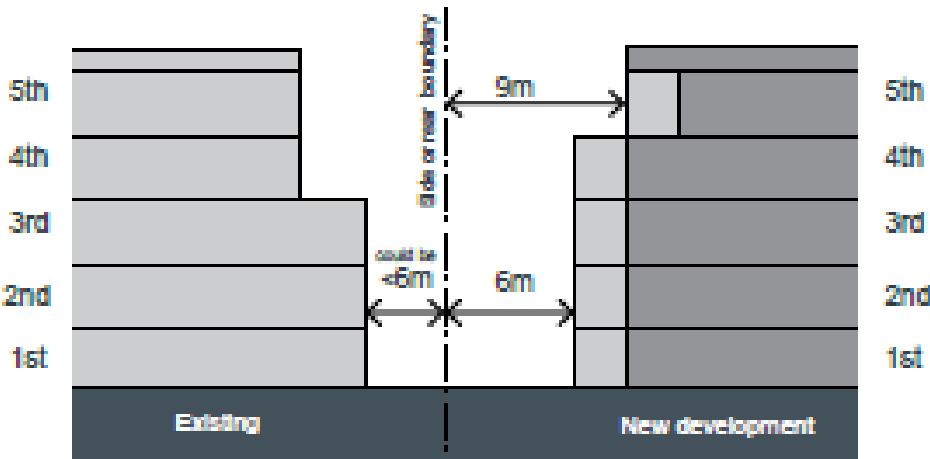


Figure 3F.3 New development adjacent to existing buildings should provide adequate separation distances to the boundary in accordance with the design criteria

Figure 4. ADG diagram figure 3F-3 showing the application of the visual privacy controls.

The proposal's side setbacks do not comply with the 6m minimum separation control in the ADG, however it is noted that the proposal has 2m side setbacks which are compliant with the side setbacks under the RDCP. The ADG acknowledges existing patterns of development may not allow for the 6m control to be complied with, emphasising that new development within an established area is designed so that occupants and neighbour's enjoy reasonable visual and acoustic privacy relationship, which may be addressed through physical measures.

The proposal seeks to mitigate privacy impacts on neighbouring properties by providing highlight windows along the side elevations to 1.6m above the internal floor level ensuring no significant visual impact on the neighbouring properties openings opposite. The proposal also included louvres to balconies however they appear too far spaced apart to restrict view lines across to the neighbouring properties. Therefore, a condition is included requiring physical screens to be designed to ensure no direct view into the neighbouring properties.

Randwick Development Control Plan 2013

• External wall height

The RDCP states that where a development is subject to a 12m maximum height of buildings standard, a 10.5m maximum external wall height control applies.

The proposed external wall heights vary across the site ranging from 10.6m midway along the western side elevation and between 10.39m and 10.75m along the rear elevation.

The RDCP requires an assessment against the following objectives:

Objectives:

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

The proposed external wall heights satisfy the above objectives for the following reasons:

- The gradually increasing wall heights over sloping lower land levels is characteristic of development in the area and will be compatible with other existing flat buildings as well as other development along Oberon Street notably developments at No. 202 Oberon Street and No. 198 Oberon Street. The proposal as amended also incorporates additional stepped in building elements and mix of materials contributing to the articulation and visual interest of the scheme.
- If the development were required to comply, the upper level would have substandard floor to ceiling heights well below the 2.7m minimum control in the ADG. The application has also been amended to reduce the floor to ceiling height at second floor level across the majority of secondary rooms such as bedrooms and service areas. A portion of the living room is acknowledged as having a lower than minimum floor to ceiling height however this occurs over a limited area of an otherwise large living space that contains very high amenity due to multiple aspects and north facing windows that let in plenty of light and ventilation.
- The impacts on the amenity of neighbouring properties such as overshadowing, visual bulk, privacy and views are considered to have been minimised as far as practical having regard to the provisions in the ADG and RDCP with particular regard to the proposals side and rear setbacks. In regards to overshadowing the submitted shadow analysis demonstrates no appreciable difference in shadowing to the neighbouring properties to No. 198 and 202 Oberon Street and No's. 174-178 Brook Street at the rear than that caused by a compliant scheme.

Overall, the amended design scheme contains appropriate setbacks, articulation along all elevations avoiding extensive sheer walls which help to counteract unreasonable overshadowing and adverse visual amenity impacts on neighbouring properties. Despite the variance to the external wall height control, the RDCP objectives for the height control will be satisfied and the proposed development will be compatible with the streetscape, provide for appropriate amenity for future occupants and is therefore considered acceptable.

10. Conclusion

That the application to demolish existing structures and construction of a 3 storey residential flat building comprising of 5 residential units above a basement level containing a total of 7 car parking spaces 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 Medium Density Residential zone in that the proposed development will provide medium density development that will cater for the housing needs of the community.

- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape
- The proposed development will make a positive contribution to the surrounding area.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer and Landscape Officer

An amended application has been received for the demolition of existing structures and construction of a 3 storey residential flat building comprising of 5 residential units above a basement level containing a total of 8 car parking spaces at the above site.

This report is based on the following plans and documentation:

- Amended Architectural Plans by Gelder Architects stamped by Council 14th December 2018;
- Statement of Environmental Effects by Think Planners dated 6th July 2018;
- Detail & Level Survey by Hill & Blume surveyors dated 24/10/2017;
- Geotechnical Report by White Geotechnical group dated 26th March 2018;
- Paul Scrivener Landscape Architecture, ref 18/1987, sheet 1 of 1, issue C, dated 06/07/18.

Drainage Comments

On site stormwater detention is required for this development.

The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the certifying authority for approval prior to the issuing of a construction certificate.

The stormwater must be discharged (by gravity) either:

- i. *Directly to the kerb and gutter in front of the subject site in Oberon Street ; or*
- i. *To Council's street drainage system in Brook Street via a private drainage easement through adjoining land/premises; or*
- ii. *To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),*

Parking Comments

Parking Requirements for the future development have been assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- 1 space per 1 bedroom unit
- 1.2 spaces per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit
- 1 visitor space per 4 units (but none where development is less than 4 dwellings)

A total of 5 residential units are proposed comprising of 2 x 1 bedroom units, 2 x 2 bedroom units and 1 x 3 bedroom unit.

Parking required under DCP

$$\begin{aligned}
 &= (1 \times 1.5) + (2 \times 1.2) + (2 \times 1) + 1(\text{visitor}) \\
 &= 1.5 + 2.4 + 2.0 + 1 \\
 &= 7.15 \\
 &= \text{say } 7 \text{ spaces (rounded to nearest whole number)}
 \end{aligned}$$

Parking proposed = 7 spaces (complies) but no visitor parking

The parking provision complies however 4 of the spaces have been provided in tandem arrangements (2 x 2 tandem) so must be allocated to a single unit each, leaving the 3 remaining spaces to be dedicated to the remaining 3 units. This leaves no spaces available for visitor parking.

The non-provision of visitor parking is generally not supported by Development Engineering however as 2 of the units will have an excess of parking as required by the DCP and in consideration of the street frontage, no objections are raised in this instance.

Planning comment: Various drives through the area reveal several parking space available for visitor parking. Further it is considered more appropriate to provide additional parking for the dwellings.

Motorbike Parking

No motorbike parking is required as the DCP requirement is less than 0.5 spaces

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

$$\begin{aligned}
 &= 5/2 + 5/10 \\
 &= 2.5 + 0.5 \\
 &= 3 \text{ spaces}
 \end{aligned}$$

No bicycle racks are indicated on the submitted plans although it is noted there are storage spaces that should be able to accommodate bicycle storage. This has also been conditioned to ensure compliance.

Access Ramp

There is a non-compliance with the length of the 1:20 graded section of access ramp near the front property boundary. Whereas AS 2890.1 requires a 6m section at 1:20 only about 3.2m has been provided. In previous correspondence it was previously required that a 4m section at 1 in 20 would be acceptable.

Parking Layout Comments

Carpark Layout

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.

Service Authority Comments

Undergrounding of site feed power lines

At the ordinary Council meeting on the 27th 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** located within 15m of a power pole on the same side of the street hence the above clause **is** 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 = $5/2 = 2.5$ = say 3 bins (rounded up to nearest whole number))

There are no specific requirements for green waste in Part B6 of the DCP however as some landscape areas are proposed it is recommended that a minimum of 2 x 240L bins also be provided for green waste.

Total Number of BINS required = 3(normal) + 3(recycling) + 2(green waste)
= 8 x 240L BINS

The amended plans comply with the above requirements.

Tree Management & Landscape Comments

The only vegetation that requires comment for this application is the juvenile, 6m tall *Harpephyllum caffrum* (Kaffir Plum) on the Oberon Street verge, to the east of the existing vehicle access, towards the eastern site boundary, of good health and condition, which is also covered by the DCP.

The plans show that while the new crossing will remain along the western site boundary, it will be widened substantially to the east, which would still maintain a generous setback from the tree.

However, it is regarded as an undesirable, exotic species, that was likely planted by a resident rather than Council, as their large size at maturity, as well as their invasive and aggressive root system, make them completely unsuitable in a confined growing environment such as this narrow verge, as it is contained by the kerb and roadway to its north, the public footpath to its south, as well as the overhead wires directly above.

For these reasons, this tree is no longer planted in the public domain or even private landscape projects, with Council actively seeking their removal wherever possible so as to avoid future costly maintenance issues, which in this case would involve regular topping away from the wires, clearance pruning, as well as damage to both public and private infrastructure.

On this basis, conditions actually require its removal, with replacement native coastal trees selected from our Masterplan to provide a more meaningful benefit to native fauna and the local environment, whilst also improving the appearance of the streetscape, and in recognition of this, the standard loss of amenity fee that is normally applied to the removal of street trees for development works will not be charged in this instance.

1.2. Design Excellence Panel (DEP)

Introduction

Attached is a copy of the minutes relating to this SEPP 65 meeting.

The Panel's comments are intended to assist Council in their design consideration of an application against the SEPP 65 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 Review Panel is appointed by the NSW Minister for Planning, on the recommendation of 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. In these instances it is unlikely the scheme will be referred back to the Panel for further review.*

Panel Comments

This is a Development Application to demolish the existing building on the site, and construct a 3 storey residential flat building.

The proposal is for a residential flat building with 5 dwellings, and basement car parking for 8 (reduced down to 7) vehicles.

Principle 1: Context and Neighbourhood Context

The site has a total area of 424 square metres and is located at 200 Oberon Street, Coogee. The land is a narrow rectangular mid-block parcel bounded by 3 storey residential flat buildings along its northern, eastern and western boundaries. It has frontage only to Oberon Street.

The site is located about 320 metres south of a Neighbourhood Centre around Arden Street. Coogee Beach Shopping Centre along Coogee Bay Road is located 670m north of the site. The site has excellent access to open spaces and playground. To the west, Bangor Park is 480m away from the site, and Baker Park is 550m west of the site. To the east, Blenheim Park sits 260m away from the site. Randwick Environment Park, Trenerry Reserve, Grant Reserve and Coogee Beach all located within 800m walking catchment.

The site sits close to local public transport. A number of bus stops are provided at Oberon Street, Arden Street and Havelock Avenue.

Principle 2: Scale and Built Form

The proposal is generally within the 12m height plane with some minor exceptions along the western elevation. However, it is noted that the lift overrun has not been included in all the sections and elevations. The proponent should identify the proposed lift overrun in all the drawings.

Planning comment: The amended plans reduce the overall height of the development to less than 12m inclusive of the lift overrun.

Due to the lot configuration, the proposed built form has relatively small footprint with approximately 8m width facing Oberon Street and a length of 30 metres. The proposed building has some articulation on its eastern façade, whereas the western façade is less articulated. The overhanging upper level appears heavy and works against the articulation on this side. Refined built form articulation to the western façade is needed to mitigate the proposal's bulk and scale viewed from west.

Planning comment: The second floor level has incorporated stepped in building elements along the side elevations consistent with the levels below improving articulation alongside elevations. The proposal has also been amended to include a mix of materials providing further articulation.

There is no predominant street setback along Oberon Street (the section between Mount Street and Brook Street); however, the adjacent building to the west of the site and the recent development at No. 202 Oberon Street set the precedent, which suggests approximately a 3m street setback. In this regard, and considering the RDCP 2013 controls, the proposed 3m setback to Oberon Street is acceptable. However, the proposed balconies encroach into the 3m street setback which is inconsistent with the adjacent buildings. The proponent should consider incorporating the balconies into the overall building envelope.

Planning comment: The proposal has been amended to ensure the balconies do not encroach over the 3m setback line.

Two-meter side setback is provided along both western and eastern boundaries. Considering the narrow width of the subject site (about 12m), it is hard to achieve the setback distances recommended in the ADG. Therefore, the proponent should provide information for a merit assessment that clearly illustrates the extent of overlooking and privacy issues that are to be expected with the proposal.

Planning comment: The side setbacks are considered acceptable having regard to visual and acoustic privacy.

The proposal provides 5.5m rear setback with some encroachments by the proposed balconies. The 5.5m rear setback is insufficient. The proposed Units 1, 3 and 5 have habitable rooms with balconies facing the strata titled building at Nos. 174-178 Brook Street, Coogee which also has balconies facing the subject site. According to the ADG 2F, a 6m rear setback should be provided to achieve 12m separation between habitable windows and balconies for the building up to 4 storeys. In this regard, the built form is not appropriate. The impact on the amenity will be discussed in Principle 6.

Planning comment: The proposed rear setback has been increased to 6m which is greater than that required under the RDCP and compliant with the ADG having regard to privacy.

The parking provision needs to be revised. The proposal notes that 6 spaces, plus visitor parking, are required under the controls. It includes a car stacking system to provide 8 spaces, more than required, while indicating that none are for visitor parking. Given the impacts on the site and surroundings, and the location of the project, the proposal should provide only 6 spaces for residents, as per requirements. The upper basement level could then be configured much more efficiently to eliminate the need for the stacking system. This would include using a portion of the building currently sitting under the first-floor footprint as open space of questionable value.

Complying with the parking numbers (rather than exceeding them, would allow all cars to be accommodated on one level, obviating the need for the car stacker system, which is driving a high basement ceiling requirement which is pushing the entire building up. In addition to a deep excavation, this also results in an unacceptably high wall along the western property boundary.

There also appears to be a large enclosure wall along the front property boundary in the 3D models which is not consistent with the condition shown on the north elevation. This is not acceptable. The proponent needs to review this and advise on the correct condition proposed.

Planning comment: the stackers have been removed, 7 spaces provided for the residents and the communal open space is now located in the rear and along the sides with sufficient solar access and amenity. This has meant the building has been reduced in size to be more consistent with that envisaged by the RDCP in terms of wall heights and overall bulk and scale.

The upper floor is poorly configured in terms of its relationship to the building as a whole. It overhangs articulated recesses on the west side and fully projects over the balconies at the rear. The massing on this level should be shifted towards the centre of the building, providing a better transition to the neighbouring building to the south while reducing the size of the northern terrace somewhat. Overhangs at articulation recesses are to be avoided.

Planning comment: The second floor level no longer overhangs and now has a direct relationship with the floor levels below at the sides and rear. The front is stepped further in from the levels below which is indicative of a habitable roof form envisaged by the RDCP.

Principle 3: Density

The SEE states that the proposed FSR is 0.9:1 which complies with the RLEP 2013.

There is no diagram showing how the FSR is calculated. The proponent should provide the information, illustrated on the floor plans.

Planning comment: The FSR was calculated as 0.97:1 which significantly exceeded the maximum. The amended scheme reduces the FSR to 0.916:1 which is assessed in the Clause 4.6 as acceptable.

Principle 4: Sustainability

A BASIX Certificate has been stamped on the plan, but the BASIX report has not been provided. Council's BASIX Officer should comment on this.

Planning comment: An amended BASIX certificate has been submitted with the application.

Key considerations:

- *All bathrooms on external walls, including the ensuite in Unit 5, should have operable external windows to reduce the need for artificial ventilation.*
- *The method of window operation and their fire treatment on each elevation should be indicated on the drawings.*
- *Sun-shading and or weather protection should be provided to suit orientation.*
- *Consideration should be given to a solar hot water system.*
- *Ceiling fans for bedrooms and living areas should be shown on the plans. Photovoltaics should be included on the roof to mitigate energy usage. A solar photovoltaic system could power common areas with any excess energy feeding into the grid. The array also shades the roof.*
- *Operable skylights should be considered for Unit 5 to bring natural daylight and provide for improved ventilation.*
- *Roof slabs should be provided with foam insulation covered with pebble ballast to create effective thermal comfort to the top floor apartments if no solar array is used.*
- *Outdoor clothes drying areas should be shown.*
- *Rainwater should be harvested, stored, treated and re-used, for WC's, laundries and garden irrigation.*

Planning Comment: The submitted BASIX certificate is considered sufficient for the purposes of sustainable development.

Principle 5: Landscape

The proposed communal open space is about 83sqm which is approximately 19.5% of the site. The size of the communal open space does not comply with the ADG which notes that 25% of the site area should be communal open space. Enlarged communal open space should be provided for the future residents. This can be achieved by increasing the rear setback as suggested above.

A large portion of the proposed ground floor communal open space as proposed, however, is covered by the upper floors and is not really usable, and cannot be expected to provide suitable spatial amenity. It is also unclear whether 83sqm includes this undercroft area. The proposed common open space should be further defined. There are no facilities provided within the communal open space to allow for a range of activities.

The undercroft space is also nominated as deep soil area – having a building over the top of deep soil invalidates its purpose, so this area cannot be included in the deep soil calculations.

The basement is also not sited within the building envelope above, which limits the deep soil planting for the development. The landscaped planter above the garage entryway also adds to the bulk of this element and should be deleted.

Planning comment: The landscaping throughout the site is assessed by the Landscape Officer. Notwithstanding, the proposal contains near RDCP compliant levels of deep soil on site which are substantially greater than that required under the ADG. The size of the communal open space is sufficient for the low number of units on site and proximity of open space in the surrounding area.

Principle 6: Amenity

The apartments generally provide good amenity with 100% cross ventilation. All of the units receive 2 hours of sunlight at the winter solstice. Sun eye views should be provided to confirm solar access. Sun eye diagrams should also be provided to show the adjoining buildings and the impacts of the existing and the proposed development on these buildings. The 'Shadows to Neighbouring Properties' diagrams provided by the proponent are not clear enough to determine the overshadowing impacts.

As mentioned in Principle 2, the reduced rear setback is not acceptable. The reduced rear setback will result in insufficient separation distance, which will cause overlooking issues.

Planning comment: One dwelling does not receive 2 hours of solar access. The rear setback has been increased to 6m ensuring compliance with the 6m required under the ADG for the purposes of privacy.

Principle 7: Safety

The configuration of the ground level provides good street surveillance with Unit 02 having a good street aspect. It appears that it may be possible to provide a direct access to this unit from the street. This would also improve safety and legibility of the proposal. It is not clear where the mailboxes are located.

The proponent should make sure that lights will be provided for the footpath along the eastern boundary.

Planning comment: Unit 2 now has direct access from the street and lighting is standard requirement.

Principle 8: Housing Diversity and Social Interaction

The proposal provides a mixture of 1 to 3 bedroom apartments.

Principle 9: Aesthetics

It is not clear where the proposed materials will apply. A diagram showing the finishes and materials on each elevation should be provided by the proponent.

The proposed color scheme is similar to the recent development at No. 202 Oberon Street however, some change in materiality such as sandstone or warm coloured material to reflect the brick buildings around would be welcome. In order for the building to be acceptable with a minimalist palette, the building needs to be refined so that elements align, overhanging floors are avoided and a discipline is brought to the resolution of the massing and articulation.

Planning comment: The amended scheme incorporates a mix of materials and colours in line with the panel's comments.

Summary and Recommendations

The scheme needs to be reworked to avoid tall walls along the property boundaries. The parking provision and car stacker approach should be reconsidered allowing the building to be lowered and achieve better transitions at the side boundaries.

The massing needs to be refined by shifting the footprint of the upper floor, reworking plans to avoid overhanging floor plates, and generally bringing building elements, fenestration and wall planes into alignment to improve the design outcome and realise the potential of the minimalist palette. The addition of an accent material could be helpful in this regard.

Further improvements to the building's sustainability should be incorporated. GFA calculations should be reviewed especially in regard to the breezeway. Landscape information needs to be provided along with some redesign of the open space and landscaping. Details of privacy screens should be provided.

The Panel would like to review the scheme again once changes have been made.

Planning comment: It isn't considered necessary to refer the amended scheme to the DEP as the application has been amended to substantially align with the panel's recommendations which is the purpose of the panel and where the proponent has not incorporated amendments these are considered acceptable outcomes.

Appendix 2: Applicant's written request seeking to justify the contravention of the development standard (see next page)

Annexure 1: Clause 4.6 Variation

The proposed development comprises a small scale three storey residential flat building that predominantly complies with the 0.9:1 maximum Floor Space Ratio control under the Randwick Local Environmental Plan 2012 with the development having an additional 15.75m² of floor space, resulting in an FSR of 0.92:1. This varies the control by 3%. Accordingly a variation pursuant to Clause 4.6 of the Randwick LEP 2013 is requested.

Clause 4.6 of the Randwick Local Environmental Plan 2012 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Director-General has been obtained.*
- (5) In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Each of these provisions is addressed individually in the following pages.

Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the FSR development standard are stated as:

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

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- (b) to ensure that buildings area well articulated and respond to environmental and energy needs,*
- (c) to ensure that development is compatible with the scale and character of contributory building in a conservation area of near a heritage item.*
- (d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

The current development proposal is predominantly consistent with the underlying intent of the FSR controls based on the following:

- The proposed variation is minor in nature, noting that revision to the massing of the building within the second floor has been undertaken to follow all articulation, recesses and redesigned to be consistent with the storey below combined with the balconies scaled back will have a positive impact on reducing the bulk and scale of the proposal three storey residential flat building, noting compliance with building height and front and rear setback. As such the proposed revision of the design scheme, even if it slightly increases the overall FSR actually results in a suitable density, bulk and scale relative to the existing three storey built form along the southern side of Oberon Street.
- The proposed departure of the floor space ration control has no additional adverse impact on nearby heritage items and conservation areas when considering the proposal complies with the height and front and rear setback controls that applies to the development.
- The proposed development will permit the site to develop to its full zoning potential whilst complementing the existing three storey built form character along the southern side of Oberon Street. Furthermore, the development provides an attractive 3 storey built form that is to address tis frontage and comply with the majority of the key planning controls applying to the development.
- The exceedance of 15.75m² will be undiscernible when viewed from Oberon Street and adjoining properties, and result in no material impact when viewing the site and development from the public domain.

- The proposal has been designed to ensure that privacy impacts are mitigated and that the proposal will not obstruct existing view corridors with the development providing a built form that comply with the prescribed height controls under the LEP.
- Detailed shadow analysis demonstrates that neighbouring properties bounding the subject site achieves adequate solar access to open space and living areas during mid-winter despite the non-compliance.
- The proposal is not located within a low-density area and the proposal represents an appropriate built form on the site.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition the proposal is consistent with the objectives of the R3 Zone, being:

To provide for the housing needs of the community within a medium density residential environment.

- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

The development proposes an attractive building that adequately address its frontage whilst providing a three storey residential flat building consistent with the existing 3 storey built form character along the southern side of Oberon Street.

The proposal will also contribute towards increasing housing stock and housing choices within close proximity to essential services, public transportation and recreational opportunist. It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

Clause 4.6(5)

As addressed it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the FSR control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the FSR control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and based on the unique site attributes.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, which is earmarked for future high density residential land uses.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council support the development.

Appendix 3: Apartment Design Guide (ADG) Compliance Table

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table			
ADG - Design Criteria		Proposal	Compliance
3A-1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed		Site analysis plan is adequate.
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1)		Complies.
	Where the street frontage is to the east or west, rear buildings should be orientated to the north		NA
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to		Units are orientated to the north and south with northern solar access attainable to

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table			
ADG - Design Criteria		Proposal	Compliance
	the east and west (see figure 3B.2)		each front unit with only partial solar access to the ground level rear one bedroom dwelling.
3B-2	Orientation		
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	Four out of the five units receive at least two hours of solar access between 9am and 3pm during the winter solstice.	Complies
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	Solar access is retained to the living rooms and balconies of neighbouring properties for at least two hours during the winter solstice. The applicant has also demonstrated that the difference between the proposed development and a compliant external wall height will not result in any appreciable difference in shadowing of neighbouring properties.	Complies.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy – requires 6m setback	The proposed side and rear setbacks exceed the minimum setback controls in the RDCP.	Acceptable.
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks	The proposed development has a larger than minimum rear setback and will not result in non-compliant levels of solar access to the balconies or habitable room windows of the rear neighbours property.	Complies.
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development		Complies.
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings		Complies.

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TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table

ADG - Design Criteria	Proposal	Compliance						
<p><u>Communal and Public Open Space</u> Communal open space has a minimum area equal to 25% of the site (106m²).</p> <p>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 9 am and 3 pm on 21 June (mid-winter).</p>	<p>The original proposal provided an undercroft communal open space with very poor amenity and was not supported.</p> <p>The amended scheme provides 95m² of communal open space located at the south-western part of the site and represents 22.4% of the site area.</p> <p>Importantly, the ADG permits less communal open space requiring a merit assessment against the design guidance where the proposal provides larger than minimum ground level courtyard areas of private open space, the development contains a small number of units and the proximity of other open space in proximity to the subject site.</p> <p>The proposed communal open space although short of the required is considered of sufficient size to provide for the future occupant's amenity, and it is noted that the development does contain a small number of units and there is a park near the site.</p> <p>Principal communal open space will receive sunlight between 11am and 4pm, with direct sunlight reaching a minimum of 50% of the area.</p>	<p>Does not comply with the minimum area required – refer to merit assessment at left.</p> <p>Complies.</p>						
<p><u>Deep Soil Zones</u> Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>650m² – 1,500m²</td><td>3m</td><td>7% (29.68m²)</td></tr> </tbody> </table>	Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	650m ² – 1,500m ²	3m	7% (29.68m ²)	<p>The provision of deep soil landscaping is approximately 100m² (23.5%) with minimum 3m dimension.</p>	<p>Complies.</p>
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)						
650m ² – 1,500m ²	3m	7% (29.68m ²)						
<p><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:</p>	<p>Less than 6m separation from the side boundaries.</p> <p>Habitable room windows are highlight windows which ensure sufficient privacy to neighbouring</p>	<p>Conditioned.</p>						

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table				
ADG - Design Criteria			Proposal	Compliance
Building Height	Habitable Rooms and Balconies	Non-habitable rooms	properties. Balcony screens are conditioned to be designed to restrict outlook to neighbouring properties.	
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 Newcastle and Wollongong local government areas. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter			Based on the submitted solar access diagrams, 4 out of 5 units will receive at least two hours of solar access. Therefore 80% of units will receive compliant solar access. Nil	Complies. Complies.
<u>Natural Ventilation</u> 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 Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. Cross-through apartment <i>cross ventilating apartment on one level with two opposite aspects</i>			All apartments (100%) are naturally cross ventilated. Second floor unit is a cross through apartment with a depth greater than 18m. However this unit contains four aspects with stepped in openings providing for excellent cross ventilation.	Complies. Acceptable.
<u>Ceiling Height</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none">Habitable Rooms – 2.7mNon-habitable rooms – 2.4m			Floor to ceiling heights for all units are mostly 2.7m except for a portion of the second floor three bedroom dwelling.	Partial non-compliance.
<u>Apartment Layout</u> Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none">Studio - 35m21 Bedroom - 50m22 Bedroom - 70m23 Bedroom - 90m2 The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. Every habitable room must have a window in an external wall with a total minimum			All habitable rooms have windows that comply with the requirements of	Complies. Complies

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table

ADG - Design Criteria	Proposal	Compliance
<p>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>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"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>the ADG.</p> <p>All bedrooms have a minimum dimension of 3m.</p> <p>All living rooms comply, Each apartment has a width exceeding 4m.</p>	<p>Complies.</p> <p>Complies</p> <p>Complies.</p>
<p><u>Environmental Performance</u></p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Proposed apartments have open plan layouts combining living, dining and kitchen. The maximum living room depth is less than 8m from a window.</p>	<p>Complies.</p>
<p><u>Open Space</u></p> <p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio - 4m² • 1 bedroom - 8m² (minimum depth of 2m) • 2 bedroom – 10m² (minimum depth of 2m) • 3+ bedroom apartments – 12m² (minimum depth of 2.4m) <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 15m² and a minimum depth of 3m.</p>	<p>Ground level front complies, the rear ground level apartment is elevated above the communal open space and is therefore considered to not have a direct connection with the rear yard.</p>	<p>Complies.</p> <p>Complies.</p>
<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>There is a maximum of 2 apartments sharing a circulation core.</p> <p>The building is less than 10 storeys.</p>	<p>Complies.</p> <p>N/A</p>
<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"> • Studio - 4m³ • 1 Bedroom - 6m³ 	<p>Adequate storage is provided for each unit as part of the semi-basement carpark.</p>	<p>Complies.</p>

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table

ADG - Design Criteria	Proposal	Compliance
<ul style="list-style-type: none"> 2 Bedroom - 8m³ 3 Bedroom - 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>		

Appendix 4: DCP Compliance Table**4.1 Section B6: Recycling and Waste Management**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.		Yes/Conditioned (22-24, 79-80)
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.		
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.		
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).		
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.		
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.		

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3.	Parking & Service Delivery Requirements		

	Car parking requirements: <ul style="list-style-type: none"> • 1space per 2 studios • 1 space per 1-bedroom unit (over 40m²) • 1.2 spaces per 2-bedroom unit • 1.5 spaces per 3 or more bedroom unit • 1 visitor space per 4 dwellings 		See Development Engineering comments in referral section of report.
	Motor cycle requirements: 5% of car parking requirement		N/A
4. Bicycles			
	Residents: <ul style="list-style-type: none"> • 1 bike space per 2 units Visitors: <ul style="list-style-type: none"> • 1 per 10 units 		Conditioned.

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2. Site Planning			
2.1 Site Layout Options			
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> • Two block / courtyard example • T-shape example • U-shape example • Conventional example 	Conventional	Yes
2.2 Landscaped open space and deep soil area			
2.2.1 Landscaped open space			
	A minimum of 50% of the site area (195m ²) is to be open space.	46%	No,
The proposed development provides sufficient open space and spatial separation from neighbouring properties by virtue of the acceptable side setbacks and greater than minimum rear setback requirements under the RDCP. In conjunction with the proposal being well under the maximum height standard it is considered the proposal will sit comfortably within the site and will not result in any unreasonable adverse visual or amenity impacts on the neighbouring properties. The proposal also provides sufficient open space for use by the occupants and common use.			
2.2.2 Deep soil area			
	(i) A minimum of 25% of the site area (107m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	23.5%	Does not comply with the minimum area however the shortfall is minor and the deep soil is strategically located to minimise stormwater runoff and minimise the dominance of hard
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.		surface areas at the front and rear.
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.		
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.		
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.		
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.		Yes
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m2 and a minimum dimension of 2m.		Yes
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) Adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.		Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3.	Building Envelope		
3.1	Floor space ratio		
			No, see Section 7 of the report.
3.2	Building height		
	12m	11.42m over the underside of the slab of existing floor level.	Yes
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Amended to comply	Yes
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	Amended increase in front setback of balconies.	Yes
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p>	A site with a width of 12m would require a 2m setback. The proposal provides 2m setbacks from the side boundaries	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - <12m requires merit assessment. <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(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.</p>	for the main building form and it would be highly contentious to suggest that the scheme does not comply with the objectives of the side setback controls. A fire safety statement has been submitted.	
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (5.66m) or 5m, whichever is the greater.	6m	Yes
4.	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(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.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building</p>	Suitable depth from balconies and materiality.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>		
4.2	Roof design		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p>	Flat roof which is consistent with the more recent development at No. 202 Oberon Street.	Yes
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. 	12m maximum standard allows for a 10.5m wall height and a 12m overall height. Whilst the proposal extends beyond the 10.5m wall height control, it readily complies with the maximum standard. Moreover, the proposed development as	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	viewed from the street will present as a reduced floor plate and a habitable roof form.	
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	10.8m	Does not comply see key issues section
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m for ground and first floor level. Partial compliance at Second floor level.	Yes and partial compliance at second floor level.
The shortfall at second floor level is limited mostly to secondary rooms with only a small portion of the large living room subject to a smaller floor to ceiling height than the 2.7m control. This shortfall will not reduce the amount of light and ventilation or perception of openness at the upper most level ensuring sufficient amenity for future occupants.			
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.		Yes
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather 		Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>than along the front boundary).</p> <ul style="list-style-type: none"> - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>		
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		Yes
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <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>		Yes
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.		
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.		
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.		Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.		Yes
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of lightweight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts 		Yes and conditioned (3) to allow for DEP comment.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.		
4.12	Earthworks Excavation and backfilling		
	(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. (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. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.		No, however this is a consequence of the sloping land levels.
	Retaining walls (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).		No, however retaining walls and projecting basement level along the western side has a similar height to a standard side boundary fence.
5.	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(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.		ADG criteria applies.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(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.		
	(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.		Each apartment has multiple aspects.
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.		Energy efficiency is maximised through stepped sections for each apartment which allows for openable windows to habitable rooms.
	Solar access for surrounding development		
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.		Yes
	(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.		
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.		Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.		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.		Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(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.		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.		ADG criteria applies
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.		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.		
5.3	Visual privacy		
	<ul style="list-style-type: none"> (i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (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. (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. (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. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings 		Yes/Conditioned (2)

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.4	Acoustic privacy		
	<ul style="list-style-type: none"> (i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 		Yes
5.5	View sharing		
	<ul style="list-style-type: none"> (i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate 		Yes. There is no anticipated view loss from the proposed development that is considered unacceptable with particular regard to the proposed building form and spatial setting.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	potential view loss impacts in the development application.		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.		Generally acceptable.
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.		
	(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.		
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No pathway beyond the parking protrusion along the western side.	
	(vi) Resident car parking areas must be equipped with security grilles or doors.		
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.		
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.		
	(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.		
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Conditioned	
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.		
6. Car parking and access			
6.1	Location		
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.		Partial compliance see comment at left.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Nil form the west however this is adjacent to the pathway on the neighbours site. This area is softened by the landscaped area at the front and atop the semi-basement protrusion on the western side.	
	(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. (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.		
6.2	Configuration		
	(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.		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.		Yes
	(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.	Car parking area protrudes along the western side by more than 1m however this occurs along a small part of the site and protrudes no more than the height of a standard side boundary fence.	Yes
7.	Fencing and Ancillary Development		


DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
7.1	Fencing		
	<ul style="list-style-type: none"> (i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials (ii) Expansive surfaces of blank rendered masonry to street frontages must be avoided. 		Yes
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.		Yes
	(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.	Front fence steps down in response to the natural topography and incorporates a change in materials	See comment at left.
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.		Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.		Yes
	(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		Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	requirement by a maximum of 150mm adjacent to any stepping.		
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.		Yes
	(vii) Gates must not open over public land.		Conditioned (83)
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.		Conditioned (16)
7.3	Side and Rear Fencing		
	<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>		Conditioned (2e)
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(a) 1-bedroom apartments – 6m³</p> <p>(b) 2-bedroom apartments – 8m³</p> <p>(c) 3 plus bedroom apartments</p>		ADG criteria applies.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	– 10m3		
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.		Conditioned (84)
	(ii) Provide internal laundry for each dwelling unit.		Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.		Not required.
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 		Conditioned (85)

Attachment/s:

1.  Dev Consent Conditions (med density res) - DA/407/2018 - 200 Oberon Street, COOGEE

Development Consent Conditions (Medium density residential)



D36/19

Folder /DA No:	DA/407/2018
Property:	200 Oberon Street, COOGEE NSW 2034
Proposal:	Demolition of existing structures and construction of a 3 storey residential flat building comprising of 5 residential units above a basement level containing a total of 7 car parking spaces.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
DA01 Issue E	Gelder architects	14/12/2018
DA02 Issue E		14/12/2018
DA03 Issue E		14/12/2018
DA04 Issue E		14/12/2018
DA05 Issue E		14/12/2018
DA06 Issue E		14/12/2018
DA07 Issue E		14/12/2018
DA08 Issue E		14/12/2018

BASIX Certificate No.	Dated
937009M	6 July 2018

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:

Front balconies

- a. The privacy screens to the sides of front balconies shall be configured in a fixed position to ensure no direct sightlines into the habitable room windows or private open spaces of adjoining neighbouring properties at No. 198 and 202 Oberon Street. The privacy screens for front balconies 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.

Rear balconies

- b. Privacy screens shall be provided to the eastern side of the rear balconies and the southern edge of the ground, first and second floor rear balcony areas for a distance of 1m from the south eastern corner. Privacy screens 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 privacy screens shall be configured in a fixed position to ensure no direct sightlines into the habitable room windows or private open spaces of adjoining neighbouring properties at No. 174-178 Brook Street, and No's. 198 and 202 Oberon Street

- c. The glass balustrades for rear balconies shall be replaced with translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable).
- d. Fences located on the side or rear boundaries of the premises shall not exceed a maximum height of 1800mm, measured above the existing ground levels. *On sloping sites or at changes in ground levels, the maximum height of the fence may exceed the abovementioned specified height by up to 150mm maximum adjacent to any required 'step-downs' or changes in ground level.* The applicant and owner is advised that the relevant provisions of the *Dividing Fences Act 1991* are to be satisfied accordingly and any necessary approvals or agreements should be obtained from the owner/s of the adjoining land beforehand.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

Section 7.12 Development Contributions

5. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$2,360,924 the following applicable monetary levy must be paid to Council: \$23,609.24.

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.

Compliance Fee

6. A development compliance and enforcement fee of \$2,360.92 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

7. 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 Deposit

8. The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$5000 - Damage / Civil Works Security Deposit

The damage/civil works security deposit 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 civil works which confirms that there has been no damage to Council's

infrastructure.

The owner/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 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 Director of City Services upon issuing of an occupation certificate or completion of the civil works.

Sydney Water

9. 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 **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/tapin>

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

Telecommunications infrastructure

10. 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 Certifying Authority that arrangements have been made for:

- (i) The installation of fibre-ready facilities to all individual 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.

Street Tree Management

11. The applicant must submit a payment of **\$1,002.90** (including GST) to cover Council's costs for the following:
- a. To remove, stump-grind and dispose of the *Harpephyllum caffrum* (Kaffir Plum) from the Oberon Street verge, toward the eastern site boundary, as despite being located away from the new, widened vehicle crossing, is still regarded as an undesirable

exotic species, which will be too large for the confined environment it is growing within, both and below ground, and will cause extensive maintenance issues into the future;

- b. For Council to supply, plant and maintain 2 x 25 litre *Callistemon viminalis* (Bottlebrush) back on the Oberon Street verge, spaced evenly between the eastern edge of the new vehicle crossing and eastern site boundary at the completion of all works.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

The applicant must contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number), and giving at least four working weeks-notice (allow longer for public holidays or extended periods of rain) to arrange for removal of the tree prior to the commencement of site works, as well as upon completion, to arrange for planting of the replacements.

After this, any further enquiries regarding scheduling/timing or completion of works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6858.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia & Relevant Standards

12. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
13. Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Certifying Authority.

BASIX Requirements

14. 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.

Site stability, Excavation and Construction work

15. A report must be obtained from a suitably qualified and experienced *professional engineer*, which includes the following details, to the satisfaction of the Certifying Authority for the development:-
- Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
 - Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
 - The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifying Authority*.
 - Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the *Certifying Authority*.

Traffic conditions

16. 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 certifying authority, are to be included in the construction certificate documentation.
17. Except where varied by conditions, 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.
- The first 4m length of internal driveway must be provided at a grade of 1 in 20 (5%).

Design Alignment levels

18. 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:
- Match the back of the existing footpath at western side boundary**
 - 50mm above the top of kerb opposite, on eastern edge of vehicle access**
 - Straight grade between the above two points**

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.

19. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$614** calculated at \$53.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage & Flood Management

20. 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 certifying authority 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 certifying authority. 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.

21. 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 *Certifying Authority* 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 Oberon street/; or
 - ii. To Council's street drainage system in Brook street via a private drainage easement through adjoining land/premises; 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 the owner/applicant is able to demonstrate to Council that he/she has been unable to procure a private drainage easement through adjoining premises and the 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, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the certifying authority. If discharging to the street gutter the PSD shall be restricted to the above or **25 L/S**, whichever the lesser.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (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. a 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) 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.
- h) Generally all internal pipelines must be capable of discharging a 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.
- i) 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 arrestor pit shall be regularly inspected and cleaned".

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

- j) 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).

- k) 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):
 - i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
 - ii. 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)
 - iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - v. 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.

- l) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- m) 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.
- n) Mulch or bark is not to be used in on-site detention areas.
- o) 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.
- p) Any onsite detention/infiltration systems shall be located in areas accessible by residents of all units.

Groundwater

- 22. Should any dry weather site seepage/groundwater is encountered during excavation and construction, the development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) 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) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) 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.

- e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Certifying Authority 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 Certifying Authority.**

Waste Management

23. 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.

24. The garbage room shall be sized to contain a total of 8 x 240 litre bins (comprising 3 garbage bins 3 Recycle bins and 2 green waste) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
25. 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

26. 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

27. Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Oberon Street. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements. 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 Plan

28. Written certification from a qualified professional in the Landscape/Horticultural industry (must be eligible for membership with a nationally recognised organisation/association) must state that the Landscape Plans submitted for the Construction Certificate are substantially consistent with the Landscape Plans by Paul Scrivener Landscape Architecture, ref 18/1987, sheet 1 of 1, issue C, dated 06/07/18, but must be amended where necessary to now be consistent with the rev E architectural plans dated 14/12/18.

29. Both of this statement and the revised plans must be submitted to, and be approved by, the PCA/Certifying Authority.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

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

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

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

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

Home Building Act 1989

31. 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 Certifying Authority and Council.

Dilapidation Reports

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work Plan

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

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

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

Construction Noise & Vibration Management Plan

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

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

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

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of*

the *Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

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

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

Public Liability

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

Construction Traffic Management

- 37. An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Oberon Street 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.

- 38. 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.

39. 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.

Public Utilities

40. 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 Certifying Authority 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

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

Building & Demolition Work Requirements

42. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:
 - Work Health and Safety Act 2011;
 - Work Health and Safety Regulation 2011;
 - SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
 - Australian Standard 2601 (2001) – Demolition of Structures;
 - The Protection of the Environment Operations Act 1997;
 - Randwick City Council Asbestos Policy (adopted 13 September 2005).

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

Removal of Asbestos Materials

43. 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 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

44. 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 Certifying Authority.

Support of Adjoining Land

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

Sediment & Erosion Control

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

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

Dust Control

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

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

Dust control measures and practices may include:-

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

Temporary Site Fencing

48. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

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

Notes:

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

Public Safety & Site Management

49. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

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

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

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

Site Signage

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

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

Restriction on Working Hours

51. 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"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 1.00pm only Saturday - No work permitted Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Survey Requirements

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

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

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

Building Encroachments

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

Road/Asset Opening Permit

54. 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 days 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

- 55. 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.
- 56. 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.
- 57. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

- 58. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the principal certifying authority.

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

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

Vegetation

60. Due to their small size and insignificance, all vegetation throughout the subject site may be removed where necessary so as to accommodate the works as shown, subject to full implementation of the approved landscaping.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

Occupation Certificate Requirements

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

Fire Safety Certificates

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

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

Structural Certification

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

Sydney Water Certification

64. A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > *Building and developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

BASIX Requirements & Certification

65. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority 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 Certifying Authority* and Council upon issuing an Occupation Certificate.

Noise Control Requirements & Certification

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

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

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

- a) Construct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements.
- b) Re/construct a 1.3m wide concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.

69. 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.

70. 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

71. 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 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 Certifying Authority and the Council **prior to the issuing of an Occupation Certificate**.

Undergrounding of Power

72. The PCA shall ensure that Power to the development site shall be via an underground (UGOH) connection from the nearest mains distribution pole on Oberon Street. No private poles are permitted. All work shall be to the requirements and satisfaction of Ausgrid and at no cost to Council.

Stormwater Drainage

73. 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.
74. 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 Certifying Authority and the Council. The works-as-executed plan must include the following details (as applicable):
- The location of any detention basin/s with finished surface levels;
 - Finished site contours at 0.2 metre intervals;
 - Volume of storage available in any detention areas;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - The onifice size/s (if applicable);
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
75. The applicant shall submit to the Principal Certifying Authority (PCA) 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.

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

76. Should groundwater be present, the applicant shall submit to the Principal Certifying Authority (PCA) 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.

Landscaping

77. Prior to any Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plan by Paul Scrivener Landscape Architecture, ref 18/1987, sheet 1 of 1, issue C, dated 06/07/18, and any relevant conditions of consent.
78. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
79. The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

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.

Street and/or Sub-Address Numbering

82. 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.

83. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public plan.
- Clothes drying area
84. An external clothes drying line shall be provided in the rear communal open space area in accordance with the provisions of the Building Code of Australia. The clothes line must be adequately screened by vegetation and details are to be incorporated into the landscaping plans, to the satisfaction of the certifying authority.

85. Air conditioning units must not be installed within window frames and if installed on balconies must be adequately screened by suitable balustrades. Air conditioning units installed at ground level shall comply with the Exempt criteria under the State Environmental Planning Policy codes – Exempt and Complying Development Codes 2008.

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*, and Council's development consent and to maintain reasonable levels of public health and environmental amenity.

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.

Fire Safety Statements

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

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

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

Environmental Amenity

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

Stormwater Detention/Infiltration System

89. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

Residential Parking Permits

90. 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.
91. 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.

GENERAL ADVISORY NOTES

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

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

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

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

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

- A2 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A3 Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

- A4 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

- A5 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

- A6 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A7 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

- A8 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

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

For further information please contact Council on 9093 6971.

A9 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

A10 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

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

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

A11 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

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

A12 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

A13 An application must be submitted to and approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.

A14 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.

Miscellaneous Report No. M2/19

Subject: Planning Proposal: 18-26 Ascot St Kensington



Folder No: RZ/1/2019

Author: Stella Agagiotis, Coordinator Strategic Planning

M2/19

Introduction

Hamptons Property Services Pty Ltd on behalf of developer Scape Australia Swanston Pty Ltd ATF Scape Australia (Kensington Trust) is seeking support to amend Randwick LEP 2012 for land at 18-26 Ascot Street, Kensington (the site) (Figure 1) by way of a planning proposal (the Ascot Street Planning Proposal – Attachment 1). This report assesses the merits of the Ascot Street Planning Proposal application which is seeking Council's support to proceed to the next stage (Gateway Determination) of the planning proposal process for the site. The proponent has also submitted a development application over the same land for a development which is of lower height and FSR than the controls sought under the Ascot Street Planning Proposal.

The Ascot Street Planning Proposal seeks an amendment to Randwick Local Environmental Plan 2012 (RLEP) to increase the permissible height controls to 31m, and to introduce a floor space ratio (FSR) control of 4:1. The site currently has a height limit of 21 metres over 20-26 Ascot Street and 12 metres over 18 Ascot Street. No FSR applies to the site as it is subject to building envelope controls in Randwick Development Control Plan 2013 (RDCP).

The Ascot Street Planning Proposal as a spot rezoning is not considered as the most efficient or most effective means of achieving a review of the planning controls that currently apply to the site and the remainder of the Kensington Town Centre. A comprehensive planning strategy and planning proposal has been endorsed by Council and the planning proposal to amend the controls across the Kensington and Kingsford town centres has received a gateway determination and approaches the time for public exhibition. As such the Ascot Street Planning Proposal will undermine Council's strategic planning process and future character of the Kensington Town Centre.

It is therefore recommended that the request to amend Height of Buildings from 21m and 12m to 31m and introduce FSR of 4:1 under the RLEP 2012 for the site located at 18-26 Ascot Street Kensington not be supported.

Background

In December 2016 Council endorsed a draft planning strategy which covers the town centres of Kensington and Kingsford and is known as Kensington and Kingsford Town Centres Draft Planning Strategy (draft K2K Planning Strategy – Attachments 2 and 3). The strategy has not been on formal exhibition.

In January 2017 Council submitted a planning proposal to the Department of Planning and Environment (DPE) to amend the RLEP to take into account some of the matters set out in the draft K2K Planning Strategy (K2K Planning Proposal – Attachment 4). The K2K Planning Proposal has received a gateway determination, and will be placed on public exhibition in July for a period of 6 weeks. More details on the review process is set out below.

The Site

The site at 18-26 Ascot Street Kensington is located on the south side of Ascot Street mid-block between Anzac Parade and Doncaster Avenue towards the northern end of Kensington Town Centre. The site is 1,292m² in area, has street frontage of approximately 22.45m to Ascot Street and depth of about 44.325m on the east (18 Ascot Street) and 52.18m on the west. The site has no

access to any secondary street, however Lot 2 DP319141(26 Ascot Street) contains a right of way providing access to the rear of 126-146 Anzac Parade.

Table 1 – Components and land use of the site

Address	Lot No	Area	Current Land Use
18 Ascot Street	Lot 1 in DP178926	338m ²	Single storey dwelling
20 Ascot Street	Lot C in DP178926	149m ²	Driveway/vacant block used for landscaping supplies business
22 Ascot Street	Lot B in DP178926	144.9m ²	Single storey semi-detached dwelling
24 Ascot Street	Lot A in DP178926	147m ²	Single storey semi-detached dwelling
26 Ascot Street	Lot 2 in DP319141 and Lot 6 in DP15942	286.4m ² & 228.7m ²	Driveway and car parking
TOTAL		1292m ²	

The site is about 200 metres from two proposed light rail stations at both Carlton Street and at Todman Avenue.

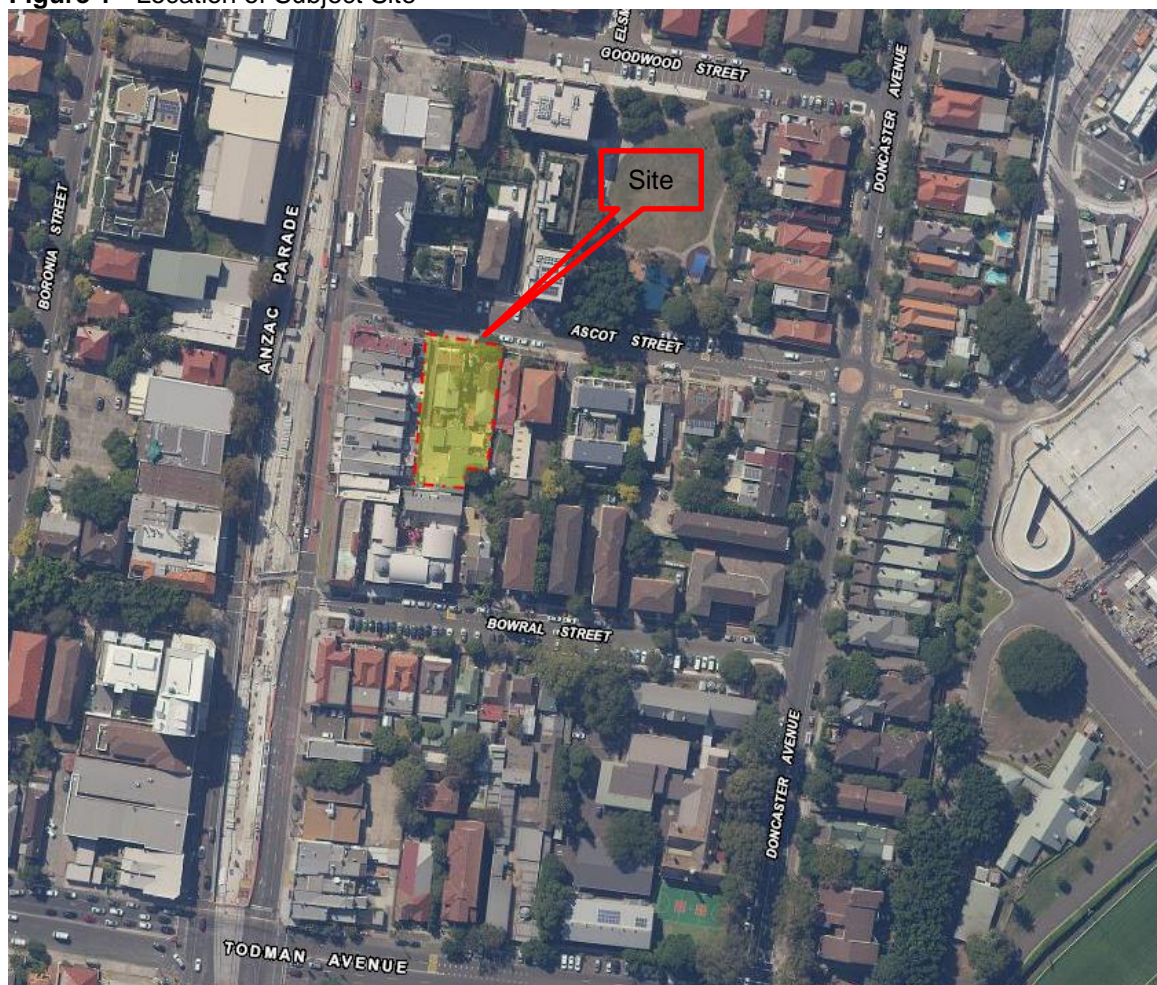
The site is flood affected. The Botany Sand Beds underlie the site with a very shallow water table in the Kensington area.

Description of surrounding area

The site lies approximately 7km southeast of the Sydney CBD and about 5km northeast from Sydney Airport. The site is close to major open space and institutional sites, including Moore Park and Centennial Park to its north, Randwick Racecourse to the east, and UNSW and the Randwick Hospitals Campus to the southeast.

The site is surrounded by a mix of building types, including 2 storey shop top commercial/dwellings facing Anzac Parade to the west, single storey detached and semi-detached dwellings to the east, older style three storey walk up flats and modern 4 storey apartment buildings also to the east, and modern apartment blocks to the north of 5 and 7 storeys (the latter with commercial at ground floor). Immediately to the south is the Coptic Church facing Bowral Street and two Victorian era two storey semi-detached dwellings. Further to the south east along Bowral Street are a series of 4 storey older style walk up apartment blocks.

Kokoda Park is to the immediate north east of the site – being a small local park with play equipment. The draft K2K Planning Strategy proposes the possible expansion of this park to the east to Doncaster Avenue.

Figure 1 - Location of Subject Site

Source: Six Maps

The Ascot Street Planning Proposal

The Ascot Street Planning Proposal seeks to amend the RLEP to increase the maximum building height from 12m (18 Ascot Street) and 21m (remainder of the site) to 31m. This represents a 10-19 metre height increase being an increase of 48% to 157%. The Ascot Street Planning Proposal also seeks to introduce an FSR of 4:1 for the site.

Table 2 - Summary of proposed changes

Component	Current	Proposed
Zone	B2 Local Centre	No change
Height of Buildings	12m and 21 m	31m
Floor Space Ratio	Not applicable - under the RLEP's 2012 FSR Map	4:1

The Ascot Street Planning Proposal's objective is to allow for a Purpose Built Student Accommodation (PBSA) to provide approximately 250 beds across 213 rooms. Aspects of the proposed PBSA include:

- Basement parking for 5 cars, 52 bicycle spaces and 33 motor cycle spaces;
- A ground floor common area with small outdoor courtyard areas on the western side and retention of the right of way access for the buildings at 126-146 Anzac Parade;
- 9 levels of student accommodation with a combination of studio, twin, cluster and accessible rooms;
- A setback from the front boundary of 1.5 metres, save the stairs and landscape borders which impinge on this zone; and
- From the 4th level, a further approximate 4 metre setback above the podium.

The Ascot Street Planning Proposal is accompanied by a number of reports:

- Planning Proposal Report by Hampton Property Services;
- Economic Impact Assessment by Macro Plan;
- Aeronautical Impact Assessment by Landrum & Brown;
- Traffic Impact Assessment by The Transport Planning Partnership;
- Geotechnical Investigation by JK geotechnics;
- Stage 1 Desktop Environmental Site Assessment by Environmental Investigation Services; and
- Survey by New Way Surveying.

The reports address the need for additional affordable accommodation and student accommodation in the area and the advantages of taking the opportunity for improved access afforded by the forthcoming South East Light Rail project, which is proposed in close proximity to the site. The traffic report seeks to justify the level of parking and cycle spaces provided as reflecting the nearby public transport services. The aeronautical report indicates no concern.

The geotechnical report indicates excavation of about 3 metres is required which is below the groundwater level and will require dewatering and support of the sandy subsoil, shoring, and dilapidation reports. As boring to bedrock is unlikely to be economical the report identifies ways in which to lay the footings. Further testing is required although in theory the construction of the building on the site appears suitable.

The Environmental Site Assessment identifies possible contamination sources as fill material, hazardous building materials and off-site areas and recommends further investigation.

The reports indicate a possible 30 full time equivalent jobs resulting from the development upon completion.

The reports also address the consistency of the proposal within State and local planning objectives and directions as well as the public benefits. They also address the draft K2K Planning Strategy. The reports state that the Ascot Street Planning Proposal is consistent with the draft K2K Planning Strategy.

However the Ascot Street Planning Proposal does not address some of the other factors in the draft K2K Planning Strategy such as:

- funding of the public benefits provided by the proposed CIC, the proposed increase in the section 7.12 contributions and the affordable housing contributions under SEPP 70. The only reference to this is on page 49 of the applicant's planning proposal document but it is unclear how any contribution could be enforced if the RLEP had not been amended prior to DA lodgment;
- the provision of laneway/shared zones on the eastern side of the site and the pedestrian link at the south of the site;
- transitioning to the lower level adjacent sites (page 27 of the Ascot Street Planning Proposal submits that the design seeks to achieve a sensitive transition to recently constructed developments and surrounding lower established lower scaled residential neighbourhoods, but it is not explained anywhere nor evident from the plans, how this sensitive transition is achieved; and
- the proposed footpath widening which is in an area where the proposed design includes the access steps.

The Ascot Street Planning Proposal refers to Purpose Built Student Housing (PBSA). That is not a term which is used in a planning sense in NSW. The use applicable within the RLEP is as a boarding house, which is permissible and to be retained, in the existing B2 Local Centre zone.

The Ascot Street Planning Proposal indicates that they propose to use SEPP (Affordable Rental Housing) 2009 (AH SEPP), not simply to apply the boarding house planning provisions (such as room sizes), but also to apply an increase in the FSR allowable under clause 29(1)(c) of 20% above

the existing maximum FSR if the allowable FSR is greater than 2.5:1. That bonus would bring the allowable FSR to 4.8:1 (if the Ascot Street Planning Proposal was successful in securing an FSR of 4:1 for the site. The planning report accompanying the Ascot Street Planning Proposal indicates that they intend to use this provision to attain an FSR of 4.4:1, however it appears that they have miscalculated and only allowed an uplift of 10% not 20%.

In applying the AH SEPP, it should be noted that there is nothing requiring the boarding house rooms to be at a specified lower rental (such as is defined in SEPP 70 – Affordable Housing (Revised Schemes)), nor is there any requirement to have them managed for a 10 year period as affordable housing (as there is for infill affordable housing under the AH SEPP).

The Ascot Street Planning Proposal accepts that the draft K2K Planning Strategy is not imminent and certain (and indeed it cannot be as it is not yet exhibited).

The applicant has lodged a separate development application (DA) which does not comply with the existing controls, presumably seeking to commence early works, and then if the Ascot Street Planning Proposal is successful, presumably they intend to lodge an additional DA to increase the height. The intention is to “result in [the Ascot Street Planning Proposal’s] swift implementation to enable the demand [for student accommodation] to be captured.”

Kensington and Kingsford Town Centres Draft Planning Strategy (draft K2K Planning Strategy)

In December 2016 Randwick City Council resolved to approve a draft planning strategy which covers the town centres of Kensington and Kingsford and is known as Kensington and Kingsford Town Centres Draft Planning Strategy (draft K2K Planning Strategy). It follows a comprehensive planning review, consultation, and international design competition process for the Kensington and Kingsford town centres, particularly taking into account the light rail under construction between the Sydney CBD to Kingsford along Anzac Parade. The draft K2K Planning Strategy also takes into account the draft Central District Plan under the “A Plan for Growing Sydney”. That plan is now finalised within the framework of “A Metropolis of Three Cities” as the Eastern City District Plan (finalised in March 2018). The draft K2K Planning Strategy was made public on the DPE’s LEP tracking website in February 2017 and could be viewed within the business papers of Council from about 6 December 2016.

Vision

The draft K2K Planning Strategy includes a vision for the Kensington Town Centre as evolving into a vibrant and dynamic town centre with a well-connected and highly accessible centre, with city apartment lifestyle of the highest quality and excellent amenity. Affordable housing is to be included to offer housing density and a range of housing choice. There is an emphasis on creativity and innovation with a green identity including Ecologically Sustainable Development (ESD targets), Water Sensitive Urban Design (WSUD) practices, high quality green public places, links to parks, and sustainable modes of traffic.

To effect this the draft K2K Planning Strategy proposes various strategies which include amending the RLEP height, FSR controls and active frontage provisions in the Kensington and Kingsford town centres for higher density dwelling growth, amending RDCP controls to encourage fine grain retail and laneways activation for shopfronts and outdoor dining, and fostering an innovation district to encourage minimum non-residential FSR at key sites within the town centres for commercial space.

Permeability

The draft K2K Planning Strategy also seeks to improve permeability and identifies mews style lanes and laneway/shared zones as part of the redevelopment of specific sites, to be set out clearly in amendments to the RDCP. The linkages include the following as illustrated in Figure 2:

- through the site at 18 Ascot Street between Ascot Street (to the north) and Bowral Street to the south; and
- as a through site pedestrian link, from Anzac Parade through Lot D of DP 435575 (not part of the site) east across the southern portion of the site crossing Lot 2 DP 319141 and Lot 6 DP15942.

Figure 2 Proposed through Links

Kensington Town Centre Proposed Through Site Links

Kensington Town Centre DCP Height Transition Strategy



Note the proposed new shared zone on the site

Setbacks and footpath widening

Relevantly, street walls set back 1.5m from the boundary for new nine storey development with four storey podiums are envisaged in the draft K2K Planning Strategy. The 1.5m setbacks are to provide for increased footpath widths of 4.5m to 6m in the town centres and are proposed to be implemented by RDCP controls. The maps identify the area on Ascot Street adjacent to the site as including footpath extensions.

Parking and bicycle parking provisions

The draft K2K Planning Strategy notes the reduced level of car ownership in the area compared to Sydney as a whole and the prospect of improved public transport in the near future. It seeks to reduce car ownership, using car share, increasing bicycle parking requirements and increasing infrastructure for bicycle and electric vehicle charging.

Public Realm

The draft K2K Planning Strategy also seeks to improve the public realm and green connectivity between the town centres and public parks – including Goodwood Street and Ascot Street to Kokoda Park.

Social Infrastructure

The draft K2K Planning Strategy also references improved social infrastructure, including community hubs, gallery/arts space and an innovation centre.

Contributions

A detailed contributions scheme is set out to apply to the K2K area comprising:

- local infrastructure contributions – an increase from 1% to 3% of total construction costs under the then s94A of the Environmental Planning & Assessment Act 1979 (EP & A Act) (now section 7.12);
- community infrastructure contribution (CIC) of \$475/m² towards community infrastructure on the additional planning capacity (GFA) made permissible under the increased built form controls proposed in the draft Planning Strategy; and
- affordable housing levy commencing at 3% and increasing to 5% to be dedicated as affordable rental housing, incorporated within the development.

The SEPP 70 is proposed to be used to allow for the affordable housing levy (Randwick City Council has now been included in SEPP 70). The CIC contribution is proposed to be implemented by way of voluntary planning agreements (VPAs) under then s93F (now section 7.4) of the EP & A Act.

Implementation Plan

The draft Planning Strategy includes an implementation plan to effect the proposed changes with short, medium and long term goals. The relevant short term goals include:

- amending the RLEP to include amended height and FSR controls, inclusionary controls for affordable housing, and key site design excellence provisions;
- amending the RDCP regarding the mix of dwelling types, accessibility, the fine grain retail and laneways activation, automated waste collection systems, amending car parking figures to align with the proximity to the light rail, include the shared zone/laneway locations in the identified areas, include pedestrian mid-block links, and active street frontages;
- strategies for WSUD, public art, improved cycling facilities, electric car charging stations, and achieving the widening of footpaths;
- requesting in principle support for increasing the EP & A Act's section 7.12 maximum levy from 1% to 3%, including amending Council's contributions plan;
- reviewing Council's existing VPA policy for community infrastructure; and
- introducing the CIC scheme within the RLEP.

Planning Proposal Kensington and Kingsford Town Centres

The draft K2K Planning Strategy informed the K2K Planning Proposal which was lodged with the DPE on or about 23 January 2017 (the K2K Planning Proposal). The K2K Planning Proposal included the draft K2K Planning Strategy as an appendix and incorporates the general matters set out in the draft K2K Planning Strategy. The objective of the K2K Planning Proposal is to amend the RLEP to enable sustainable growth in housing and employment and public benefits for the Kensington and Kingsford town centres.

The K2K Planning Proposal adopts the vision and the anticipated LEP amendments of the draft K2K Planning Strategy. Concepts which are fundamental to the K2K Planning Proposal relevant to the Ascot Street Planning Proposal include:

- the ability to impose a condition on a DA to require a contribution towards affordable housing. It is noted that since lodgement, SEPP 70 has been expanded to include Randwick City Council as an area in need of affordable housing. This contribution was proposed to be 3% of DA fees to June 2019, and 5% thereafter;
- increased maximum building heights above those in the RLEP on the provision that a CIC be provided (in money or in-kind) towards identified community infrastructure set out in Attachment B of the K2K Planning Proposal. Relevantly on the site this would be 31 metres;
- a through link increasing permeability of the centre to Kokoda Park in the form of a shared way/laneway from on the eastern side of the site from Bowral Street to Ascot Street through Lot 1 DP166466 (18 Ascot Street). This is indicated on a number of plans such as figures 124 (proposed open space linkages and landscape plan), 75 (proposed mid-block links), 142 (proposed accessibility improvements);
- proposed footpath extensions along Ascot Street adjoining the site;
- a proposed front setback of 1.5 metres (figure 70);
- a design excellence requirement informed by an architectural design alternatives competition prior to lodgement of a DA (in addition to the existing requirement), which on specified sites (not including the site) allows for an additional 2 storeys above the proposed new maximum height limits;
- street wall controls. Transition heights are further detailed in Part C, section 5.2 Built Form Controls of the draft K2K Planning Strategy;
- replacing the RDCP site specific building envelope controls with an FSR control (4:1 for the site);
- including a minimum non-residential FSR control for specific sites (not including the site);
- inserting an active frontages control (preferred but not required for the site); and
- a draft DCP for the town centres was indicated as being under preparation, however it has not yet been finalised.

On 12 December 2017 the DPE imposed a number of conditions on the K2K Planning Proposal as part of its gateway determination.

On 5 March 2018 Randwick City Council sought a review of conditions 1, 2, 3 and 7. Those clauses included:

- a requirement for a further 600 dwellings within the Kensington and Kingsford Town Centres in opportunity sites (together with revised heights and FSRs);
- removal of the CIC clause;
- removal and amendment of some aspects relating to affordable housing; and
- other matters relating to consultation, endorsement and the timeframe of the LEP completion.

All matters have been resolved. Council's intention is that the CIC would be secured by developers offering to enter into a VPA with Council at the time of lodgement of a DA to be able to apply the increased building heights and FSR above those currently applicable under the RLEP. The DPE was concerned that the CIC clause cannot legally be made under section 7.7 of the EP & A Act, was not adequately justified (including the rate), the identified infrastructure was not critical to supporting additional development, and was inconsistent with the DPE's draft VPA Practice Note.

On 30 August 2018 the Independent Planning Commission (IPC) received a request from DPE to undertake a gateway determination review.

On 29 October 2018 the IPC provided advice regarding the gateway determination review. The IPC considered similar CIC schemes currently operating in other local government areas (LGAs) across Sydney at Green Square in the City of Sydney, and Burwood Town Centre in the Burwood LGA and noted that Council sought to have the CIC operate in a similar fashion. The IPC made a number of conclusions:

- Council may adopt guidelines that define a dollar amount for the contribution for increased GFA but the actual offer would remain voluntary;
- the proposed CIC scheme is a valid mechanism to attain contributions towards community infrastructure and does not need to be tied to the development;
- there would be three ways to obtain development consent on the site hence the VPA is not "required" and is therefore valid. Those methods are by:
 - compliance with the height limits under clause 4.3 of the LEP;
 - obtaining a variation to the height limit under clause 4.6 of the LEP; or
 - making a voluntary offer to enter into a VPA to contribute to community infrastructure;
- the definition of community infrastructure be better defined to be for the purpose of:
 - recreation areas;
 - recreation facilities (indoor);
 - recreation facilities (outdoor);
 - public roads;
 - drainage; and
 - community facilities;
- the CIC clause be amended to make reference to the maximum FSR in addition to the building heights;
- the rate of \$475 per square metre has been market tested and reviewed against other schemes;
- the CIC scheme is not inconsistent with section 7.7 of the EP & A Act. The community infrastructure may be provided elsewhere in the Kensington and Kingsford town centres – not simply on the site; and
- recommends that the definition of community infrastructure be better outlined.

The K2K Planning Proposal was forwarded again to the DPE and on 19 December 2018 an alteration to the gateway determination was provided which required that the CIC clause be limited to the list of works as recommended by the IPC, linked directly to the site and be supported by updated feasibility modelling. Council and the Department have now resolved outstanding issues relating to the application of the CIC.

Relevant Planning Controls

Randwick LEP 2012

The Ascot Street Planning Proposal affects land zoned B2 Local Centre under the RLEP. Residential flat buildings and boarding houses are permissible uses among other uses within this zone with Council's consent

The maximum height control for the site is 12 metres for 18 Ascot Street and 21 metres for the remainder of the site. The Kensington Town Centre is subject to building envelope controls in the RDCP and there is no FSR control applying to the site under the RLEP. The Town Centre is surrounded by R3 Medium Density Residential zoned land (Figure 3) for which the height control is 12m (Figure 4).

The site does not contain any heritage items, although the RDCP does note that the buildings fronting Anzac Parade to the west of the site are contributory to the Kensington Town Centre. However, there are large heritage conservation areas to the north, west and east of the site, being the North Randwick, West Kensington and Racecourse conservation areas. Kensington Public School between Bowral Street, Todman Avenue and Doncaster Avenue is a listed heritage item, however is neither adjoining nor directly opposite the site. It is about 70 metres from the site.

Figure 3 – Current Zoning

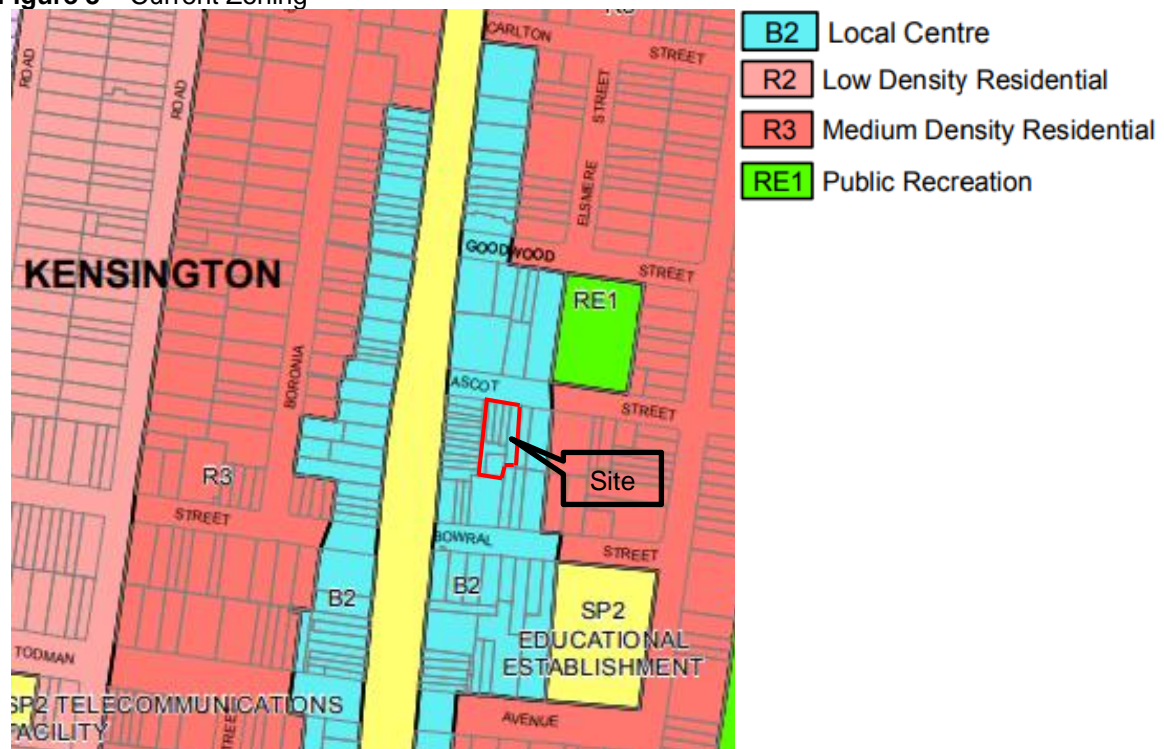


Figure 4 – Current Height of Building Limit



Clause 6.11 of the RLEP requires a site which will have buildings at least 15 metres in height to exhibit design excellence.

Randwick DCP 2013

The site is located within “Block 03 – Ascot Street to Bowral Street” of the RDCP Chapter D1 Kensington Centre.

The RDCP notes that new development towards the Anzac Parade end of Ascot Street should attract movement from the Racecourse to the retail and commercial offerings of Anzac Parade. The proposed layout suggests mews style development opposite the rear of the Anzac Parade buildings (with rights of carriageway), and 5 storey transitional development (with 3 storey podium) for the land facing Ascot Street, with a rear colonnade (Figure 6).

Figure 5 – DCP's Proposed Development Cross Section West-East Looking North

Block 3: Section West to East Looking North

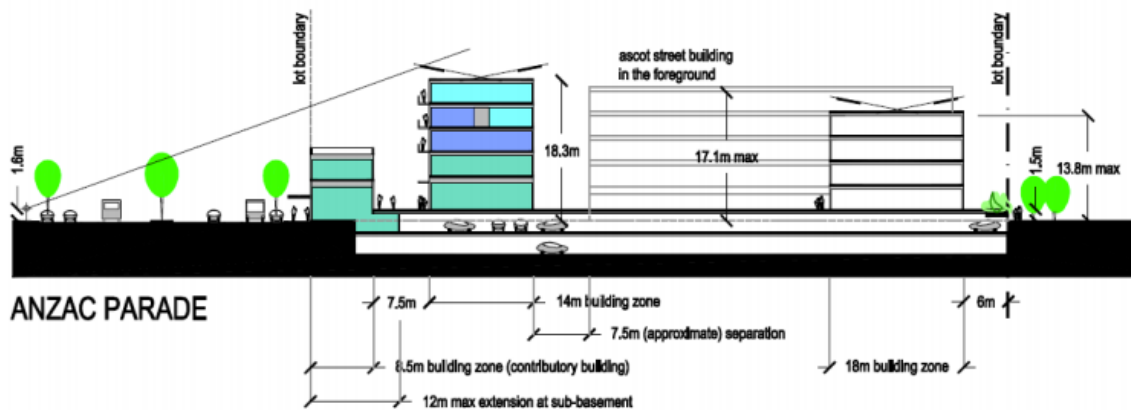


Figure 6 – DCP's Proposed Layout and Height of Buildings



The proposed through link in the draft K2K Planning Strategy does not align with the rights of carriageway set out in the RDCP, nor it is clear how the RDCP rights of carriageway are supposed to also result in buildings being constructed over the top as set out in the plans. The RDCP encourages site amalgamation.

Recent development in the immediate area includes the seven storey shop top housing at 9-15 Ascot Street on the north east corner of Ascot Street and Anzac Parade and the 5 storey residential flat building to the immediate west of Kokoda Park at 3 Ascot Street. This is somewhat reflective of the Block 02 plan which indicates 6 storey development facing Anzac Parade with 5 and 4 storey development facing Kokoda Park. As far as possible given the existing developments, this appears to have generally been achieved.

A Metropolis of Three Cities

The Greater Sydney Commission has finalised The Greater Sydney Region Plan - A Metropolis of Three Cities, which sets a 40 year vision (to 2056) and establishes a 20 year plan to manage growth and change for Greater Sydney. It seeks to inform district and local plans and the assessment of planning proposals, assist in infrastructure provision and inform the wider community about the management and infrastructure investment intentions of government. Within that plan are five

district plans. Relevantly for the site it is located within the Eastern City District, the plan for which was last updated in March 2018.

The Eastern City District Plan identifies the mixed-use precinct in the Kensington to Kingsford corridor, the proximity to University of NSW, the Prince of Wales Hospital, the Royal Hospital for Women and the Sydney Children's Hospital. The plan envisages jobs increasing in the Randwick LGA from 22,800 in 2016 to 35,500 in 2036, and notes that the light rail will unlock the potential for employment growth and urban renewal. The Eastern City District Plan also seeks to align with Randwick City Council's redevelopment of the K2K corridor, including for student and key worker populations and affordable housing.

K2K Draft Planning Strategy

The draft K2K Planning Strategy has been outlined above. It has not yet been exhibited, but is the result of a long process to establish the future vision for the Kensington and Kingsford town centres and is the basis of the K2K Planning Proposal. The Ascot Street Planning Proposal states that it aligns with the draft K2K Planning Strategy.

SEPP 70 – Affordable Housing (Revised Schemes)

On 20 April 2018 the City of Randwick LGA was included in the LGAs identified as having a need for affordable housing under clause 9 of SEPP 70. The SEPP defines affordable housing for the purposes of section 1.4(1) of the EP & A Act and sets out affordable housing principles. As an LGA with a need for affordable housing it allows for DA conditions requiring contributions towards affordable housing under section 7.32 of the EP & A Act.

SEPP (Affordable Rental Housing) 2009

The AH SEPP provides permissibility for boarding houses in various zones (including B2) and contains provisions which set standards for boarding houses. It also includes criteria which may not be used to refuse a DA for a boarding house if they are achieved. It also provides for an uplift in FSR in for boarding houses.

Outcomes of Similar Recent Planning Proposals

The Joint Regional Planning Panel – Sydney Central Planning Panel (JRPP) has considered a number of planning proposal requests for pre-gateway review within the Kensington and Kingsford town centres and these are summarised in Table 3 below.

Table 3 Summary of recent relevant JRPP reviews of planning proposal reviews

Address Decision and Date	Proposal	Reasons for JRPP decision
391-397A Anzac Parade & 17 Bunnerong Road Kingsford 02.02.2017 Not proceed to Gateway	Increase FSR from 3:1 to 8:1; Increase height from 24m to 58m	Meets the strategic merit test being next to light rail interchange and increasing density. Does not meet the site specific merit test because the density of 8:1 is inconsistent with the draft planning strategy of 5:1. <u>Majority</u> (2/3) recommends a revised proposal consistent with the draft strategy of and FSR 5:1, design excellence and affordable housing should proceed to gateway. <u>Minority</u> believed a revised scheme should not proceed because of possible community confusion.
111-125 Anzac Parade & 112 Todman Ave Kensington 11.10.2016 Not proceed to gateway	Increase height to 85m (from 12, 21 and 25m) and introduce FSR of 7:1	Agrees K2K is suitable for increased density, but should be planned as part of a whole catchment with full participation of the community. Note that exhibition of Council's planning proposal is scheduled for late 2016/early 2017 and this could be confusing. It is inappropriate to consider the future of the site by itself rather than in the context of the Kensington town centres.

Address Decision and Date	Proposal	Reasons for JRPP decision
		Minority considered a deferral was acceptable pending more information about exhibition of the planning scheme.
137-151 Anzac Parade Kensington 11.10.2016 Not proceed to gateway	Increase height to 83m (from 12, 21 and 25m) and introduce FSR of 7:1	As per 111-125 Anzac Parade Agrees K2K is suitable for increased density, but should be planned as part of a whole catchment with full participation of the community. Note that exhibition of Council's planning proposal is scheduled for late 2016/early 2017 and this could be confusing. It is inappropriate to consider the future of the site by itself rather than in the context of the Kensington town centres. Minority considered a deferral was acceptable pending more information about exhibition of the planning scheme.
395, 397-397A Anzac Parade & 1&17 Bunnerong Road Kingsford (triangle site) 07.12.2015 Not proceed to gateway	Increase height to 65m (from 24m) and increasing FSR from 3:1 to 8:1	Not justified by spare public transport capacity. A precinct wide study likely to indicate a very different proposal
84-108 Anzac Parade Kensington 3.12.2015 Not proceed to gateway	Increase height to part 34m and part 41.5m (from 25m)	<u>Majority:</u> Increases should occur within the context of an overall review rather than on individual sites, overshadowing. <u>Minority:</u> increased density is appropriate and no immediate strategic land use planning foreseen in the area, however before proceeding to gateway there should be greater demand analysis of increased yield and density

The 2015 and 2016 determinations make it clear that the JRPP considered that whilst the Anzac Parade corridor may be suitable for increased density due to proposed upgrading of public transport capacity in the future, that this should be done in the context of a comprehensive approach of wider issues rather than be restricted to the context of one site.

It should be noted that Council endorsed the draft K2K Planning Strategy on 13 December 2016 and lodged their K2K Planning Proposal with the DPE based upon the draft K2K Planning Strategy on or about 23 January 2017. The DPE commenced its planning review on 3 February 2017.

Since the 2017 JRPP decision not to forward the planning proposal for 391-397A Anzac Parade & 17 Bunnerong Road Kingsford to gateway, there has been a gateway determination of the K2K Planning Proposal (which relies upon the draft K2K Planning Strategy), which has been reviewed, altered, and is now subject to further review over a single clause concerning community infrastructure contributions. The K2K Planning Proposal therefore now has a gateway determination, the terms of which are subject to review.

The Triangle Site JRPP determination on 2 February 2017

The 2017 determination on the triangle site at 391-397A Anzac Parade and 17 Bunnerong Road, Kingsford, to refuse proceeding to gateway was unanimous, however there was a difference of opinion on whether an alternative scheme which complied with the draft K2K Planning Strategy heights should be allowed to proceed if lodged. The minority indicated that a revised scheme should not be put forward due to potential community confusion with the draft K2K Planning Strategy. The majority indicated that a revised scheme which applied the draft K2K Planning Strategy's height and FSR and which included design excellence and affordable housing would be a suitable proposal to put forward for gateway determination. The majority stated that the negative of possible community

confusion would be outweighed as long as the new proposal was consistent with the draft K2K Planning Strategy as it would be dealt with more quickly than the Strategy which covers many sites.

Because of the JRPP's remarks made as part of their decision, and because to some extent the Ascot Street Planning Proposal has the potential to come within the boundaries set out by the majority as being a scheme which could potentially proceed to a gateway determination, it is necessary to consider the context of the triangle site JRPP remarks when considering whether the Ascot Street Planning Proposal should itself proceed to a gateway determination.

It appears that the JRPP had before it the draft K2K Planning Strategy which had been recently endorsed by Randwick City Council to be submitted to the DPE for a gateway determination. The JRPP was also provided with a briefing report about the application. The briefing report considered a strategic merit test and site-specific merit test as required by Planning Circular PS16-004 dated 30 August 2016 and the DPE's Rezoning Reviews: Final Review Report dated August 2016.

Under the strategic merit test, the briefing report discussed consistency with the then draft Central District Plan released by the Greater Sydney Commission on 21 November 2016 and noted that whilst the draft K2K Planning Strategy had been prepared, it had not received the endorsement of the DPE and by inference was not to be considered within the strategic merit test.

However, the briefing report does give some consideration to the draft K2K Planning Strategy in the site-specific merit test, specifically the proposed height on the site, landmark buildings, key matters for design excellence, active street frontage, and minimum commercial floor space requirements. The consideration of infrastructure is restricted to a discussion about transport, focusing on the forthcoming light rail. There is no indication within the briefing report that Council's draft K2K Planning Strategy relied extensively upon a proposed increase in s94A contribution levies and a community infrastructure contribution.

In setting out its seven reasons for not proceeding with the triangle site planning proposal, Council did not include any which specifically refer to the reliance upon the community infrastructure funding set out in the draft K2K Planning Strategy. The reasons provided were:

- lacks a broad spatial and strategic context;
- does not address demand and supply of community and other non-residential floor space;
- does not include floor space for affordable housing;
- infringes on the Prescribed Airspace at Sydney Airport and does not adequately respond to airport height limitations;
- does not provide sufficient evidence of the anticipated public domain to accommodate pedestrian, cyclist and vehicle movements in conjunction with future changes within the precinct following introduction of the light rail;
- is likely to create amenity and urban design impacts on the remainder of the Kingsford Triangle Site; and
- has not demonstrated that future development on the site will be designed to achieve the highest quality built form, design excellence and best practice in sustainability.

It is clear that the JRPP relied on the numerical provisions in the draft K2K Planning Strategy relating to the triangle site to base its decision not to submit the proposal for a gateway determination, even though it had not been endorsed by the DPE. It is noted that the DPE's planning circular does not limit the site-specific merit test to consideration of documents which have been endorsed by the DPE, therefore there is nothing preventing consideration of a draft document such as the draft K2K Planning Strategy.

What is not clear is whether the remarks by the majority indicating that a scheme could proceed to gateway which was compliant with those numerical controls (and design excellence and affordable housing), fully considered the draft K2K Planning Proposal, in particular the reliance upon the infrastructure spending to bring about the realisation of the total revitalisation of the town centres. There is nothing in the briefing report or the JRPP's decision which gives an indication that there was any consideration of the ramifications of proceeding with a spot rezoning which would not be subject to the infrastructure commitments proposed in the draft K2K Planning Strategy, nor a recognition that the increased heights under the draft K2K Planning Strategy were contingent upon the payment of community infrastructure contributions which could only be enforceable if included within the LEP.

The JRPP remarks were made within days of the draft K2K Planning Proposal being submitted to DPE. Were the remarks made within a legal judgement they would be classified as “obiter dicta” – the expression of an opinion said in passing which is not essential to the decision and therefore not binding as a precedent.

It is considered that the remarks of the majority of the JRPP in the 2017 triangle site determination should not be binding upon future planning proposal gateway reviews given the context of those remarks. That context includes the lack of reference to infrastructure spending in the briefing report, the lack of reference to full details of the draft K2K Planning Strategy which had only recently been endorsed by Council, and the fact that it is clearly the expression of an opinion which is not relevant to the decision then at hand.

Analysis and Justification of the Planning Proposal

The request under the Ascot Street Planning Proposal is to alter the current height limit control of 12m and 21m under the RLEP to permit development of 31m and to introduce an FSR of 4:1 for the site.

The Ascot Street Planning Proposal states that the intended development “directly aligns” with the draft K2K Planning Strategy and will rejuvenate the sites, takes advantage of the major investment in public transport infrastructure and generally meets the significant demand for student housing in the area where the average rent is above the Sydney average.

In support of the Ascot Street Planning Proposal, the applicant has provided a number of studies which seek to justify the increased building height/dwelling density on the site in the context of the draft K2K Planning Strategy, the new light rail and the student demand for housing in the area.

Figure 7 – Artist’s impression of the Ascot Street Planning Proposal from Ascot Street



Figure 8 – Ground floor and first floor plans of the Ascot Street Planning Proposal

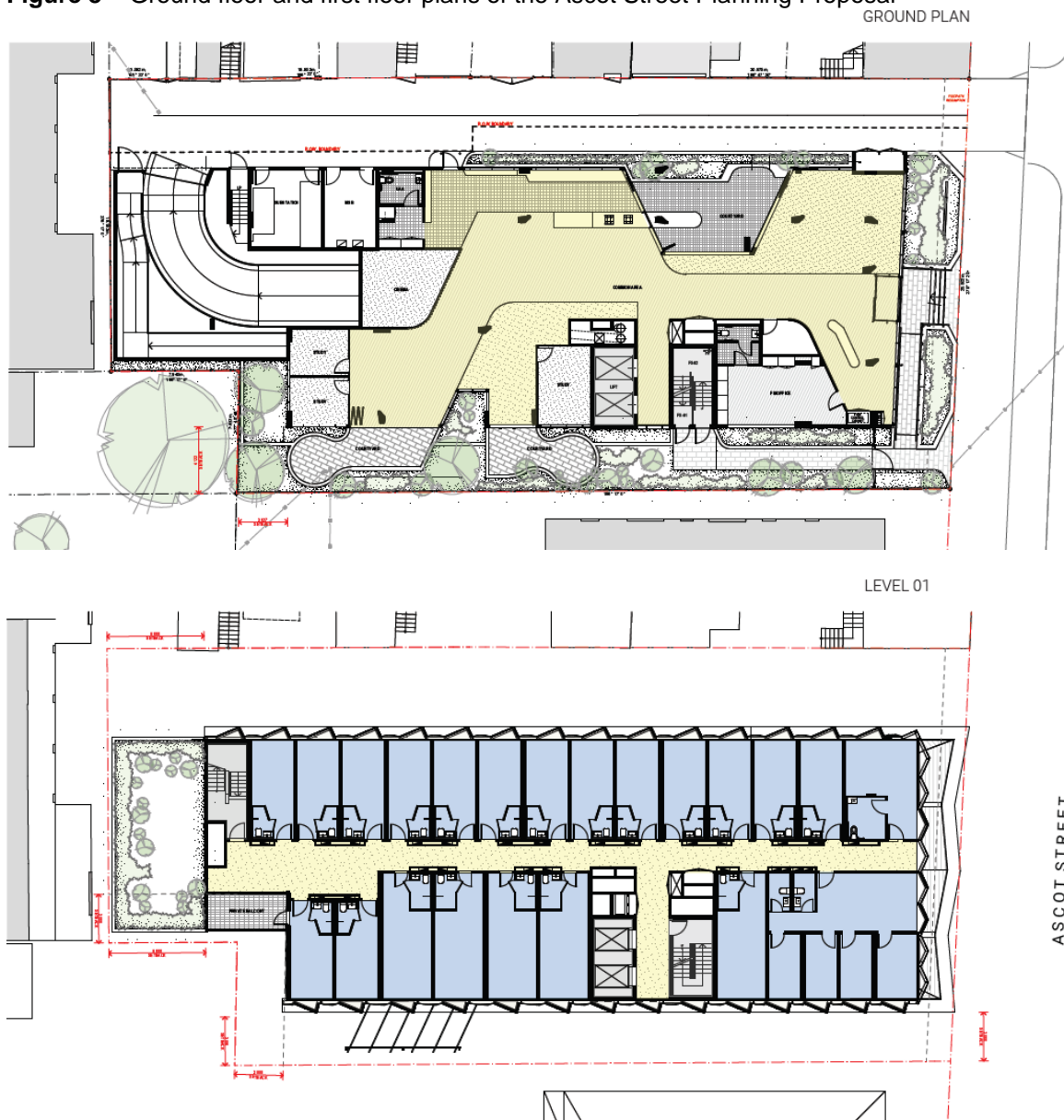


Figure 9 – Architect's impression of the proposed building envelope from Anzac Parade



Rezoning Reviews

The DPE's Rezoning Reviews and Planning Circular regarding independent reviews of plan making decisions – both dated August 2016 contain two merit tests – the strategic merit test and the site-specific merit test.

Strategic Merit Test

Is the proposal:

- (i) consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or
- (ii) consistent with a relevant local strategy that has been endorsed by the Department; or
- (iii) responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls?

Comments on these three questions are below:

- (i) Consistency with the Eastern City District Plan
 - The Eastern City District Plan (updated March 2018) is a plan for one of the five districts within the Greater Sydney Region and is relevant to the site;
 - The applicant states that the proposal is consistent with the Greater Sydney Region Plan as it satisfies various objectives, particularly:
 - redevelopment of a site close to transport;
 - accelerating new and diverse affordable housing for students in the Randwick Health and Education Precinct;
 - incorporating public domain measures to promote a healthy environment;
 - facilitating investment and support small businesses; and
 - incorporating ESD principles.

Whilst it is not clear how the proposal will incorporate public domain measures (given the draft K2K Planning Strategy laneways are not included in the proposal), nor incorporate ESD principles (these details are not set out in the proposal), in general the Ascot Street Planning Proposal is supportive of the Greater Sydney Region Plan.

- The applicant states that the proposal is consistent with the Eastern City District Plan as it satisfies various productivity and planning priorities including those set out in Table 4:

Table 4 Relevant planning priorities in the Eastern City District Plan

Planning Priority	Consistency	Comment
Driving economic growth and contributing to job targets;	Consistent	There is an estimate of 30 full time equivalent jobs after completion and there will also be construction jobs.
Fostering healthy, creative, culturally rich and socially connected communities	Not consistent	Looking at the District Plan's wording it is difficult to see how the proposal assists with how this is described. There are no apparent health benefits identified (the proposal says these are the public domain measures but they are generally not providing these); the fine grain urban form to encourage greater urban activity has not been included in the proposal; and it does not assist with sport, cultural expression, artistic or creative enterprises or social infrastructure. The only connection to this priority is that it envisages housing some international students, however that of itself is not a matter outlined in the District Plan.
Providing housing supply, choice,	Consistent	This is clearly achieved by the proposal.

Planning Priority	Consistency	Comment
affordability, with access to jobs, services and public transport		
Creating and renewing great places and local centres, and respecting the district's heritage	Partial consistency	The District Plan outlines three elements to this: (a) a well-designed built environment (attractive, safe, clean and flexible). This is possible on the site. (b) social infrastructure and opportunity; and (c) fine grain urban form (the proposal fails to incorporate the laneways to assist the walkable nature in the draft K2K Planning Strategy). Overall this priority is probably more a strategic planning tool, although it requires infrastructure funding which the Ascot Street Planning Proposal has not properly considered or proposed beyond the existing section 7.12 contributions.
Delivering integrated land use and transport planning and a 30-minute city;	Possible after K2K Planning Proposal finalising	It is not clear how the proposal will achieve this as it is principally for strategic planning. Again, the lack of CIC will not assist in providing the infrastructure required to achieve this priority. It would be more integrated if a DA was lodged after the K2K Planning Proposal was finalized.
Suitably managing the potential impacts of the development	Possible	The details of the proposal are not specific enough to assess whether this will be achieved, although it is possible.

- (ii) Consistency with a local strategy which is endorsed by the DPE
The draft K2K Planning Strategy has not been endorsed by the DPE so is not relevant this consideration.
- (iii) Responding to changes in circumstances which are not included in existing controls
The Ascot Street Planning Proposal does respond to the proposed new planning regime set out in the draft K2K Planning Strategy and the forthcoming light rail. It adopts some but not all of the matters set out in the draft K2K Planning Strategy.

The Ascot Street Planning Proposal clearly responds to changes in circumstances and therefore meets the Strategic Merit Test as only one of the test requirements needs to be met.

Site-Specific Merit Test

To meet this test, the planning proposal must have regard to each of the following three matters.

- (i) the natural environment (including known significant environmental values, resources or hazards);
- the site is within the existing urban area of metropolitan Sydney and the proposal is unlikely to impact or contain critical habitat, threatened species, populations or ecological communities or their habitats;
 - the proposal includes a geotechnical report which identifies issues regarding excavation of the basement however they do not appear insurmountable;
 - the proposal includes a preliminary stage 1 environmental site assessment which finds no contamination recorded which is likely to prevent the development, although the site may contain potential contamination sources such as fill, and hazardous building materials;
 - heritage items are generally some distance from the site. There would be slight overshadowing at 4pm on 21 June of the heritage listed Kensington Public School Buildings at 77-79E Doncaster Avenue, however it is noted that this is after the end of school time.

The RDCP indicates that the shopfronts at 126-146 Anzac Parade are contributory to the Kensington town centre and that the chapel to the south (rear) of the site which forms part of the Coptic Church is a potential item of heritage. The proposal indicates that the building is set back from the contributory buildings to the west;

- there will be overshadowing of some residences from noon onwards on 21 June however it is likely that all residences will retain at least 3 hours sunshine if the proposal was to be constructed. Kokoda Park will be overshadowed after 3pm on 21 June, although a reasonable amount of this overshadowing would arise from the new development at 7 Ascot Street already;
- the proposal meets the aeronautical requirements;

(ii) the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal; and

- the site currently comprises single storey dwellings, a driveway used for landscaping and a driveway and car park area with nearby residential flat buildings – the most recent to the north, being comparable in size and appearance to the Ascot Street Planning Proposal. The two storey retail and commercial buildings facing Anzac Parade are contributory to the Kensington Town Centre;
- the permitted uses for the site and the land in the vicinity are unlikely to change as there is no apparent intent to amend the zoning;

(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision

- the forthcoming light rail with two stops, each about 200 metres from the site will provide excellent connectivity to the University of NSW, and nearby hospitals and the Sydney CBD. There are existing bus routes providing connections to the CBD, Randwick, Maroubra and Bond Junction;
- the proposal includes a transport assessment which seeks to justify the low number of car parks for the proposal and concludes that with conditions on tenancy agreements preventing the right to apply for a residential parking permit, the use of car sharing, the proximity to public transport, and a green travel plan, the proposal would be expected to have a negligible impact on traffic in the area;
- the site is accessible to the nearby Kokoda Park and other open space and numerous community facilities;
- the Ascot Street Planning Proposal includes no proposed arrangements for infrastructure provision (other than via the existing clause 7.12 levies). Although the front setback is claimed to be 1.5 metres to allow for footpath widening, the plans show incursion into this by the access steps and landscape planters. The proposal does not provide for the laneways set out in the draft K2K Planning Strategy; and
- the draft K2K Planning Scheme and the K2K Planning Proposal both include proposed financial arrangements for infrastructure provision, however the Ascot Street Planning Proposal does not propose any way to provide contributions to the proposed infrastructure in the Kensington town centre. The proposal will not enable the Council to impose a condition of consent requiring additional CICs to fund the proposed infrastructure provision which is likely to result from the completion of the light rail project.

Each of the three merit matters must be achieved to meet the site-specific merit test. The Ascot Street Planning Proposal appears to (or be able to) meet the natural environment and uses tests. However it fails to meet the site-specific merit test for the proposed financial arrangements for infrastructure provision, both on the site itself and with respect to the CIC and section 7.12 levies which are clearly documented in the draft K2K Planning Strategy. There is no requirement within this test that the “proposed financial arrangements” be within a document endorsed by the DPE (as required by the second requirement in the strategic merit test). The proposed financial arrangements for infrastructure provision under the draft K2K Planning Strategy have been endorsed by Council, and there is nothing within the test set out by the DPE which would prevent them from requiring to be considered in the site-specific merit test.

It is therefore concluded that the Ascot Street Planning Proposal meets the strategic merit test, but not the site-specific merit test.

Guide to preparing planning proposals

The DPE has provided “A guide to preparing planning proposals”, detailing questions to consider when demonstrating justification for the planning proposal. The application comments on these 10 questions and further comment on this is provided in Table 5.

Table 5 Matters to be considered to justify a planning proposal

DPE Question	Y/N	Comment
Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?	Yes	The draft K2K Planning Strategy is not an endorsed local strategic planning statement, but is a strategic study or report. The Ascot Street Planning Proposal clearly relies to some extent on the draft strategy.
Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	No	<p>It is not agreed that the Ascot Street Planning Proposal is the best means of achieving the outcomes and objectives. The guidance clearly envisages that locality wide changes rather than site specific changes may be more appropriate. The only justifications given as to why a site specific planning proposal is the best means is that the applicant is immediately ready to commence the urban renewal project, that it is consistent with the K2K Planning Proposal and that there is a delay in the issue of an amended gateway determination for the K2K Planning Proposal.</p> <p>Progressing the Ascot Street Planning Proposal may not be the best means of achieving the outcomes given that:</p> <ul style="list-style-type: none"> • it is an ad hoc planning decision where a comprehensive planning strategy has been completed but not yet exhibited; • although the heights and FSR are consistent with the K2K Planning Proposal, they have not yet been subject to exhibition and consultation so could change, and the proposal presupposes the outcome of the consultation; • the intended outcomes are stated to be aligned with the draft K2K Planning Strategy which is structured around the ability to provide additional public benefits to the community, funded by additional infrastructure contributions. If the Ascot Street Planning Proposal proceeds and the K2K Planning Proposal has not been finalised it will not be possible for a consent authority to impose those extra CICs upon the applicant for a DA lodged following a successful Ascot Street Planning Proposal outcome; • the additional height proposed in the draft K2K Planning Proposal is only proposed to be accessed upon payment of a CIC. The Ascot Street Planning Proposal is seeking to obtain the height uplift without providing the CIC to help achieve the proposed public benefits; • Council is aware that there are other sites where development is proposed. Allowing progress of the Ascot Street Planning Proposal may encourage further planning proposals prior to the conclusion of the K2K Planning Proposal. That is inefficient and presupposes an outcome for the K2K Planning Proposal which is not certain; • the proposal is anticipating and relying upon the approval of the K2K Planning Proposal in the form

DPE Question	Y/N	Comment
		submitted, even though it is not imminent or certain and there has been no consultation. Given the marked change to the Kensington town centre resulting from the light rail, the better approach is clearly to await a holistic planning outcome rather than ad hoc amendments.
Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?	Partial	See discussion above re the strategic merit test and the site-specific merit test. It is concluded that the proposal meets the strategic merit test but not the site-specific merit test. It partially gives effect to the Eastern City District Plan
Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?	Partial	The DPE clearly considers that a draft council strategic plan is one which should be considered, but notes that its status as draft rather than adopted or endorsed by the DPE should be noted. As indicated, only parts of the draft K2K Planning Strategy have been included in the Ascot Street Planning Proposal, with no inclusion of the proposed laneways and a proposed incursion into the footpath widening 1.5 metre front setback. There can be no inclusion of the CICs proposed in the K2K Planning Proposal, the outcome of which is uncertain given it has not been exhibited.
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?	Yes, save AH SEPP	Compliance is likely to be able to be achieved save with the parking standard in the AH SEPP. The AH SEPP also requires compatibility with the character of the local area. That is most easily assessed after consultation and a determination on the K2K Planning Proposal.
Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?	Yes	They appear consistent
Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	Satisfactory	Unlikely to be any
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	Yes	Likely effects include overshadowing, bulk and scale impacts and transitioning to the adjoining single storey and two storey developments. Transitioning to neighbours has not been properly considered in the Ascot Street Planning Proposal. Bulk and scale may be subject to community views following exhibition of the K2K Planning Proposal.
Q9. Has the planning proposal adequately addressed any social and economic effects?	Partial	Details are provided about the lack of affordable housing for students and the economic advantages of student housing on the local economy. It indicates a focus on communal facilities. Increased outdoor communal space in a DA would definitely improve this claim. The proposal does not address the proposed laneway through links to increase permeability in the town centre.

DPE Question	Y/N	Comment
Q10. Is there adequate public infrastructure for the planning proposal?	Yes currently, No in future	<p>The light rail will vastly improve public transport. There are many existing community facilities in the area, however the draft K2K Planning Strategy and K2K Planning Proposal are clearly seeking to provide greater community facilities funded through CICs and increased levies. Those proposed, yet to be exhibited public infrastructure projects, would not obtain the benefit of contributions from any DA lodged as a result of an approved Ascot Street Planning Proposal prior to the imposition of the proposed contributions clauses in the K2K Planning Proposal.</p> <p>Further, if the Ascot Street Planning Proposal was successful in allowing a building height of 31 metres (not conditional on any CIC), and a CIC clause was subsequently imposed in the RLEP, there would appear to be no apparent requirement for a subsequent DA on the site to pay the CIC because they would already have the height of 31m as their default height. This is contrary to the way in which the applicant explains it on page 49 of the Ascot Street Planning Proposal.</p>
Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?	NA	No consultation has apparently yet occurred.

Consideration of applicant's case

It is considered that the Ascot Street Planning Proposal as a spot rezoning is not the most efficient or most effective means of achieving a review of the planning controls that currently apply to the site and the remainder of the Kensington Town Centre. Council's comprehensive draft K2K Planning Strategy and K2K Planning Proposal are more appropriate methods by which to obtain suitable community consultation on the future of a wide range of factors influencing the direction of the town centres.

There has been considerable delay in the progress of the K2K Planning Proposal however it is edging closer to being placed on exhibition. Even whilst on exhibition it cannot be considered as imminent and certain for the purposes of section 4.15(1)(a)(ii) of the EP & A Act. In particular, it is not known whether the height and FSR controls in the K2K Planning Proposal which have adopted in the Ascot Street Planning Proposal will remain following exhibition and consultation.

There are many aspects of the Ascot Street Planning Proposal which do align with the draft K2K Planning Strategy and K2K Planning Proposal such as:

- the maximum height of the site (subject to comments below that it is only attainable on payment of CICs);
- the proposed FSR of 4:1 for the site;
- the location of student accommodation within close proximity to the University of NSW;
- the provision of housing diversity which meets the community demands in the area;
- amalgamation of sites;
- consistency with the desired character of the area as set out in the draft K2K Planning Strategy;
- proximity to public transport;
- public benefits for nearby services especially food and retail and it will help to revitalize the area;
- it will help to meet the housing targets of the State Government;
- it is generally in accordance with the Eastern City District Plan under the Greater Sydney Region Plan;

Aspects with which the Ascot Street Planning Proposal fails to meet the draft K2K Planning Strategy and K2K Planning proposal are:

- there is only a passing recognition (on page 49 in relation to the Independent Planning Commission's advice given 29 October 2018) that the draft K2K Planning Strategy and K2K Planning Proposal only allow for the increase in height (and FSR) above the current LEP height controls if a CIC is provided. For the most part, the Ascot Street Planning Proposal assumes the requested height increase will apply as a "right", not a conditional increase. Although on page 49 the applicant states that a formal application to access the bonus FSR would be made on lodgment of a DA and loosely suggests that there would be monetary contributions, this is inconsistent with the main thrust of the Ascot Street Planning Proposal which seeks to increase the height to 31 metres irrespective of any monetary contribution. If successful, the applicant would have no need to seek an increase in height on lodgment of a DA as it would already have obtained that "right" by way of the planning proposal;
- there is no mechanism set out in the Ascot Street Planning Proposal as to how the CIC and other infrastructure contributions could be enforced upon them for that additional height if their proposal is approved (whether before or after a successful K2K Planning Proposal);
- there is no provision of the through links and laneways proposed in the draft K2K Planning Strategy. The ground floor plan does not appear to allow for the envisaged linkages given the very narrow pathway on the southern boundary;
- the stated proposal to make use of the additional FSR under AH SEPP (albeit incorrectly stated at 10% not 20%), suggests that the envisaged links in the draft K2K Planning Strategy are not being taken into account;
- the full 1.5m front setback to allow for footpath widening has incursions by steps and landscape planters with the effect of hindering and not advancing the public benefits, public domain improvements and visual and physical integration to activate the streetscape as claimed by the proposal; and
- the draft K2K Planning Strategy cites many infrastructure proposals in the town centres and a failure to obtain the infrastructure funding proposed under the draft K2K Planning Proposal will impact on Council's ability to provide the infrastructure which is a fundamental part of the draft K2K Planning Strategy's intent to revitalise the Kensington Town Centre.

Other comments relating to the Ascot Street Planning Proposal which could be taken into consideration for any future DA are:

- a greater number of bicycle parks should be provided in a future design, even though the proposed number meets the standards in the AH SEPP. Fewer car parking spaces are proposed than are required by the AH SEPP and compensation with more bicycle spaces should follow;
- a design should consider the provision of rooftop communal open space and/or more outdoor space at ground level;
- a better transition to the lower scaled residential neighbours and the two storey contributory buildings facing Anzac Parade;
- a front setback which allows for footpath widening in future; and
- side setbacks which relate better to those set out in the Apartment Design Guide – 6 metres from the side boundary for levels 1-4 and 9 metres setback above the 4th level.

Technical studies

Additional studies may be specified by the DPE as part of the Gateway Determination should the Planning Proposal proceed.

Financial Impact Statement

No financial impact in relation to this matter. The proponent has paid application fees for the first stage of the assessment of the planning proposal in accordance with Council's fees and charges policy.

Conclusion

The Ascot Street Planning Proposal submitted to Council for the land at 18-26 Ascot Street, Kensington is seeking Council's support to commence a planning process for an amendment to Randwick LEP 2012. It is based on an urban design report and economic assessment prepared on behalf of the applicant to support an increase in permissible building height on the land from 12m and 21m (under the RLEP) to 31m and to apply an FSR of 4:1.

The Ascot Street Planning Proposal justifies the increase in building height and FSR control for the land by stating that it aligns with the draft K2K Planning Strategy. It seeks to hasten progress of its proposal to be at the forefront of providing much needed student accommodation in the area and to take advantage of the forthcoming light rail.

Strategic planning work has been undertaken for the area by Council, including consideration of the required infrastructure to bring about the revitalisation of the Kensington Town Centre. The K2K Planning Proposal aims to codify this work and has received a gateway determination which is currently under review. However the local community has not had the opportunity to make submissions on the findings of that planning work. Hence whilst Council's intentions are clear, the objective of the EP & A Act "to provide increased opportunity for community participation in environmental planning and assessment" will be undermined by pre-empting the community's response to the draft K2K Planning Proposal as a holistic document.

Consideration of an ad hoc planning proposal also fails to achieve the EP & A Act objective of promoting the orderly and economic use and development of land due to the ad hoc approach to rezoning immediately prior to consideration of a comprehensive planning strategy for the area.



The Ascot Street Planning Proposal to rezone land at 18-26 Ascot Street, Kensington to increase the permissible height controls from 12m and 21m to 31 metres and introduce an FSR to 4:1 is therefore not supported.

Recommendation

That the Local Planning Panel advises Council that it does not support the Ascot Street Planning Proposal submitted by Hamptons Property Services on behalf of developer Scape Australia Swanston Pty Ltd ATF Scape Australia (Kensington) Trust to amend Randwick LEP 2012 to increase the Height of Buildings Map from 12m on 18 Ascot Street Kensington and 21m on 20-26 Ascot Street Kensington to 31m and introduce a 4:1 ratio on the FSR Map on the land located at 18-26 Ascot Street, Kensington for the following reasons:

- the proposal fails to meet the site-specific merit test due to the failure to consider the proposed financial arrangements for infrastructure provision in the draft K2K Planning Strategy and the K2K Planning Proposal;
- a holistic approach, rather than an ad hoc planning proposal, for this significant corridor is the best, most efficient and most effective means of achieving a review of the planning controls that currently apply to the site;
- changes to planning controls should be carried out comprehensively and holistically to ensure that benefits to the community associated with the additional housing, outweighs adverse community impacts;
- the proposed heights and FSR controls in the K2K Planning Proposal are in draft form and yet to be formally placed on public exhibition and reviewed by the community and stakeholders. A decision on an individual site to adopt those controls (which are conditional upon payment of a CIC which itself cannot be applied unless provision is made within the amended RLEP following a determination of the K2K Planning Proposal) preempts the outcome of the consultation on the K2K Planning Proposal, thereby undermining the objectives of the EP & A Act and could lead to inconsistent streetscapes if changes are made to the controls in the K2K Planning Proposal after exhibition.

Attachment/s:

1.  Planning Proposal Report and Attachments - 18-26 Ascot Street Kensington
2. Draft Planning Strategy Kensington and Kingsford Town Centres - Part 1 of 2
3. Draft Planning Strategy Kensington and Kingsford Town Centres - Part 2 of 2
4.  Planning Proposal Kensington and Kingsford Town Centres

Included under separate cover

Included under separate cover

M2/19

M2/19

Planning Proposal

Scape Student Accommodation

18 – 26 Ascot Street, Kensington, 2033

21 December 2018



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PROJECT PARTICULARS

Project No.	2017267
Client	Scape Australia Swanston Pty Ltd ATF Scape Australia (Kensington) Trust
Site Address	18 -26 Ascot Street, Kensington 2033
Document Name	Planning Proposal

Prepared By

Date	Document Name	Authorisation	
		Name/Position	Signature
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In the event that this document is not signed, this is not representative of a final version of the document, suitable for assessment purposes.

RELIANCE ON CONSULTANT INFORMATION

As part of undertaking this project, Hamptons has relied on the professional advice provided by third party consultants. No responsibility is taken for the accuracy of the information relied upon by these consultants assisting the project. It is assumed that each of the consultants has made their own enquiries in relation to technical matters forming part of their expertise.





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1. INTRODUCTION & PURPOSE OF PLANNING PROPOSAL

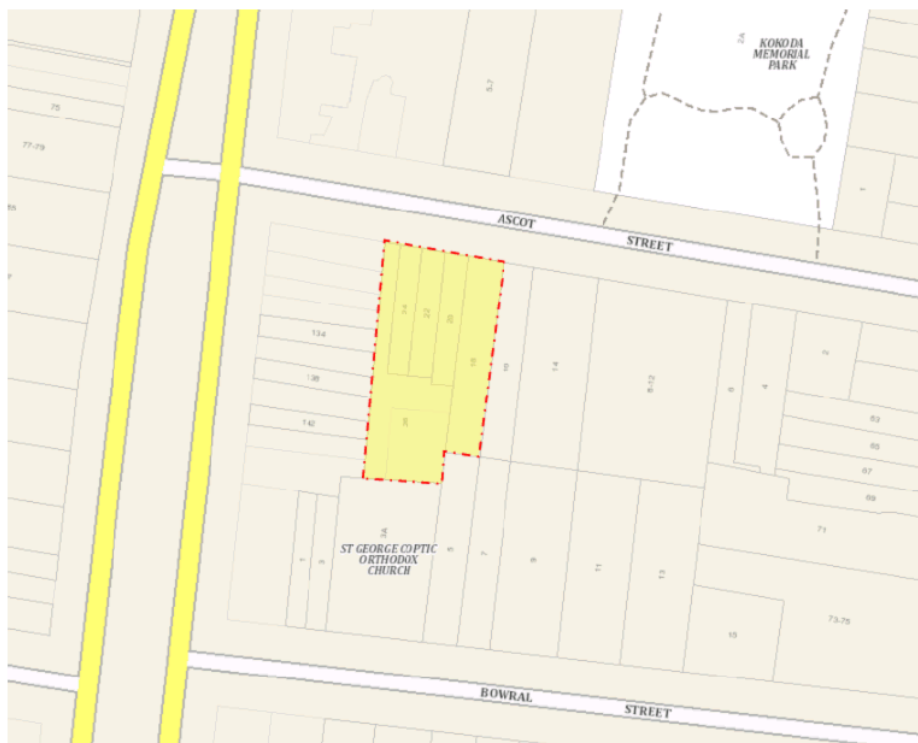
Hamptons Property Services (Hamptons) has been retained Scape Australia Swanston Pty Ltd ATF Scape Australia (Kensington) Trust (the Proponent) to prepare a site-specific Planning Proposal (PP) for 18 – 26 Ascot Street, Kensington (the site).

Section 3.33 of the Environmental Planning & Assessment Act (EP&A Act) requires a **planning proposal authority to prepare [an] explanation of and justification for a planning proposal**. The purpose of this PP is to provide an explanation and justification for the requested amendments on a site-specific basis to facilitate redevelopment.

The Site

The site comprises 18-26 Ascot Street, Kensington, and is located on the southern side of the street, approximately 50 metres from the intersection with Anzac Parade to the west, and 100 metres from the intersection with Doncaster Avenue to the east. The subject site comprises six sites with a total area of 1,292m². Four of the lots front Ascot Street and two are battle-axe lots to the rear. A location plan is at Figure 1, with the site marked in red.

Figure 1: Site Location, site outlined in red and shaded yellow



Source: <https://maps.six.nsw.gov.au/>



The legal description of the land is Lot 1 DP166466, Lot C DP178926, Lot B DP178926, Lot A DP178926, Lot 2 DP319141 & Lot 6 DP15942.

The site is located within the Kensington Town Centre (Town Centre) boundary in the B2 Local Centre zone, pursuant to the Randwick Local Environmental Plan 2012 (RLEP 2012).

Photograph 1: The site, viewed from Ascot Street



Objective of this Planning Proposal

The objective of this planning proposal is to rejuvenate the sites to allow for Purpose Built Student Accommodation (PBSA). The Reference Design contained in this PP has the ability to provide approximately 250 beds, across approximately 213 rooms.

The PP demonstrates that there is significant pressure on the private rental market and the introduction of PBSA will allow this to be reduced and improve the diversity of accommodation serving this area.

The PP is the result of diligent investigations in design and planning terms.

The PP is also consistent with the development application for the site which was lodged in 2018 and generally complies with the existing planning controls.

The Opportunity

Investments in Transport Infrastructure in the Locality

The Anzac Parade corridor is subject to considerable redevelopment pressures due to the City to South East Light Rail, currently under construction. The subject site is located within the Kensington Town Centre boundary and is in close proximity to two light rail stops, being Todman Avenue and Carlton Street.

The proposal takes advantage of the major investment in public transport infrastructure in the immediate locality. The landscape of the Town Centre is diversifying with a significant number of developments being



built. In particular, there are a number of developments in close proximity to the site which have recently been constructed. Increasing proportions of residential development have occurred in over the past five-ten years.

Kensington and Kingsford Town Centres Draft Planning Strategy (K2K Strategy)

Scape has pursued its presence in Australia over the past three years with the Randwick Local Government Area (LGA) a key target area for the provision of PBSA.

During this time, the Council in 2016 initiated a comprehensive planning review of the Kensington and Kingsford Town Centres to ensure the planning framework is up to date, robust and well aligned to meet future needs. Subsequently, the Council has released the K2K Strategy and lodged a planning proposal with the NSW State Government.

In terms of the built form controls for the site, the K2K Strategy nominates a floor space ratio of 4:1 and a maximum building height of 31m.

A Gateway Determination was issued by the Department of Planning (DPE) on 12 December 2017. This was issued with a number of conditions, some of which the Council was not amenable to.

As such, a Rezoning Review Application was lodged by the Council contesting certain conditions and the matter was heard by the NSW Independent Planning Commission (IPC). However, following the request for review being lodged, all but one recommended condition had been resolved to. The only condition that remained was the Community Infrastructure Contribution (CIC). The IPC issued its advice on 29 October 2018.

DPE is currently considering the advice, prior to the issue of an amended Gateway Determination. In absence of an amended Determination being formulated into a draft environmental planning instrument, it is not of a sufficiently advanced nature for it to be described as 'imminent and certain'. Given Scape's ambitions to provide PBSA to the market place and to avoid further delay in implementing planning controls that applies to a broader precinct, this PP has been lodged independently.

However, this PP directly aligns with the K2K Strategy and is acceptable in strategic planning terms.

Need for Student Housing

As identified in the K2K Strategy¹, Kensington's population is young, with 34% of people between the ages of 20 and 29 years, reflecting the area's high proportion of students. This demonstrates the need for less traditional forms of housing, comprising group households, as opposed to families. In recent years, there has

¹ Kensington and Kingsford town centres Draft Planning Strategy, Randwick City Council, Page 20



been employment growth in the centre particularly relating to education and training, healthcare and social assistance and professional, scientific and technical services.

The Economic Impact Assessment (EIA) accompanying this application has undertaken extensive analysis in terms of housing choice and affordability and provides the following:

- The rental market in Randwick is expensive, with the median rent at \$652 per week and 13.5% higher than the Sydney Metropolitan Area
- The premium price has been driven by locational factors (proximity to Sydney CBD, beaches, schools etc.), as well as the employment requirements generated by Prince of Wales Hospital and UNSW
- The price of rents has increased on average by 2.2% per annum since 1990, being higher than the SMA at 2%. This has made Randwick less affordable over time
- The demand generated by UNSW in 2016 demonstrated that, of 43,000 full time students, 3,900 are housed in PBSA, with an additional 11,600 students living in the private rental market in Randwick. The remainder live outside the LGA.²

Further, the actual growth rates for population in the LGA exceeded projections while the reverse is true where actual dwellings growth fell short of projections. The shortfall in housing provision over the period coupled with the expectation that robust growth in international student enrolments will continue into the future suggests the existing stock may not meet the housing needs of international and mobile students.

Therefore, in absence of the creation of new PBSA options, the pressure on the rental market will remain and potentially increase, with increasing prices being the subsequent result.

The other key factor is that the density of PBSA accommodation is significantly higher than the private residential market; without an increase in PBSA accommodation, downward pressure on inflated rents, driven by a shortage in PBSA accommodation cannot occur.³

The increasing pressure on rents also derives less disposable income to be spent within the LGA; subsequently, the benefit to the local economy is not derived due to insufficient disposable income. Again, this derogates from the intentions of the Eastern District Plan to drive economic growth and allow for the renewal of great places and local centres, which the subject site within Kensington Town Centre. Therefore, one of the fundamental opportunities to increase local spending is to provide quality affordable student accommodation in a location that is derived of product for one of the most dominant user groups.

In addition to supporting unmet demand in the residential market, there are also the direct and indirect economic benefits from the proposal. With an estimated construction cost of \$31,400,000, this will generate

² Economic Assessment, MacroPlan Dimasi, Page 14

³ Economic Assessment, MacroPlan Dimasi, Page 16



up to 90 full time jobs from the planning stage and through construction. Once completed, between 15 and 20 full time equivalent jobs will be available. The nett benefit of this is as follows:

The operation of a new student accommodation and housing the tertiary students will in turn support the local economy - i.e. they will buy things from or seek services from or participate in local businesses, schools, cultural and sporting associations etc.⁴

The outcome associated with improved affordability (generally by about \$200/week/student) means that this money can be spent elsewhere in, and contribute to, the local economy.

The Economic Impact Assessment provides the following as to the benefit of the proposal:

The site's ongoing use would help to 'fill a void' that exists since the site's underutilisations and would complement other existing nearby facilities without compromising the primary retail/business role of the existing town. Moreover, the proposed development will consolidate the significance of the existing University Town and provide an important northern 'entry' to the area.⁵

Therefore, the PP is a direct response to market conditions to meet the demand for student and key worker accommodation. This PP is capable of significantly assisting the town centre in accommodating the expected growth by providing approximately 250 beds and 30 full-time equivalent (FTE) jobs, upon completion.

Requested Amendments to the LEP

The proposed use, for PBSA (boarding house), is permissible with development consent from the Council (Clause 1.6). Therefore, no changes are proposed to the zoning of the land. The proposal includes 18 Ascot Street that is situated in the same zone; however, is subject to different development provisions.

The key amendments as they relate to the subject site may be summarised as follows:

- Amend the building height from 12m (18 Ascot) and 21m to 31m
- The site does not have an existing floor space ratio. The proposed FSR for the site is 4:1

The use falls under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). The site, upon gazettal of the proposed FSR, would be entitled to an additional 20% in floor space. Therefore, for the purpose of transparency and to enable the Council, the DPE and the community to be aware of the outcomes in considering this reference design, the intended FSR of 4.4:1 is provided in this reference design.

The purpose of the amendments to the planning controls sought under this PP are to enable a higher density of development that is consistent with the K2K Strategy and responds to the immediate context surrounding

⁴ Economic Assessment, MacroPlan Dimasi, Page 21

⁵ Economic Assessment, MacroPlan Dimasi, Page 21



this, while also providing a greater density that will support future public transport, such as the light rail, which will be within walking distance of the site.

Development Strategy

As stated above a development application was lodged for the site on 23 October 2013 and is generally consistent with the current planning controls. Given the demand for PBSA, Scape has lodged the development application to enable works to commence on the site as soon as a development application is approved.

However, in the interests of sound strategic planning, while the K2K Strategy is not imminent and certain, the overall end outcome is critical in terms of both the DA and a development of greater height and density that has been put forward in the PP. Given the delay in the K2K Strategy, progressing, it is intended that the benefits of this PP will result in its swift implementation to enable the demand to be captured.

Upon gazettal of this PP, the Applicant would lodge a development application for additional building height and FSR.

Preparation of the PP

In accordance with section 3.33 of the EP&A Act, this PP addresses each of the requirements.

Table 1: Section 3.33 of the EP & A Act

Section No.	Section	Chapter in PP
(1)	Before an environmental planning instrument is made under this Division, the planning proposal authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the planning proposal).	
(2)	The planning proposal is to include the following:	
	(a) a statement of the objectives or intended outcomes of the proposed instrument	Chapter 3
	(b) an explanation of the provisions that are to be included in the proposed instrument	Chapter 4
	(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1),	Chapter 5



	(d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,	Chapter 6
	(e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.	Chapter 7

The PP has been prepared in conjunction with the consultant team as set out at Table 2.

Table 2: Project Consultant Team

Appendix No.	Discipline	Consultant	Reference in Report
1	Urban Design Report and Concept Design	Plus Architecture	UD Report
2	Economic Impact Assessment	Macro Plan	EIA
3	Aeronautical Impact Assessment	Landrum & Brown	AIA
4	Transport Assessment	The Transport Planning Partnership	Transport Assessment
5	Geotechnical Investigation	JK Geotechnics	Geotech Report
6	Stage 1 Desktop Environmental Site Assessment	Environmental Investigation Services	Stage 1 ESA
7	Survey	New Way Surveying	Site Survey

The Proponent welcomes the opportunity to work with the Council during their consideration of this PP.



2. THE SITE & ITS LOCALITY

The site is located in the western ward of the Randwick LGA within the Kensington Town Centre boundary. The site is located at 18 -26 Ascot Street, Kensington and is positioned south of Ascot Street. The subject site comprises six sites with a total area of 1,292m² with four lots fronting Ascot Street and two battle-axe lot.

The site's northern boundary fronts Ascot Street and is approximately 22.45m in length.

Figure 3 demonstrates the existing site and lot boundaries. The existing improvements are as follows:

- 18 Ascot Street comprises a single storey dwelling; a metal shed and outbuilding are located at the rear of the dwelling;
- 20 Ascot Street is a vacant lot and is used as a landscape supplies business;
- 22 - 24 Ascot Street contain low density residential uses, by way of single storey semi-detached dwellings;
- 26 Ascot Street is a battle axe allotment, accessed by the Right-of-Way (ROW) and contains a metal shed and car port for car parking;
- the existing driveway off Ascot Street provides vehicular access, *via* the ROW to car parking spaces at 26 Ascot Street, as well as 126 – 146 Anzac Parade
- 20 Ascot Street has a separate driveway from Ascot Street. Photos of the site are provided below.

Key Physical Characteristics

The physical attributes pertaining to the site which may influence its future redevelopment are set out in the Table below.

Table 3: Site Details

Property Address	18-26 Ascot Street, Kensington	
Legal Description	Lot 1 DP166466 (18 Ascot Street) Lot C DP178926 (20 Ascot Street) Lot B DP178926 (22 Ascot Street) Lot A DP178926 (24 Ascot Street) Lot 2 DP319141 & Lot 6 DP15942 (26 Ascot Street)	
Site Area	1,292m ² including the ROW	
Site Boundaries	North	22.45m
	East (18 Ascot)	44.325m
	South-east (5 Bowral)	7m
	South (Church)	18m
	South (5 Bowral)	7.62m
	West	52.18m
Zoning	B2 Local Centre	
Critical Habitat	No	
Conservation Area/Environmental Heritage	No	



Coastal Protection	No
Mine Subsidence	No
Road Widening or Realignment	No
Hazard Risk Restriction (other than flooding)	No
Flood Planning	Yes, refer discussions below
Acquisition	No
Biodiversity Certified Land	No
Bio banking agreements	No
Bushfire Prone Land	No
Property Vegetation Plan	No
Contamination	No
Licences Under the Water Act 1912	Yes, within the ground water extraction area or the water shortage zone
Aircraft Noise (Australian Noise Exposure Forecast)	Not affected

Flooding

The subject site was previously subject to backwater flood inundation at the street frontage originating from flooding within Anzac Parade. Significant improvements to the drainage have been undertaken on Anzac Parade as a result of the light rail construction which has materially reduced the flooding level across the development frontage. The floor levels of the development will be set at an appropriate height to reduce the frequency of inundation of structures and floors to an acceptable probability. The PP would not result in any increased risk to human life, nor increase the potential flood affectation of surrounding properties.

Figure 2: Aerial Photograph, site outlined in red and shaded yellow



Source: <https://maps.six.nsw.gov.au/>



Figure 3: Site Survey, site outlined in red



Source: New Way Surveying

Title Encumbrances

There are a few matters on the title certificate, particularly by way of right of way and service or drainage easement that requires detailed consideration during redevelopment. The registered affectations are addressed below:

Table 4: Title Encumbrances

LEGAL DESCRIPTION	COVENANT	RESTRICTIONS ON TITLE
Lot C DP178926 (20 Ascot Street)	DP615692	The deposited plan was registered on 29 March 1981 and is for the purpose of a drainage easement. The easement is approximately 2.75m wide, extends through the length of the property (29.92m) and has a total area of the 60.11m ² . The proposed design takes into consideration the sewage easement located on 20 Ascot Street and involves re-routing the easement around the development.

Futher, the reservations and conditions in the Crown Grant and exclusion of minerals are recorded on the Certificate of Title for all the lots within the site; this has no impact on the development potential at this stage.



The properties to the west of the subject site enjoy a ROW over the driveway, measuring 3m – 4.5m wide, with a perpendicular offshoot running in a northerly direction. The PP involves the use of the ROW, appurtenant to 146 Anzac Parade for access purposes. Further, the proposed basement extends under the ROW, along the south-eastern boundary of the site by 1m.

Photograph 2: 26 Ascot Street, located at the rear of the existing site, viewed from the ROW



Character of the Locality & Developments Surrounding the Site

Kensington Town Centre is currently undergoing significant transition, reflected by an increase in the number of newer, mixed-use developments along Anzac Parade which generally comprise shop top housing with ground floor retail and residential units above. These developments represent the changing nature of the corridor to higher density building forms that recognises the major investment in transport infrastructure in the area and significant amenities in the locality.

The locality is also characterised by a mixture of low density dwellings, Residential Flat Buildings (RFB) of dated architectural design, as well as contemporary RFB's. Generally, long and narrow allotments are located on the southern side of Ascot Street and medium density residential flat buildings are located on amalgamated sites on the northern side of Ascot Street, closer to Anzac Parade.

In terms of surrounding developments, 126 - 146 Anzac Street, located directly west of the site, consists of two storey shop top housing. This group of buildings is contributory to the Kensington Town Centre Streetscape. Immediately to the south of the site is the Coptic Church; this is not a listed heritage item. A two-storey residential building is situated to the south of No.20 Ascot Street.



Photograph 3: 121 Anzac Parade, located to the West of the site, viewed from Ascot Street



16 Ascot Street, situated directly east of the site consists of a single storey dwelling and 14 Ascot Street consists of a three-storey RFB. Beyond this, single storey residential dwellings are situated closer to, and generally along, Doncaster Avenue, aside from some examples of two and three storey walk up RFBs.

Photograph 4: Developments on the eastern side of the site



16 Ascot Street





14 Ascot Street



12 Ascot Street

On the opposite side of the Ascot Street, to the north of the site, is 5-7 Ascot Street which contains a four storey RFB with garages at ground level. 3 Ascot Street/6 Goodwood Street contains a part 4/part 5 storey mixed use development.

Kokoda Memorial Park, a neighbourhood public park is located to the north-east of the site.

Photograph 5: Developments to the northern side of the site





5-7 Ascot Street



3 Ascot Street

M2/19

Figure 4: Site Context



Source: Plus Architecture

There are a range of facilities and services within walking distance to the site that cater for the residential population. In addition to Kokoda Park, the site benefits from a range of large public open spaces and other recreational facilities in the locality such as Centennial Park, Moore Park and the Australian Golf Club and Randwick Racecourse. Educational facilities in the locality include UNSW, National Institute of Dramatic Art (NIDA), Randwick TAFE and Kensington Public School. The Prince of Wales Hospital and the Randwick Shopping precinct are also located in close proximity to the site.

In terms of the site opportunities, the subject site is proximate to two light rail stops, being Todman Avenue and Carlton Street (

Figure 4) and bus stops located along Anzac Parade. This provides a significant opportunity for the proposal to incorporate the principles of a transit-oriented development (TOD) by providing a high density residential development within walking distance of public transportation infrastructure.



Further, the intentions of the K2K Strategy provide an opportunity for this site to provide an increased residential density in an area that is currently in transition and with considerable opportunity to increase residential and commercial capacity.

Photograph 6: Kokoda Park to the north of the subject site, viewed from Ascot Street



3. OBJECTIVES & INTENDED OUTCOMES

The principal objective of this PP is to permit development for the purpose of a PBSA on the site and increase the height provisions to ensure that development is suited to its existing and future context, as predicated by the K2K Strategy. The amendments proposed to the RLEP 2012 will facilitate and implement Council's vision for the Town Centre. Specifically, the intended outcomes are to:

- facilitate a balanced opportunity for redevelopment by offering opportunities for incorporating the principles of a TOD, given the location of the site in close proximity to a range of current and future services and public transport options;
- consolidate six significant parcels of land within the Town Centre, to enable a cohesive master-planned development of an appropriate size, in response to the market conditions;
- provide a building envelope and form which would relate to the composition, scale and character of surrounding buildings, urban grain and public realm;
- ensure that new infill development creates a positive street level environment through built form that maintains human scale and permeability, encourages passive surveillance and allows solar access;
- provide an interactive living environment/communal living spaces on the street frontage to facilitate passive opportunities to overlook and encourage pedestrian activity;
- assist in stimulating growth of the local economy and offering opportunities for enhanced public benefit by providing improving access, the local streetscape and the amenity of the locality, and
- assist in achieving state and local government's housing targets as well as increasing the residential population who will significantly contribute to the local economy.

Design Considerations

Urban Design and Built Form

The Urban Design Report prepared by Plus Architecture provides a reference design for the site to reflect the objectives of this PP. The design takes on board the recommendations and key built form parameters of the K2K Strategy and adopts a holistic approach to site redevelopment. In relation to the built form context of the site, the PP takes into account the transforming nature of the locality. Essentially, it draws from the culmination of Council's urban design and strategic planning analysis for the Town Centre and is designed to accommodate the public benefits, such as larger street setbacks, together with demonstrated design excellence.

The proposal demonstrates design excellence and provides a contemporary architectural style integrated with the orientation and configuration of the site to enable highly articulated facades. The development is designed to sensitively respond to the surrounding context through articulation; the appearance of the scale of development will be reduced through the introduction of street wall heights and setbacks. The podium



level is four storeys and steps back at the fourth storey to achieve a visual separation between the lower and upper levels of the building, consistent with the K2K Strategy.

The extent of articulation is also derived from the various techniques required to achieve sufficient solar access and cross ventilation into individual rooms, as well as maximising broader views, without compromising the privacy of immediately neighbouring properties.

The subject site is suitable for the intended use and will provide a positive contribution to the future streetscape of the Town Centre. It is consistent with the desired character of the locality which is evidently transitioning to higher density development incorporating residential accommodation as predicated by the K2K Strategy. The proposal is thus an appropriate response and any likely environmental impacts have been found to be acceptable, or can be adequately mitigated

Transport Assessment

The PP responds to the significant investment in public transport infrastructure which is a key driver for increased densities around transport nodes. In addition to the existing bus transport infrastructure, the light rail that is currently under construction will significantly increase the public transport capacity along a section of Anzac Parade.

A Traffic and Transport and Assessment assessing the PP has been prepared by The Transport Planning Partnership. The Assessment establishes that the proposal is acceptable in terms of traffic, transport and parking. The report concludes that:

.....the traffic and parking implications associated with the proposed development is not expected to result in any noticeable detriment on the surrounding road network, with management measures in place to ensure minimal traffic and parking impact⁶.

Vehicular Access Opportunities

Vehicular access will be from the street, *via* the existing ROW along the western boundary. The proposal will provide a significant improvement to the existing site access arrangements and see a reduction in the number of vehicular access points from two to one on the street frontage, across the entire site. This is a significant advantage in the context of the local road network and will likely improve general traffic flow along Ascot Street.

Traffic Generation

In terms of potential pressure on the surrounding road network, only five car parking spaces are proposed and will therefore encourage these alternative modes of transport to be utilised. The proposed number of

⁶ Transport Assessment, The Transport Planning Partnership, Page 29



car parking spaces demonstrates the importance of promoting site redevelopment that takes account of the public transport opportunities that are afforded to this location, thereby reducing the need for private vehicle modes. The PP encourages sustainable transport opportunities, including walking and cycling, by maximising access to, and connectivity with, surrounding areas.

Geotechnical

A Geotechnical Investigation report has been prepared by JK Geotechnics. There are no geotechnical impacts that need to be addressed as part of the PP process. The recommendations within the report include specific issues to be addressed during the construction phase of the project.

Contamination

A Preliminary Stage 1 ESA is provided. The report concludes that:

The following is recommended to better assess the risks associated with the AEC identified:

- *A preliminary intrusive investigation should be undertaken to make an assessment of the soil and groundwater contamination conditions. ; and*
- *A hazardous building materials survey should be undertaken prior to demolition of the buildings. Following demolition of the buildings (and preferably prior to removal of the hardstand), an asbestos clearance certificate should be provided. 7*

The recommendations within the report include specific issues to be addressed during the construction phase of the project.

Further, the documentation submitted for the DA considers the potential for land contamination to satisfy the requirements of State Environmental Planning Policy No. 55 (SEPP 55) and demonstrates that the site can be made suitable for the proposed use.

Aeronautical operations of Sydney airport

The subject site is located approximately 4.5km, southwest of Sydney Airport. An Aeronautical Impact Assessment accompanies this PP. The key criteria that require consideration are as follows:

- Obstacle Limitations Surface (OLS): This is defined airspace that should ideally be kept free of obstacles to minimise danger to aircraft during an entirely visual approach to an airport; and
- Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS): Airspace surfaces intended to safeguard aircraft from collision with obstacles when a pilot is flying solely by reference to instruments.

⁷ Preliminary Stage 1 Desktop Environmental Site Assessment, Environmental Investigation Service, Page 14





The Aeronautical Impact Assessment outlines that the PP will not:

- infringe the OLS and PANS OPS for Sydney Airport or any other airport;
- infringe any BRA for navigation aids at Sydney Airport;
- infringe the Sydney TAR or the Cecil Park TAR clearance planes; and
- infringe the RTCC protection surface above the site.

Heritage

The subject site does not contain any heritage items, nor is it located within a heritage conservation area. The redevelopment of the site is set back at sufficient distance and designed to respect the character and built form of the contributory items that are located to the west of the site, fronting Anzac Parade.

Conclusion

Therefore, it is considered these studies and assessments confirm that the PP would not result in unreasonable environmental impacts and the development would be suitable and presents site-specific merit for support.

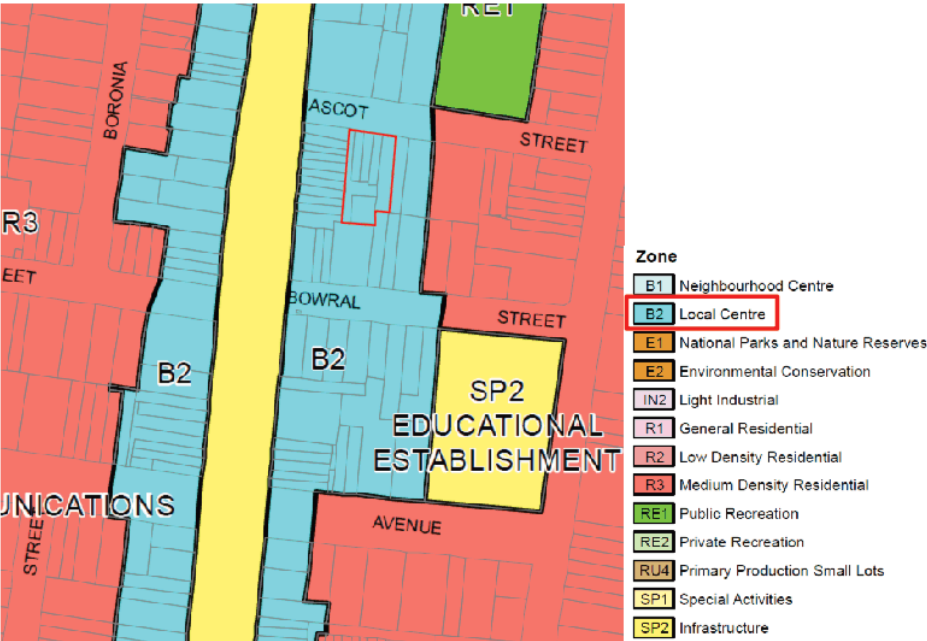
4. EXPLANATION OF PROVISIONS

The PP seeks to amend RLEP 2012 in relation to the height (Clause 4.3) control. It is also proposed that an FSR control be introduced as indicated in the K2K Strategy to provide comfort to the consent authority of the extent of development that may be permitted on the site. The proposed amendments have been informed by a reference design prepared by Plus Architecture and is generally in accordance with Council's strategic and urban design studies. This would facilitate subsequent lodgement of a development application for the redevelopment of the site for residential purposes. The existing and proposed controls, as they relate to the site are discussed below:

Zoning

The subject site is situated in the B2 Local Centre zone and is within the boundary of the town centre. No changes are proposed to the zoning as the proposed use is permissible with development consent.

Figure 5: Land Zoning



Building Height

The RLEP 2012 applies a height limit of 21m to the majority of the site, with the exception of 18 Ascot Street, which is subject to a maximum building height of 12m.

This PP seeks that the building height permitted be extended to 31m across the site.



Figure 6: Maximum Height of Buildings



Floor Space Ratio

The site does not have an existing FSR control. It is proposed to establish an FSR of 4:1 across the site. The proposed FSR control will establish a further degree of certainty for the future built form on the site.

Figure 7: Floor Space Ratio



The proposed amendments would enhance the viability for redevelopment for residential purposes as well as incorporating public benefits.





What Would These Changes Allow For?

The reference design prepared by Plus Architecture demonstrates that the following could be achieved on the site:

- One basement building level, containing five car parking spaces, 52 bicycle spaces and 33 motor cycle spaces for use by residents of the building and associated service areas.
- The communal living spaces associated with a Scape living environment are provided at the ground floor and seek to provide a high degree of social interaction between residents of the building in both active and passive forms.
- The upper levels will contain a combination of studio, twin, DDA and cluster rooms to achieve approximately 213 rooms and 250 beds.
- a 4 storey street wall to the Ascot Street frontage with a 4m setback, above the street wall height.
- a 1.5m setback in the podium level with the exception of the stairs to the entrance of the building required for flood mitigation purposes. Above the street wall, an additional setback of 4m is provided from the podium to achieve a visual separation between the lower and upper levels of a building.
- The building is setback at approximately 5.5m to the western boundary, 3m to the eastern boundary and 6m to the southern boundary.

The key aspects of the reference design, with respect to the K2K Strategy are listed below:

- The design responds to the context of the site and provides an opportunity for a cohesive design outcome that complements the existing surrounding built form, particularly the contributory items to the west of the site. Most importantly, it is designed to achieve a sensitive transition in relation to recently constructed developments and surrounding established lower scaled residential neighbourhoods.
- The proposal will result in an urban transformation of the site with a new PBSA and public domain improvements, leading to a revitalizing opportunity for activity in the area.
- The proposal promotes housing diversity by the provision of high-quality student accommodation in a location that is well connected to a range of current and future services and public transport options. The provision of residential accommodation within these consolidated sites would also contribute to the State Government's housing targets for the locality, in a location that is well connected with regards to public transport infrastructure.
- The proposal is consistent with the principles of TOD and will enhance sustainability by providing additional residential accommodation and provision of public domain benefits in close proximity to transport infrastructure.
- Although not applicable in planning terms, the building separation distances are aligned with Apartment Design Guide (ADG) guidelines to minimise overshadowing and visual impacts to

surrounding properties. The PP incorporates sustainability measures and maximises opportunities for non-mechanical ventilation, passive heating and cooling to reduce ongoing energy consumption.





5. JUSTIFICATION FOR THE OBJECTIVES, INTENDED OUTCOMES AND PROVISIONS

'A guide to preparing planning proposals' provides detailed guidance on the matters that need to be considered when preparing a planning proposal. These matters are addressed below.

Table 5: Matters to be considered when preparing a planning proposal

Requirement	Compliance	Comment
Section A - Need for the planning proposal		
Q1. Is the planning proposal a result of any strategic study or report?	Yes	<p>This PP is the result of evidence-based strategic planning analysis that underpins the K2K Strategy, as well as individual site-specific investigations carried out by the Proponent. These studies confirm that the subject site has strategic and site-specific planning merit.</p> <p>The K2K Strategy initiates a significant increase in employment and housing targets and outlines a range of objectives, strategies and actions to guide the future sustainable growth and development of the town centres. This PP has been independently initiated by the Proponent due to the timing delays associated with the K2K Strategy. That said, the proposal achieves the intentions and is generally consistent with the recommendations of the K2K Strategy.</p> <p>A quantitative analysis for the subject site has been provided below which exemplifies the need for the planning proposal.</p> <p>Strategic location</p> <p>The subject site is situated within the boundary of the Kensington Town Centre and is in close proximity to major establishments in close proximity to the Kensington Town Centre are UNSW, NIDA, Randwick Health Campus and public transport facilities. The proposal provides consolidation of six lots that supports redevelopment for a high density residential development. The reference design allow for the implementation of the intentions of the PP and is in line with the Council's vision for the Town Centre.</p> <p>Investments in Transport Infrastructure in the Locality</p> <p>As discussed previously, the Anzac Parade corridor is subject to considerable redevelopment pressures due to the City to South East Light Rail, currently under construction. The site, located in the Kensington Town Centre, is opportune for its purpose, being located in</p>



		<p>close and direct proximity to two light rail stops, at the Todman Avenue and Carlton Street light rail stops. The proposal presents a balanced opportunity for redevelopment and by incorporating the principles of TOD, provides a higher density of development within walking distance of public transportation infrastructure.</p> <p>Population growth and demand for PBSA</p> <p>Between 2006 and 2016, the annual growth rate for Randwick LGA's population averaged 1.8% and exceeded the population projections by 2% (3,026 residents)⁸. Over the next 10 years, the LGA's population is projected to grow more modestly, at an average annual growth rate of 0.6% up till 2026. In recent years, there has been employment growth in the LGA, particularly relating to education and training, healthcare and social assistance and professional, scientific and technical services.</p> <p>As previously discussed, Kensington's population is young, with 34% of people between the ages of 20 and 29 years, reflecting the area's high student population. This is identified in the Council's PP that inherently increases the requirement for group households as opposed to family households.</p> <p>The Economic Impact Assessment (EIA) accompanying this application has undertaken extensive analysis in terms of housing choice and affordability and provides the following:</p> <ul style="list-style-type: none"> ○ The rental market in Randwick is expensive, with the median rent at \$652 per week and 13.5% higher than the Sydney Metropolitan Area ○ The premium price has been driven by locational factors (proximity to Sydney CBD, beaches, schools etc.), as well as the employment requirements generated by Prince of Wales Hospital and UNSW ○ The price of rents has increased on average by 2.2% per annum since 1990, being higher than the SMA at 2%. This has made Randwick less affordable over time ○ The demand generated by UNSW in 2016 demonstrated that, of 43,000 full time students, 3,900 are housed in PBSA, with an additional 11,600 students living in the private rental market in Randwick. The remainder live outside the LGA.⁹
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⁸ Australian Bureau of Statistics (2017), DPE (2017)

⁹ Economic Assessment, MacroPlan Dimasi, Page 14



		<p>Further, the actual growth rates for population in the LGA exceeded projections while the reverse is true where actual dwellings growth fell short of projections. The shortfall in housing provision over the period coupled with the expectation that robust growth in international student enrolments will continue into the future suggests the existing stock may not meet the housing needs of international and mobile students.</p> <p>Therefore, in absence of the creation of new PBSA options, the pressure on the rental market will remain and potentially increase, with increasing prices being the subsequent result.</p> <p>The PP is a direct response to market conditions to meet the demand for student and key worker accommodation. This PP is capable of significantly assisting the Town Centre in accommodating the expected growth by providing approximately 250 beds. In terms of employment, during the construction phase, the proposal will approximately generate 70 to 85 Full Time Equivalent (FTE) direct and indirect jobs supported in the supply of materials and additional spend generated by construction workers in local shops and services. Once the development is operational, approximately 15 to 20 additional jobs are created for the purposes of management and security, as well as cleaning and maintenance.</p> <p>Public Benefit</p> <p>The PP provides an extensive improvement to the site and surrounding locality through a visually and physically integrated design, which activates the streetscape and provides tangible public benefits which assist in driving the future character of the Town Centre. Essentially, it draws from the culmination of Council's urban design and strategic planning analysis for the Town Centre and is designed to accommodate the public benefits identified in the K2K Strategy, such as larger setbacks to facilitate footpath widening, together with demonstrated design excellence.</p>
Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	Yes	<p>A Planning Proposal seeking to amend the RLEP 2012 is the most effective way of achieving the intended outcome of the development to facilitate a higher density residential development on the site. The existing height does not permit the form of development envisaged for the site and is predicated by the K2K Strategy. Subject to the success of the PP, this would then be followed by a detailed</p>



		<p>development application seeking approval for the Reference Design.</p> <p>As previously stated, the Proponent is immediately ready to commence this urban renewal project. The DPE is still in the process of considering the PAC's advice prior to the issue of an amended Gateway Determination. Given that the PP is in line with the K2K Strategy, it is acceptable for the subject PP to proceed independently and is not inconsistent.</p>
Section B – Relationship to strategic planning framework		
Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan strategy (including any exhibited draft plans and strategies)	Yes	Yes, refer discussions below.
Does the proposal have strategic merit:		
Is the proposal consistent with the relevant regional plan or district/precinct plan?	Yes	<p>The site is subject to:</p> <ul style="list-style-type: none"> ○ NSW 2021 ○ A Metropolis of Three Cities - the Greater Sydney Region Plan ○ Eastern District Plan <p>These are addressed in Appendix 8.</p>
Is the proposal consistent with the relevant local council strategy?	Yes	<p>The site forms part of the K2K Strategy.</p> <p>This is addressed in Appendix 9.</p>
Is the planning proposal responding to changing investment in infrastructure or demographic trends?	Yes	<p>As discussed previously, the proposal is a direct response to the significant infrastructure investment occurring within the vicinity of the subject site, being the construction of City to South East Light Rail.</p> <p>In terms of demographic trend, the proposal is a response to market conditions to meet the demand for student and key worker accommodation. Further, the PP responds to the shortfall in student housing provision coupled with the expectation that robust growth in international student enrolments will place increased pressure on the localised housing market. There is on-going and increasing pressure in terms of student housing, particularly that which is proximate to public transport and educational establishments. The subject site, while modest in scale, fulfils both of these categories.</p> <p>Therefore, this PP seeks to introduce a residential offering to the market place that is suitably located in</p>

		terms of infrastructure and responds to population trends.
Does the proposal have site-specific merit having regard to the following:		
<ul style="list-style-type: none"> The natural environment (hazards, values and resources) 	Not applicable	The site is located within an existing urban environment and is not subject to environmental constraints.
<ul style="list-style-type: none"> Existing uses, approved uses and future uses in the vicinity of the proposal 	Yes	<p>The proposed use, for the purpose of student accommodation, has significant strategic merit having regard to the site's proximity to educational establishments. As discussed previously, the site is well positioned in terms of more recent mixed use developments in the locality, which the proposal would be able to utilise the facilities and services thereof.</p> <p>All such sources are accessible by foot, public transport and private transport means.</p> <p>In addition, the proposed introduction of student accommodation, of a more contemporary nature, will assist to underpin retail and commercial resources within the vicinity of the site and enhance an <i>in situ</i> population that relies upon these.</p>
<ul style="list-style-type: none"> Services and infrastructure to meet the demand arising from the proposal and associated financial or infrastructure arrangements 	Yes	<p>In terms of services and infrastructure, essential services would be investigated at the gateway stage, or later. However, given the modest scale of the development compared to that proposed in the DA, it is likely that any upgrading of services may be easily accommodated.</p> <p>In terms of potential pressure on the surrounding road network, only five car parking spaces are proposed and will therefore encourage these alternative modes of transport to be utilised.</p> <p>The PP encourages sustainable transport opportunities, including walking and cycling, by maximising access to, and connectivity with, surrounding areas.</p>
Q5. Is the proposal consistent with the applicable State Environmental Planning Policies?	Yes	This is addressed in Appendix 10.
Q5. Is the planning proposal consistent with applicable Ministerial Directions	Yes	This is addressed in Appendix 9.
Section C – Environmental, social and economic impact		
Q7. Is there any likelihood that critical habitat or threatened species,	Not applicable.	The site is located within an existing urban environment and is not identified as containing critical





populations or ecological communities or their habitats will be adversely affected as a result of the proposal?		habitat or threatened species, populations or ecological communities, or their habitats.
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?		<p>There are no other anticipated effects, other than those discussed previously.</p> <p>Further, the future development will comprise of residential accommodation and therefore existing policies, regulations and standards are already in place to ensure environmental impacts are mitigated during the construction phase and eventual use of the development.</p>
Q9. Has the planning proposal adequately addressed any social and economic effects?	Yes	<p>In terms of the social impacts, the proposal will assist in invigorating and encouraging activity in the area. The proposal will contribute to the quantum of more affordable housing in close proximity to educational establishments and has tangible social benefits in this regard. The development has been designed to provide opportunities for passive surveillance will also prevail by opening up the building form to its surrounding frontages. Again, this is a positive outcome from a social perspective.</p> <p>From an economic perspective, the proposal, during construction, will provide localised employment opportunities. Beyond this, while modest in scale, the end product will support local facilities and services, given the <i>in situ</i> population and will derive economic benefit to the immediate precinct.</p> <p>The economic impacts of the PP are supported by the findings contained within the Economic Impact Assessment, prepared by MacroPlan Dimasi.</p> <p>The Scape Experience</p> <p>The Proponent's business model is not one synonymous with an isolated boarding house arrangement for the purpose of student accommodation. Instead it seeks to create interactive student communities that are proximate to a location of study that enables itself to look after one another, not only while living in the environment, but beyond one's stay.</p> <p>The accommodation layout and use resemble a reinvented form of traditional university dormitory style accommodation with smaller individual rooms and a focus on communal facilities (on-site catering,</p>



		<p>common rooms and spaces) with in-room kitchenettes.</p> <p>Scape appreciates that the quality of accommodation is one of the key determinants on the student experience, ensuring their product is developed to the highest of standards which, in turn, will contribute to the student offer and experience. The facilities are designed with a high level of lifestyle amenity which extends to the common areas that provides interactive student communities within their buildings. The accommodation layout and use provide a reinvented and contemporary form of traditional university dormitory style accommodation with smaller individual rooms and a focus on communal facilities (such as cinema, lounge, study areas).</p> <p>The Scape living experience is best viewed on their website, https://www.scape.com</p>
Section D – State and Commonwealth interests		
Q10. Is there adequate public infrastructure for the planning proposal?	Yes	<p>In consideration of the site's proximity to existing and proposed public transport infrastructure, the site is capable of accommodating the demand generated by the proposal. As such, this proposal is in response to the South East Light Rail Line, currently under construction, which will include two stops in close proximity to the subject site. It is envisaged this service will be operational by the time the subject site is redeveloped. This strengthens the site's connectivity and accessibility with Sydney CBD and the greater Sydney region.</p> <p>The traffic assessment accompanying this report summarises that the subject site would generate significantly less traffic than other high occupancy accommodation sites in the vicinity and would therefore have a positive effect in reducing the traffic impact associated with the PP on the surrounding road network.</p> <p>Social infrastructure close to the site includes retail, commercial, community services and various public open space areas such as Kokoda Park, Centennial Parklands and Royal Randwick Racecourse.</p> <p>All utility services including electricity, telecommunications, water, sewer and stormwater are currently available on the site. Any upgrade to augment these services would be undertaken in association with any future application.</p>
Q.11 What are the view of state and commonwealth		<p>Upon receipt of the Gateway determination, the relevant agencies will be consulted accordingly.</p>

public authorities consulted
in accordance with the
Gateway determination?

6. MAPS

Site identification, zoning and details of key development standards are discussed above in Chapter 4 of this report.

Maps of the proposed amendments to the RLEP 2012 would be applied in due course as directed.

7. WHAT HAPPENS NEXT – GATEWAY DETERMINATION

Public consultation will take place in accordance with the requirements of the Gateway Determination made by the Minister for Planning. It is proposed that, at a minimum, this involves the notification of the public exhibition of the PP:

- on the Council's website;
- in newspapers that circulate widely in the Randwick LGA; and
- in writing to the owners; the adjoining and nearby landowners and the relevant community groups.

Consultation with relevant the government agencies and authorities will be undertaken in accordance with the Gateway Determination.

The Proponent is willing to undertake community engagement to assist Council in ensuring that all matters and concerns of the community, as well as Council, and relevant government agencies, are adequately addressed.

The project timeline for the project is set out in the table below.

Table 6: Project Timeline

STAGE	STAGE DESCRIPTION	TIMEFRAME
1	Anticipated commencement date (Gateway determination)	Gateway determination date.
2	Anticipated timeframe for completion of required technical information	Technical information has been provided and accompanied with the subject PP; further information will be supplied as required.
3	Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	As specified in the Gateway determination; Anticipated



M2/19

Planning Proposal – 18-26 Ascot Street | Kensington



		timeframe is 21 days and to run concurrently with public exhibition period.
4	Commencement and completion dates for public exhibition period	Subject to the date of the Gateway Determination. Anticipated timeframe for public exhibition is 28 days.
5	Dates for public hearing (if required)	Not applicable at this stage.
6	Timeframe for consideration of submissions	To be determined by Council.
7	Timeframe for the consideration of the proposal post exhibition	To be determined by Council.
8	Date of submission to the Department to finalise the LEP	Not known.
9	Anticipated date RPA will make the plan (if delegated)	Not known.
10	Anticipated date RPA will forward to the Department for notification	Not known.



8. CONCLUSIONS & RECOMMENDATIONS

Hamptons has been retained by Scape Australia Swanston Pty Ltd ATF Scape Australia (Kensington) Trust, the owners of the land known as 18 – 26 Ascot Street, Kensington, to prepare a PP seeking amendments to the maximum building height applicable for the site.

Section 3.33 of the EP&A Act requires a *planning proposal authority to prepare [an] explanation of and justification for a planning proposal*. The purpose of this PP is to provide an explanation and justification for the requested amendment on a site-specific basis to facilitate redevelopment.

This PP provides a pivotal opportunity for redevelopment of the site that is located in close proximity to public transport opportunities and educational establishments. Detailed investigations carried out by the Proponent and the greater area by the Council, DPE and the IPC, which have informed the content of this PP. There is enough evidence and strategic planning merit provided in this PP to support the proposed amendments to the RLEP 2012 as set out below:

- Increase the building height from 12m & 21 m to 31m across the site, and
- establish a FSR of 4:1 across the site

The developed nature of the scheme demonstrates the capacity of the site to support a suitable redevelopment opportunity that accords with Council's intentions, as predicated by the K2K Strategy. The proposal adequately responds to these key parameters discussed in the K2K Strategy and seeks to provide a more unique commercial offering suited to the overall development concept. The proposal will achieve the visions by:

- **Engaging spaces** - achieving nodes of activity, with active frontage to promote vibrancy and safety in the Town Centre. The proposal provides an interactive living environment/communal living spaces on the street frontage to facilitate passive opportunities to overlook and encourage pedestrian activity;
- **Public domain** - The proposal will result in an urban transformation of the site with a new residential development and public domain improvements, leading to a revitalizing and encouraging activity in the area.
- **Housing diversity** - provision of high-quality student accommodation in a location that is well connected to a range of current and future services and public transport options. The provision of residential accommodation within these consolidated sites would also contribute to the State Government's housing targets for the locality, in a location that is well connected with regards to public transport infrastructure. As such, the proposal demonstrates significant strategic merit in its objective to contribute to the provision of additional housing for Sydney's growing population and employment opportunities in a local commercial centre.



Therefore, the PP satisfies the vision and objectives of the Council's Strategy.

We believe all matters have been adequately addressed, to the satisfaction of Council and the DPE, in order for the PP to proceed to DPE for a Gateway determination. This being the case, it is recommended to the Council that the planning proposal be supported and endorsed for a gateway determination.



9. APPENDICES

Appendix 1: Urban Design Report and Concept Design

Appendix 2: Economic Impact Assessment

Appendix 3: Aeronautical Impact Assessment

Appendix 4: Transport Assessment

Appendix 5: Geotechnical Investigation

Appendix 6: Stage 1 Desktop Environmental Site Assessment

Appendix 7: Survey

Appendix 8: Assessment of Planning Proposal - Regional Plans & Strategies

A Metropolis of Three Cities – The Greater Sydney Region Plan (GSRP)

The Greater Sydney Region Plan (GSRP) is a revision of *A Plan for Growing Sydney* and provides the overarching strategy for growing and shaping the Greater Sydney region.

The Plan prepared by the Greater Sydney Commission (GSC), sets a 40-year vision, to 2056, and a 20 year plan to manage growth and change for Greater Sydney to inform local council planning outcomes and influence the decision-making of State agencies. The vision of the Metropolitan Plan is framed on the creation of three-city metropolis and enhancing Greater Sydney's liveability, productivity and sustainability. This will also be supported through greater infrastructure provision and collaboration throughout the region.

The three cities of this metropolis are:

- the Western Parkland City
- the Central River City
- the Eastern Harbour City.

The plan is guided by 10 directions which provide Objectives to establish the goals of the plan. The vision the GSC has stipulated is for three cities, where most residents live within 30 minutes of their jobs, services and education and health facilities. The ten directions which guide this plan are outlined in the Figure below.

Directions for a metropolis of three cities

Ten directions for Greater Sydney



Source: Greater Sydney Commission





The PP supports each of the 10 directions for Greater Sydney as detailed below.

The Planning Proposal responds to the Greater Sydney Region Plan, giving consideration to the strategic directions and supporting objectives identified within the Plan. Objectives of particular relevance to this PP include:

- Objective 5: Benefits of growth realised by collaboration of governments, community and business;
- Objective 7: Communities are healthy, resilient and socially connected
- Objective 10: Greater housing supply;
- Objective 12: Great places that bring people together;
- Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities;
- Objective 21. Internationally competitive health, education, research and innovation precincts;
- Objective 22: Investment and business activity in centres; and
- Objective 34: Energy and water flows are captured, used and re-used.

Specifically, the Proposal is consistent with the objectives of the Plan as it will:

- promote redevelopment of a site which is well situated close to public transport
- accelerate supply of new and diverse residential accommodation as well as affordability. The PP essentially responds to meet Sydney's growing needs and provides housing options for students, while supporting the economic functions of the Randwick Health and Education Precinct
- The PP achieves a healthy built environment by incorporating the public domain measures outlined in the Council Strategy and opportunities for passive recreation while fostering a sense of safety
- facilitate investment and employment opportunities within an established inner-city suburb
- support small business as a result of the *in-situ* population
- incorporate best practice Environmentally Sustainable Design principles in design and construction. The environmental sustainability of the building shall be considered and strategies to reduce water consumption, energy use and greenhouse gas emissions, and improve stormwater quality will be implemented.

Easter City District Plan

The Eastern City District Plan (District Plan) is intended to guide the implementation of the Greater Sydney Region Plan at a district level, bridging between regional and local planning by informing Local Environmental Plans and Planning Proposals. In particular, the District Plan provides detailed planning priorities which integrate relevant objectives, strategies and actions in response to the identified challenges and opportunities.

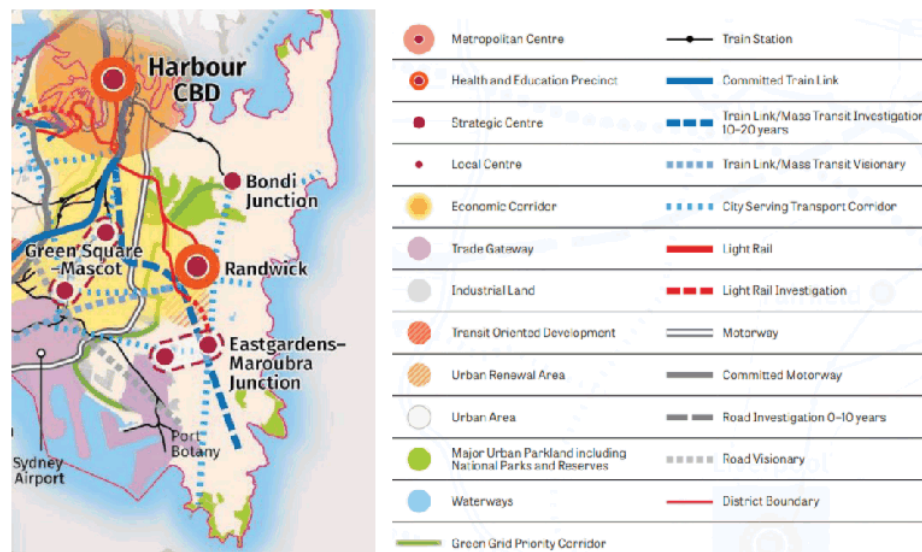
In particular, the District Plan provides detailed planning priorities which integrate relevant objectives, strategies and actions in response to the identified challenges and opportunities. The planning priorities relate to the following key aims of the District Plan, being:

- Liveability
- Productivity
- Sustainability, and
- The above aspects being supported through greater infrastructure and collaboration.

Kensington is located within the Eastern District and is located in close proximity to Randwick Collaboration Area and supports the area's growth and liveability for workers, residents and students. The Eastern City District Plan contains key productivity and planning priorities that are relevant to the PP including:

- driving economic growth and contributing to job targets;
- fostering healthy, creative, culturally rich and socially connected communities;
- providing housing supply, choice and affordability, with access to jobs, services and public transport;
- creating and renewing great places and local centres, and respecting the district's heritage;
- delivering integrated land use and transport planning and a 30-minute city, and
- suitably managing the potential impacts of the development.

Eastern City District Structure Plan



Source: Greater Sydney commission

The proposal recognises the importance to grow Kensington's role as part of the Randwick Collaboration Area and provides greater accommodation choice within walking distance from the universities located



proximate to the site. Importantly, the provision of student accommodation in the Randwick Collaboration Area will foster its growth and continue to raise UNSW's profile as an education facility on a global scale.

The Economic Impact Assessment accompanying this application has undertaken extensive analysis in terms of housing choice and affordability and provides the following:

- The rental market in Randwick is expensive, with the median rent at \$652 per week and 13.5% higher than the Sydney Metropolitan Area
- The premium price is driven by locational factors (proximity to Sydney CBD, beaches, schools etc.), as well as the employment requirements generated by Prince of Wales Hospital and UNSW.
- The price of rents has increased on average by 2.2% per annum since 1990, being higher than the SMA at 2%. This has made Randwick less affordable over time.
- The demand generated by UNSW in 2016 demonstrated that, of 43,000 full time students, 3,900 are housed in PBSA, with an additional 11,600 students living in the private rental market in Randwick. The remainder live outside the LGA.¹⁰

Therefore, in absence of the creation of new PBSA options, the pressure on the rental market will remain and potentially increase, with increasing prices being the subsequent result. This pressure derogates from the intentions of the Eastern District Plan, which seeks the *supply of housing supply, choice and affordability with access to jobs and services*.

The other key factor is that the density of PBSA accommodation is significantly higher than the private residential market; without an increase in PBSA accommodation, downward pressure on inflated rents, driven by a shortage in PBSA accommodation cannot occur.¹¹

The increasing pressure on rents also derives less disposable income to be spent within the LGA; subsequently, the benefit to the local economy is not derived due to a lack of available disposable income. Again, this derogates from the intentions of the Eastern District Plan to drive economic growth and allow for the renewal of great places and local centres, which the subject site is at the doorstep of the Kensington Centre. Therefore, one of the fundamental opportunities to increase local spending is to provide quality affordable student accommodation in a location that is derived of product for one of the most dominant user groups.

In addition to supporting unmet demand in the residential market, there are also the direct and indirect economic benefits from the proposal. With an estimated construction cost of \$31,400,000 this will generate

¹⁰ Economic Assessment, MacroPlan Dimasi, Page 14

¹¹ Economic Assessment, MacroPlan Dimasi, Page 16



up to 90 full time jobs from the planning stage and through construction. Once completed, between 15 and 20 full time equivalent jobs will be available. The nett benefit of this is as follows:

The operation of a new student accommodation and housing the tertiary students will in turn support the local economy - i.e. they will buy things from or seek services from or participate in local businesses, schools, cultural and sporting associations etc.¹²

The outcome associated with improved affordability (generally by about \$200/week/student) means that this money can be spent elsewhere in the local economy.

The Economic Impact Assessment provides the following as to the benefit of the proposal:

The site's ongoing use would help to 'fill a void' that exists since the site's underutilisations and would complement other existing nearby facilities without compromising the primary retail/business role of the existing town. Moreover, the proposed development will consolidate the significance of the existing University Town and provide an important northern 'entry' to the area.¹³

Given the pressure, not only on stock, but on price, within the rental market, along with the lack of participation in local expenditure, the proposed PBSA will provide a significant opportunity to the local economy and assist to achieve the fundamental principles sought by the Eastern District Plan.

Importantly, the provision of student accommodation in the Randwick Collaboration will foster its growth and continue to raise UNSW's profile as an education facility on a global scale.

The proposal is consistent with the above priorities of the plan and delivers a high quality located in close proximity to public transport facilities that will support connections to employment and services, both within the vicinity of the site and further afield. The proposal will improve the surrounding streetscape with the incorporation of active street frontages and create an inviting public domain that will contribute to shaping a coherent, activated and accessible shared private and public space.

NSW State Plan 2021

The NSW 2021 is the State government's strategic plan for setting priorities for action and guiding resources across a broad range of services and infrastructure. The goal of the plan is to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability, and strengthen local environment and communities.

This PP supports the Premier's and States priorities in that it will:

- Contribute to affordable housing;

¹² Economic Assessment, MacroPlan Dimasi, Page 21

¹³ Economic Assessment, MacroPlan Dimasi, Page 21



- Support new small businesses; and
- Create construction jobs.

The redevelopment of the site is consistent with the plan as it will provide student accommodation in a Town Centre with excellent access to transport, services, facilities and educational and health establishments. This will contribute to the State's wider goal of achieving housing choice within close proximity to existing and proposed transport infrastructure, centres and services. The density of development will not place undue pressure on existing infrastructure and facilities to meet the needs of future residents within the development.

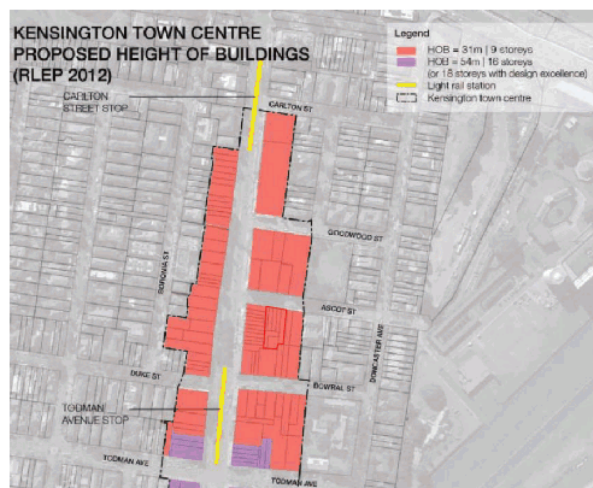
Appendix 9: Consistency with Local Strategies

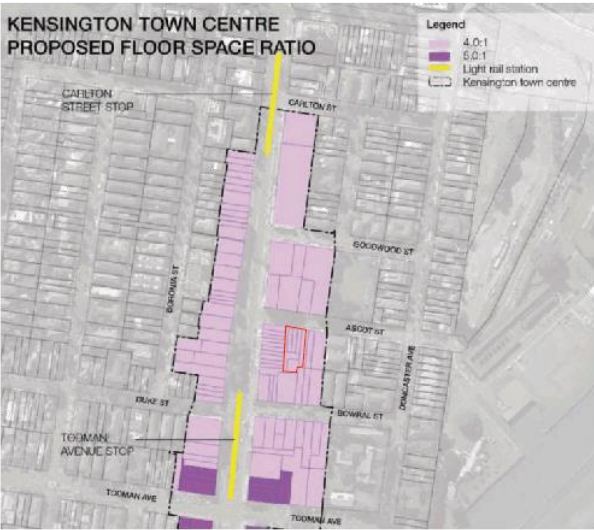
Kensington and Kingsford Town Centres (K2K Strategy)

The K2K Strategy is considered relevant to this proposal. While this has not yet been on public exhibition, for the benefit of future strategic planning this Planning Proposal has been considered.

The K2K Strategy establishes the urban design principles and maximum development potential of the Town Centres, with the uplift matched by commensurate public benefits such as new plazas, pocket parks and public domain upgrades, as well as smaller projects that build on the Town Centre's emerging development and creative economy. The development standards contained in the K2K Strategy, include a potential FSR of 4:1 and a maximum building height of 31m. The provision of footpath extensions to improve the carrying capacity has been identified as priorities for this location in the K2K Strategy. The reference scheme has been designed to comply with the relevant controls.

Proposed Controls in Council's PP





Source: Randwick City Council

The proposal has been designed to be consistent with the Council’s visions for the site. The Table below examines the feasibility of new development under the proposed built form controls outlined in the K2K Strategy and comments on the redevelopment outcomes following gazettal of new planning controls.

Compliance with the Council’s PP

PROPOSED CONTROLS IN THE K2K STRATEGY	REFERENCE DESIGN	COMMENTS
Development Standards		



Floor Space Ratio	4:1	The PP, in its current form, has a GFA of 5,700m ² which equates to an FSR of 4.4:1 (inclusive of ARH SEPP bonus)
Height of Building	31m	The maximum height of the PP is 30.8m.
Non-residential FSR	Not Applicable	Not applicable
Active Frontages Required	Not required	Complies; the ground floor does not incorporate any residential component. Communal areas are provided on the ground floor to enhance street level vibrancy and passive surveillance.
Setbacks		
Street	1.5m	The proposal is designed to improve the carrying capacity of footpaths. The proposal provides a 1.5m setback in the podium level with the exception of the stairs to the entrance of the building required as a result of the flood mitigation measures.
Tower	4m from the podium	The design includes a 4-storey podium and steps back at the fourth storey to achieve a visual separation between the lower and upper levels of the building. This avoids a dominating appearance to this local street frontage, which otherwise benefits from a local centre zoning.

The proposal delivers the public benefits identified in this Strategy, such as larger setbacks to facilitate footpath widening, together with demonstrated design excellence. Further, the proposal will improve the surrounding streetscape with the incorporation of active street frontages and providing inviting public domain spaces. This will strengthen the function of the Town Centre, making it an attractive location to live, work and visit. This application is therefore consistent with the outcomes of the K2K Strategy.

Independent Planning Commission Advice

A Gateway Determination was issued by the Department of Planning (DPE) for Council's Planning Proposal on 12 December 2017. This was issued with a number of conditions, some of which the Council was not amenable to. As such, a Rezoning Review Application was lodged by the Council contesting some conditions and the matter was heard by the NSW Independent Planning Commission (IPC). However, following the request for review being lodged, all but one recommended condition had been resolved to Council's satisfaction. It is noted that the matters being contested in the Review do not specifically affect the outcomes for the subject site. The only condition that remained in dispute was the Community Infrastructure Contribution (CIC).

Implementation of the K2K Strategy

The IPC's advice dated 29 October 2018 outlines the methodology in which the new development standards will be introduced and confirms that the existing FSR and height controls will not be changed. However, a new clause will be introduced in the LEP titled, *Height of buildings and floor space ratio at Kensington and*



Kingsford town centre and the additional FSR/height can only be used by making a contribution towards community infrastructure. Paragraph 56 of the IPC's advice outlines the pathway through which development consent can be obtained, an extract of which is provide below:

56. The Commission further concludes that the RLEP 2012 would provide three pathways to development consent on the affected sites, including:
- compliance with the height limits under clause 4.3 of the RLEP 2012; or
 - obtaining a variation to the maximum building heights through submission of a written request pursuant to clause 4.6 of the RLEP 2012; or
 - by making a voluntary offer to enter into a VPA to contribute to community infrastructure.

Further, Paragraph 44 of the IPC report confirms that CIC applies to both height and FSR.

5.1.2 Clarification on whether the CIC relates to both building height and FSR

44. The Commission confirmed with Council that the CIC scheme applies to both an increase in the maximum building heights and FSR controls. The Commission therefore recommends the draft CIC clause at Appendix C of the planning proposal be amended to specifically make reference to increased density. This is discussed further at paragraph 60.

The Proponent, at the development application stage would make a formal offer to Council to access the bonus FSR. The development is consistent with the objectives of this clause, while the monetary contribution is consistent with the Guidelines and will contribute to essential community infrastructure needed to support the Town Centre.

This application is therefore consistent with the K2K Strategy.

Appendix 10: Consistency with State Environmental Planning Policies

SEPP NO	POLICY NAME	CONSISTENCY	COMMENT
1	Development Standards	Not Applicable	
19	Bushland in Urban Areas	Not Applicable	
21	Caravan Parks	Not Applicable	
30	Intensive Agriculture	Not Applicable	
33	Hazardous and Offensive Development	Not Applicable	
36	Manufactured Housing Estates	Not Applicable	
44	Koala Habitat Protection	Not Applicable	
47	Moore Park Showground	Not Applicable	
50	Canal Estate Development	Not Applicable	
52	Farms Dams and other Land Water Management Plan Areas	Not Applicable	
55	Remediation of Land (SEPP 55)	Yes	Refer detailed discussions below.
62	Sustainable Aquaculture	Not Applicable	
64	Advertising and Signage	Not Applicable	





65	Design Quality of Residential Flat Development (SEPP 55)	Not Applicable	Not applicable for boarding houses in accordance with Clause 4.4 of this SEPP as RLEP 2012 doesn't require compliance. However, for the purposes of the PP, the built form envelopes prepared Plus Architecture reflects that the design quality principles of SEPP 65 may be achieved.
70	Affordable Housing	Yes	
	Affordable Rental Housing 2009 (SEPP ARH)	Yes	The SEPP provides specific guidance on boarding houses, including room sizes, communal facilities, open space and solar access. The future amenity of the PP was a key consideration during the design of the PP. Given the intended use, the proposal may be eligible for additional bonus provisions. The compliance with the relevant provisions of this SEPP are discussed in detail below.
	Building Sustainability Index (BASIX) 2004 (SEPP BASIX)	Yes	Any future development application would be accompanied by the relevant BASIX certificate.
	Coastal Management 2018	Not Applicable	
	Educational Establishments and Child Care Facilities 2017	Not Applicable	
	Exempt & Complying Development Codes 2008	Yes	The Planning Proposal does not contain provisions that contradict or would hinder application of this SEPP.
	Housing for Seniors or People with a Disability 2004	Not Applicable	
	Infrastructure 2007 (SEPP Infrastructure)	Yes	The PP does not contain provisions that contradict or would hinder application of this SEPP. Any future Development Application to be submitted to Council would need to consider the provisions of this SEPP. The proposal is not classified as traffic generating development under Schedule 3 of the SEPP. Therefore, concurrence from the RMS is not required.

	Kosciusko National Park – Alpine Resorts 2007	Not Applicable	
	Kurnell Peninsula 1989	Not Applicable	
	Mining Petroleum and Extractive Industries 2007	Not Applicable	
	Miscellaneous Consent Provisions 2007	Not Applicable	
	Penrith Lakes Scheme 1989	Not Applicable	
	Rural Lands 2008	Not Applicable	
	State & Regional Development 2011	Not Applicable	
	State Significant Development 2005	Not Applicable	
	Sydney Drinking Water Catchment 2011	Not Applicable	
	Sydney Regional Growth Centres 2006	Not Applicable	
	Three Ports 2013	Not Applicable	
	Urban Renewal 2010	Not Applicable	
	Vegetation in Non-Rural Areas 2017	Not Applicable	
	Western Sydney Employment Area 2009	Not Applicable	
	Western Sydney Parklands 2009	Not Applicable	
Deemed State Environmental Planning Policies			
8	Central Coast Plateau Areas	Not Applicable	
9	Extractive Industry	Not Applicable	
16	Walsh Bay	Not Applicable	
18	Public Transport Corridors	Not Applicable	
20	Hawkesbury Nepean River	Not Applicable	
24	Homebush Bay Area	Not Applicable	
26	City West	Not Applicable	
30	St Marys	Not Applicable	
33	Cooks Cove	Not Applicable	
	Sydney Harbour Catchment 2005	Not Applicable	

The relevant policies are addressed below.

State Environmental Planning Policy 55 – Remediation of Land

Clause 7 requires an applicant to demonstrate whether a parcel of land is suitable for the intended use.

JK Geotechnics have undertaken a Stage 1 and Stage 2 Geotechnical Investigation of the subject site.

The Preliminary Stage 2 Environmental Site Assessment (ESA) establishes soil and groundwater contamination conditions and concludes that:

EIS are of the opinion that the site can be made suitable for the future development at the site, subject to the recommendations below:

1. Prepare a Remediation Action Plan (RAP) to outline remedial measures for the site; and



2. Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings/structures within the site, prior to the commencement of demolition work (if required).

Under the NSW EPA Guidelines on the Duty to Report Contamination under Section 60 of the CLM Act 1997 (2015)²², the requirements to notify the NSW EPA regarding site contamination should be assessed once a remedial strategy has been selected¹⁴.

Further, the report provides a remedial strategy. Thus, the requirements of SEPP 55 have been satisfied as the potential for land contamination has been considered and demonstrates that the site can be made suitable for the intended purpose.

State Environmental Planning Policy – Affordable Rental Housing 2009

Division 3 of Part 2 of the ARH SEPP relates to boarding houses.

The reference design is consistent with the core development standards and accords with the Aims of the Policy. Importantly, the proposal will contribute to a large quantum of affordable residential accommodation for student housing purposes in the Randwick LGA, which is in close proximity to public transport and educational establishments. It will also assist to take existing and significant pressure off the private rental market.

Compliance with SEPP ARH

ZONE OBJECTIVE	COMMENT	COMPLIANCE
26 Land to which this Division applies		
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:...	The site satisfies the requirements as it is located in the B2 Local Centre zone. Therefore, Division 3 of Part 2 is applicable.	Yes
(f) Zone B2 Local Centre, ...		
28 Development may be carried out with consent		
Development to which this Division applies may be carried out with consent.	The use for a boarding house would therefore be permissible with development consent.	Yes
29 Standards that cannot be used to refuse consent	Any future Development Application to be submitted to Council would need to consider the provisions of this Clause.	
30 Standards for boarding houses		
1. A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		

¹⁴ Preliminary Stage 2 Environmental Site Assessment, Environmental Investigation Service, Page 39



a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Communal living areas are provided on the ground floor of the building. These areas would be available to all lodgers for recreational purposes and accommodate a range of facilities such as lounge, cinema, kitchen and study areas.	Yes
b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	The reference design demonstrates that no boarding room has a GFA in excess of 25m ² , excluding area used for the purposes of private kitchen and bathroom facilities. The shared rooms have a maximum area of 18.5m ² .	Yes
c) no boarding room will be occupied by more than 2 adult lodgers,	The shared room accommodates two lodgers in a room.	Yes
d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each studio, shared room and DDA room would contain private bathroom and kitchen facilities. Communal kitchen and bathroom facilities would be provided for the cluster rooms.	Yes
e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house will have the capacity to accommodate more than 20 lodgers and therefore accommodation for a boarding room manager would be provided.	Yes
f) (Repealed)		
g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	No student rooms would be provided at ground floor level. The communal areas encompass the ground floor and would provide an interactive living environment.	Yes
h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The reference design comprises a total of 213 boarding rooms and therefore 43 bicycle and motorcycle spaces must be provided. The reference design demonstrates that 52 bicycle spaces and 33 motorcycle spaces can be accommodated in the basement parking area. The proposed bicycle parking is well in excess of the minimum requirements. However, there is a shortfall of motorcycle parking provision 10 spaces. This level of motorcycle parking shortfall however is considered	Yes, on merit.



	negligible based on typical student travel behaviours. The adequacy of the spaces is discussed in the traffic assessment accompanying this PP.	
2. Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not Applicable.
30A Character of local area		
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.	The proposal is considered to be compatible with the emerging character of the locality and is compliant with the intentions of the K2K Strategy.	Yes

Appendix 11: Consistency with Ministerial Directions

Direction No.	Title/Clause	Comment
1	Employment & Resources	
1.1	Business & industrial zones	Applicable
1.2	Rural zones	Not Applicable
1.3	Mining	Not Applicable
1.4	Oyster Aquaculture	Not Applicable
1.5	Rural Lands	Not Applicable
2	Environment & Heritage	
2.1	Environment Protection Zones	Not Applicable
2.2	Coastal management	Not Applicable
2.3	Heritage conservation	Not Applicable
2.4	Recreation vehicle areas	Not Applicable
2.5	Application of E2 and E3 zones and Environmental Overlays in Far North Coast LEPs	Not Applicable
3	Housing, Infrastructure and Urban Development	
3.1	Residential zones	Not Applicable
3.2	Caravan parks and manufactured home estates	Not Applicable
3.3	Home occupations	Not Applicable
3.4	Integrating land use and transport	Applicable
3.5	Development near licensed aerodromes	Not Applicable
4	Hazard & Rise	
4.1	Acid sulfate soils	Not Applicable
4.2	Mine subsidence and unstable land	Not Applicable
4.3	Flood prone land	Applicable



4.4	Planning for bushfire protection	Not Applicable
5	Housing, infrastructure & urban development	
5.2	Sydney drinking water catchment	Not Applicable
5.3	Farmland of State and regional significance on the NSW Far North Coast	Not Applicable
5.8	Second Sydney Airport: Badgerys Creek	Not Applicable
5.9	North West Rail Link Corridor Strategy	Not Applicable
5.10	Implementation of regional plans	Not Applicable
6	Local Plan Making	
6.1	Approval and referral requirements	Applicable
6.2	Reserving land for public purposes	Not Applicable
6.3	Site specific provisions	Applicable
7.	Local Plan Making	
7.1	Implementation of A Plan for Growing Sydney	Applicable
7.2	Implementation of Greater Macarthur Land Release Investigation	Not Applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4	Implementation of North West Priority Growth Area Land use and Infrastructure Implementation Plan	Not Applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable

Those relevant are addressed below.

Direction 1.1	Business and Industrial Zones	Compliance & Comment
Objectives		
	The objectives of this direction are to:	
	<ul style="list-style-type: none"> a) encourage employment growth in suitable locations, b) protect employment land in business and industrial zones, and c) support the viability of identified centres. 	The PP provides increased employment opportunities during construction and through the operation of the premises. The proposal essentially responds to meeting Sydney's growing needs and provides housing options for students, while supporting the economic functions of the Randwick Education and Health Strategic Centre.





		In terms of employment, during the construction phase, the proposal will approximately generate 70 to 85 Full Time Equivalent (FTE) direct and indirect jobs supported in the supply of materials and additional spend generated by construction workers in local shops and services. Once the development is operational, approximately 15 to 20 additional jobs are created for the purposes of management and security, as well as cleaning and maintenance.
What a relevant planning authority must do if this direction applies		
	A planning proposal must:	
	a) give effect to the objectives of this direction,	Complies,
	b) retain the areas and locations of existing business and industrial zones,	The proposal enables residential development that is well-integrated with, and supports the primary business function of, the zone.
	c) not reduce the total potential floor space area for employment uses and related public services in business zones,	The <i>in-situ</i> student population will support the creation of new jobs in Kensington, driven by additional demand for goods and services in the immediately surrounding vicinity. The development will support the creation of a greater night-time economy, particularly focussed around the Town Centre as envisaged in the K2K Strategy.
	d) not reduce the total potential floor space area for industrial uses in industrial zones, and	Not applicable; the site is located in an industrial zone.
	e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.	Complies; Refer discussions in Appendix 3.
Consistency		
	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary)	Not applicable; the proposal is consistent with this Direction.

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Planning Proposal – 18-26 Ascot Street | Kensington



	that the provisions of the planning proposal that are inconsistent are:	
	a) justified by a strategy which:	
	i. gives consideration to the objective of this direction, and	
	ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and	
	iii. is approved by the Secretary of the Department of Planning and Environment, or	
	b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or	
	c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or	
	d) of minor significance.	
	Note: In this direction, “identified centre” means a centre that has been identified as a strategic centre, regional city or centre in a regional strategy, regional plan, sub-regional strategy, or another strategy approved by the Secretary.	
Direction 3.4	Integrating Land Use & Transport	Compliance & Comment
Objectives		
	The objectives of this direction are to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:	
	a) improving access to housing, jobs and services by walking, cycling and public transport, and	The site’s location and the opportunity to increase the density thereon, ensures that the urban structure is reinforced. The proposal will improve access to housing, as well as, due to its position, encourage sustainable transport opportunities, including



		walking and cycling, by maximising access to, and connectivity with, the surrounding areas.
	b) increasing the choice of available transport and reducing dependence on cars	Given the site's proximity to existing and proposed transport opportunities, the location does present an opportunity to reduce the dependence on cars. The proposed number of car parking spaces demonstrates the importance of promoting site redevelopment that takes account of the public transport opportunities that are afforded to this location, thereby reducing the need for private vehicle modes.
	c) reducing travel demand including the number of trips generated by development and the distances travelled especially by car, and	Providing student accommodation in close proximity to educational establishments and local services is likely to reduce travel demand.
	d) supporting the efficient and viable operation of public transport services, and	The proximity of the site to these opportunities ensures that the viability of public transport services is reinforced as a result of this proposal.
	e) providing for the efficient movement of freight	Not applicable.
What a relevant planning authority must do if this direction applies		
	A planning proposal must:	
	A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:	The proposal supports these.
	a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001)	
	b) The Right Place for Business and Services – Planning Policy (DUAP 2001).	
Consistency		
	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the	Not applicable; the proposal is consistent with this Direction.



	provisions of the planning proposal that are inconsistent are:	
	a) justified by a strategy which: <ul style="list-style-type: none"> (i) gives consideration to the objective of this direction, and (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning, or 	
	b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or	
	c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objectives of this direction, or	
	d) of minor significance.	
Direction 4.3	Flood Prone Land	Compliance & Comment
Objectives		
	The objectives of this direction are to:	
	a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The subject site was previously subject to backwater flood inundation at the street frontage originating from flooding within Anzac Parade. Significant improvements to the drainage has been undertaken on Anzac Parade as a result of the light rail construction which has materially reduced the flooding level across the development frontage. The floor levels of the development will be set at an appropriate height to reduce the frequency of inundation of structures and floors to an acceptable probability. The PP will therefore not result in any increased risk to human life, nor increase the



		potential flood affectation of surrounding properties.
What a relevant planning authority must do if this direction applies		
	A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).	Refer discussion above.
	A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	Not applicable; no rezoning proposed as a part of this application.
	A planning proposal must not contain provisions that apply to the flood planning areas which: <ul style="list-style-type: none"> a) permit development in floodway areas, b) permit development that will result in significant flood impacts to other properties, c) permit a significant increase in the development of that land, d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. 	No such provisions are proposed.
	A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	Complies.
	For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is	Noted.

	inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	
Consistency		
	A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:	Not applicable; the proposal is consistent with this direction.
	a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and	
	b) the provisions of the planning proposal that are inconsistent are of minor significance.	
	Note: “flood planning area”, “flood planning level”, “flood prone land” and “floodway area” have the same meaning as in the Floodplain Development Manual 2005.	
Direction 6.1	Approval and Referral Requirements	Compliance & Comment
Objective		
	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	This direction ensures that LEP provisions encourage the efficient and appropriate assessment of development. This PP does not include any concurrence, consultation or referral provisions. Additionally, it does not identify any development as designated development.
Direction 6.3	Site Specific Provisions	Compliance & Comment
Objectives		
	The objectives of this direction is to:	
	a) discourage unnecessarily restrictive site specific planning controls	Complies. The PP does not introduce any restrictive site specific controls. The proposal, in actual fact, introduces provisions that will provide greater flexibility in





		order to achieve better development outcomes as envisaged in the K2K Strategy.
What a relevant planning authority must do if this direction applies		
	A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:	
	a) allow that land use to be carried out in the zone the land is situated on, or	The proposed use of the site as student accommodation is permitted in the B2 Local Centre zone with development consent.
	b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirement in addition to those already contained in that zone, or	As discussed previously, the proposal seeks to impose specific development standards in line with the controls outlined in the K2K Strategy.
	c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	
	A planning proposal must not contain or refer to drawings that show details of the development proposal.	Noted. The proposal seeks to increase the maximum building height limit and establish an FSR for the site.
Consistency		
	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are of minor significance.	Not applicable; the proposal is consistent with this direction.
Direction 7.1	Implementation of A Plan for Growing Sydney	Compliance & Comment
Objectives		
	The objectives of this direction is to give legal effect to the planning principles; directions and priorities for subregions, strategic	The Greater Sydney Region Plan (GSRP) is a revision of A Plan for Growing Sydney and provides the overarching strategy for growing and



	centres and transport gateways contained in A Plan for Growing Sydney.	shaping the Greater Sydney region. The PP is consistent with the objectives, directions and priorities contained in GSRP as discussed in Appendix 3.
Where this direction applies		
	This direction applies to land comprising of the Randwick local government area.	Noted.
What a relevant planning authority must do if this direction applies		
	Planning proposals shall be consistent with the NSW Government's A Plan for Growing Sydney, published in December 2014.	Refer discussions above.
Consistency		
	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the extent of inconsistency with A Plan for Growing Sydney:	Not applicable; the proposal is consistent with GSRP as addressed previously.
	a) is of minor significance, and	
	b) the planning proposal achieves the overall intent of the Plan and does not undermine the achievement of its planning principles, directions and priorities for subregions, strategic centres and transport gateways.	

Planning Proposal Kensington and Kingsford Town Centres

| January 2017



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Appendix 2 - Kensington and Kingsford Town Centres Urban Design Report 2016
Appendix 3 - Kensington and Kingsford town centres - Affordable Housing and Community Infrastructure to Support Growth 2016
Appendix 4 - Kensington to Kingsford Infrastructure Contribution Financial Feasibility Assessment 2016
Appendix 5- Kensington and Kingsford town centres Draft Issues Paper (March 2016)
Appendix 6 - Council Resolution 17 December 2016
Appendix 7 - Liveability/Walkability Indicators
Appendix 8 - Kensington, Kingsford and Randwick Junction Economic Impact of Light Rail (Stage 1 and 2 Reports) 2016

Appendix 9 - Kensington and Kingsford Parking Controls Advice 2016

Appendix 10 - Kensington and Kingsford Planning Strategy Traffic Assessment (Stage 1) 2016

Appendix 11 - Kingsford Heritage Review

Appendix 12 – Letter of Support from the Minister for Planning (10.01.17) for Randwick City's inclusion into SEPP 70

Appendix 13 - Anzac Parade Corridor Light Rail Analysis 2016

Appendix 14 - Draft Kensington and Kingsford Affordable Housing Plan

Introduction

The purpose of the Planning Proposal for the Kingsford and Kensington town centres is to outline the intended effects of the proposed LEP amendments to Randwick LEP 2012 and justification for the proposed changes. This draft Planning Proposal has been prepared in line with the Department of Planning and Environment's Planning Proposal Guideline, August 2016.

The draft Planning Strategy Kensington and Kingsford town centres (draft Strategy; Appendix 1) underpins the recommended planning amendments and contains the vision and evidence base for the actions and directions to address the sustainable growth of the two town centres. The draft DCP for the two Centres is currently being prepared and is also based on the draft Strategy.

The draft LEP provisions have been prepared in line with a number of studies, including the Kingsford and Kensington Urban Design Report (Urban Design Report; Appendix 2) prepared by Conybeare Morrison Pty Ltd following a detailed review of existing planning controls, built form, opportunities and constraints. The Urban Design Report includes a vision for each town centre and guiding principles for the built form Strategy.

In addition, the draft LEP provisions on affordable housing and community infrastructure have been informed by specialised strategic advice on infrastructure provision from SG Haddad Advisory (Appendix 3) supported by a financial feasibility assessment conducted by Hill PDA (Appendix 4). These draft provisions aim to deliver on providing affordable housing within the town centres and the required infrastructure items and public domain works, as identified in the draft strategy, to support growth and change.

Planning Review Process

In early 2016 Council initiated a comprehensive planning review of the Kensington and Kingsford town centres to ensure the planning framework is up to date, robust and well-aligned to meet future needs.

As a first step in the Planning Review the Kensington and Kingsford Town Centre Draft Issues Paper (Appendix 5) was prepared in March 2016, which identifies a number of pertinent planning, urban design and public domain challenges affecting the Kensington and Kingsford town centres, together with strategic directions to be addressed.

The next stage of the Review process was an International Urban Design Competition held between July and October 2016, which provided the opportunity for a creative visioning of the town centres and extensive community consultation on the future of the town centres. Further information on the Competition is contained within the draft Planning Strategy at Appendix 1.

The draft Strategy has been informed by the ideas generated by the winning entry to the K2K International Design Competition, the six key themes which formed the basis of the competition responses (included in the Competition Brief) as well as the public engagement process which has been an integral part of this Planning review. The six themes which have guided the Strategy are:

- Business and economy
- Public domain, streets and open space
- Housing growth and diversity
- Sense of place and identity
- Urban design excellence
- Sustainability

The draft Planning Strategy built on the findings of the draft Issues Paper and utilised key ideas from the K2K International Urban Design Competition and the outcomes of the associated consultation. The draft Strategy contains a range of objectives, strategies and actions to guide the future sustainable growth and development of the town centres. At its meeting of 17 December 2016, Council endorsed the draft Strategy and associated planning controls to enable a gateway determination to be sought from the Department. The Council Resolution is provided at Appendix 6. The final stage of the comprehensive planning review is the preparation and public exhibition of this planning proposal seeking amendments to the RLEP 2012 for each town centre.

Planning Proposal Boundary

The Planning Proposal applies to land currently zoned B2 Local Centre within the Kensington and Kingsford town centres, the Randwick LGA and three additional sites which form minor boundary extensions to the Kingsford town centre (see Figure 1 below).

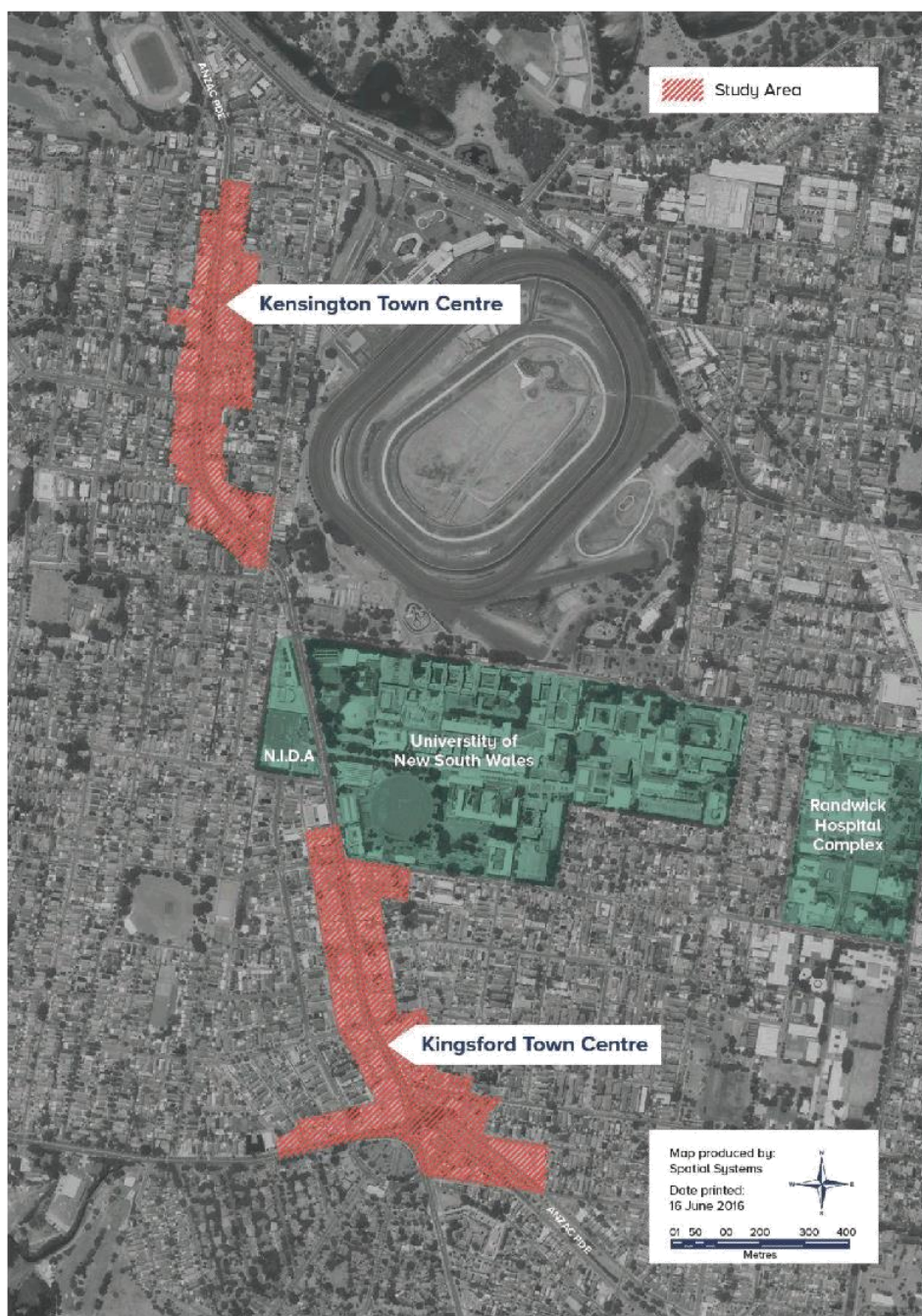


Figure 1: The extent of the land to which the planning proposal applies

Part 1 - Objective

To amend the Randwick Local Environmental Plan 2012 (RLEP 2012) to enable sustainable growth in housing and employment and public benefits for Kensington and Kingsford town centres.

Council's overarching vision for each town centre has been developed, informed by the extensive community consultations undertaken throughout the Planning Review process. The draft vision for each town centre forms the basis for this planning proposal and the strategies and actions contained in the draft Strategy.

Vision for Kensington Town Centre

"Kensington will evolve into a vibrant and dynamic town centre situated along Anzac Parade, Sydney's finest grand green boulevard.

The town centre will be well connected and highly accessible, capitalising on its proximity to key employment hubs including the Randwick Health and Education Super Precinct and the Sydney CBD.

Kensington town centre will offer an exciting city apartment lifestyle, with buildings designed to the highest quality and offering excellent amenity to residents. A range of housing types including affordable housing will be woven into the town centre's urban fabric to offer housing diversity and choice to a wide range of people including the elderly, students and families. The integrity of existing heritage and contributory buildings will be respected and integrated with the best contemporary architecture that enhances the character and layering of the town centre experience.

Kensington town centre will be a focus for creativity and innovation. A gallery/creative space at Todman Square will create a cultural anchor for the town centre, supported by a diverse range of cafes, restaurants and shopping options that attract visitors from across Sydney. Innovative startups will translate cutting edge research into real world business success.

The town centre will have a green identity, setting the bench mark for sustainability within the Local Government Area (LGA) through Ecologically Sustainable Development (ESD) targets, Water Sensitive Urban Design (WSUD) practices, high quality green public places with linkages to nearby parks, and sustainable transport modes such as the light rail, cycling and walking".

Vision for Kingsford Town Centre

"Kingsford will develop into an exciting and dynamic town centre continuing to draw on its rich multi-cultural identity. The town centre will provide a diverse offer of restaurants, cafes and retail shopping, set within a rejuvenated public domain that supports activation and social interaction.

The town centre will be a safe and inclusive place to live, work and visit. Buildings will be designed to the highest quality incorporating a mix of apartments, laneway mews and affordable housing.

Highly connected and accessible, the town centre will foster hubs of activity focused around the terminus at Kingsford Junction and Kingsford Mid-Town, the old heart of the Kingsford.

The town centre will have a green focus and set a new performance benchmark for sustainability within the LGA through ESD targets, WSUD practices, public places with canopy trees and landscaping and support of sustainable transport modes such as the light rail, cycling and walking.

The integrity of existing heritage and contributory buildings will continue to be respected and integrated, through high quality architectural design. Innovative business start-ups will be encouraged to provide a 'bridge' between research and business".

Part 2 - Explanation of Provisions

The proposed outcome will be achieved by various amendments to the RLEP 2012, as detailed below. As a basis for preparing new built form controls for the Kensington and Kingsford town centres, the following urban design principles have been established to help define the future character of the town centres and provide guidance for growth and development:

- Reinforce a boulevard character along Anzac Parade by strengthening the built form edge
- Focus on achieving a dominant typology of mid-rise mixed use buildings throughout the town centres
- Permit taller landmark buildings in prominent highly accessible locations in conjunction with the delivery of substantial public benefits established through a design excellence process
- Achieve a sensitive transition in relation to recently constructed development and surrounding established lower scaled residential neighbourhoods
- Create a positive street level environment through built form that allows solar access, permeability and maintains human scale
- Ensure that new infill development respects the fine grained character of contributory buildings
- Establish building setback controls which provide for the creation of wider footpaths and street tree planting
- Achieve urban design and architectural excellence, including best practice environmental design; and
- Encourage active frontages along Anzac Parade, continuing down side streets.

The following amendments to the RLEP 2012 which will be implemented through this planning proposal are based on the above urban design principles. These principles will be further implemented through future amendments to the DCP 2013.

Affordable Housing Contribution

The planning proposal includes a provision that allows the consent authority to impose a condition on a development application requiring a contribution towards affordable housing. The clause is introduced pursuant to section 94F (1) of the EP&A Act, which allows a consent authority to impose an affordable housing contribution where a SEPP identifies there is a need for affordable housing. This is on the basis that the Minister for Planning has committed to Randwick's inclusion in SEPP 70 as an area in need for affordable housing (see supporting letter from the Minister for Planning dated 10.01.17 at Appendix 7).

The planning proposal seeks to include a new map to identify the area by which the affordable housing contribution as outlined in the affordable housing clause would apply. The effect of the draft provision is that development within the town centres (a copy of the draft clause is included in Attachment A) must contribute towards affordable housing based on the following rate:

Table 1: Rate of affordable housing required

Date of DA lodgement	Percentage of accountable total floor space to which the development application relates (as at 2017)
To June 2019	3%
1 July 2019 onwards	5%

Note: accountable total floor space means the gross floor area of the residential component of the development to which the development application relates.

The affordable housing levy proposed is to be introduced via a two stepped staged approach, commencing at 3% (up to June 2019) and increasing to a maximum of 5% (from July 2019 onwards), to allow the market sufficient lead in time to absorb the contribution rate. The contribution rate is to apply to all development applications for residential development within the Kensington and Kingsford town centres (unless expressly excluded by the LEP), including adaptive reuse of existing floorspace and new floorspace.

Supporting the draft affordable housing clause, a draft Affordable Housing Plan for the Kensington and Kingsford town centres affordable housing contributions scheme (Appendix 14) provides the background requirements and operational detail for the Kensington and Kingsford town centres affordable housing contributions scheme.

Community Infrastructure – Kensington and Kingsford Town Centres

The planning proposal includes a draft provision by which to achieve the maximum building height proposed in this planning proposal (from the existing base height mapped in RLEP 2012), that a contribution is to be made towards the Kensington and Kingsford town centres community infrastructure. The Kensington and Kingsford community infrastructure items and works (which has been directly identified by the draft planning strategy) is listed in Attachment B and includes, but is not limited to, new innovation centres, exhibition space, bicycle sharing facilities and water sensitive urban design.

The proposed new draft clause of Randwick LEP outlines the new maximum building height that sites are potentially capable of achieving but only if, a contribution (either monetary or in-kind) towards the Kensington and Kingsford Community Infrastructure is provided with the development. The suggested draft instructions for this new clause is outlined in Attachment C.

The maximum building height achievable has been derived from the specialised urban design input provided by Conybeare Morrison as outlined in the draft planning strategy for the town centres. The effect of the provision is that development must contribute towards community infrastructure within the Kensington and Kingsford town centres, to achieve the maximum building height proposed, as outlined in this planning proposal. Otherwise if no contribution is made then the existing maximum building heights, as mapped in RLEP 2012, applies to these sites.

It is intended that new site specific controls (applying to Kensington and Kingsford town centres) in Randwick DCP 2013 including associated guidelines *'Providing community infrastructure in Kensington and Kingsford town centres'* will be prepared to support the draft planning provision on community infrastructure. The town centre DCP controls and associated guidelines will detail the type and location of Community Infrastructure needed to support the Kensington and Kingsford town centres, the rationale and how community infrastructure can be delivered through the development process and planning agreements.

Design Excellence

In accordance with the urban design principles guiding this planning proposal, all new development will be expected to deliver a high standard of architectural design to contribute to an enriched experience of the Kensington and Kingsford town centres.

The consideration of 'design excellence' is currently a requirement under RLEP 2012 (clause 6.11) for proposals involving buildings over 15m in height, or for sites that are over 10,000m² in size or for land where a site specific development control plan is required (e.g. Kingsford Triangle site).

While the RLEP 2012 design excellence provisions will apply to most sites within the town centres, it is considered that the key sites located within the identified Precincts (identified in Figures 3 and 4) should achieve a performance benchmark in design innovation and sustainability beyond what is presently required. These sites will accommodate taller building forms that have a greater degree of visibility being located at key transit nodes as well as additional floor space.

As such, a new clause in the RLEP 2012 will require development applications on these sites be informed by an 'architectural design alternatives competition' undertaken by the proponent prior to the lodgement of a formal development application. A similar approach has been adopted by the City of Sydney which has resulted in a number of successful design outcomes.

For development applications that successfully demonstrate design excellence, the following design based trade-offs may result:

- additional building height of up to two additional storeys, and
- exclusion of identified social infrastructure/innovation centre floor space requirements from the total gross floor area calculation.

Full details on the proposed design excellence process are in Part C, Section 5.8 Design Excellence of the draft Strategy.

Height of Building

As outlined above, the planning proposal's maximum building heights will only be applicable with the contribution of a community infrastructure charge.

In accordance with the urban design principles outlined in Part 1, an overall mid-rise building height limit of 31 metres for new development throughout both town centres is proposed. In addition to FSR changes, this will enable the density to be spread mainly through mid-rise buildings, providing a more human-scaled built form that supports a comfortable pedestrian environment while also enhancing opportunities for solar access.

The proposed 31m height limit is considered to respond well to the proportions of Anzac Parade and other streets within the study area. It also provides an appropriate scale transition to recently constructed buildings (approved under existing planning controls), while respecting the character of surrounding lower scaled residential neighbourhoods.

Within both town centres there are a number of prominent sites located at strategic nodes that could accommodate taller, slender buildings (See Figures 3 and 4). A higher rise building typology in these locations would help create a distinctive urban form within the town centres, while facilitating activation around the light rail infrastructure. The Precincts are identified in the town centre maps below:

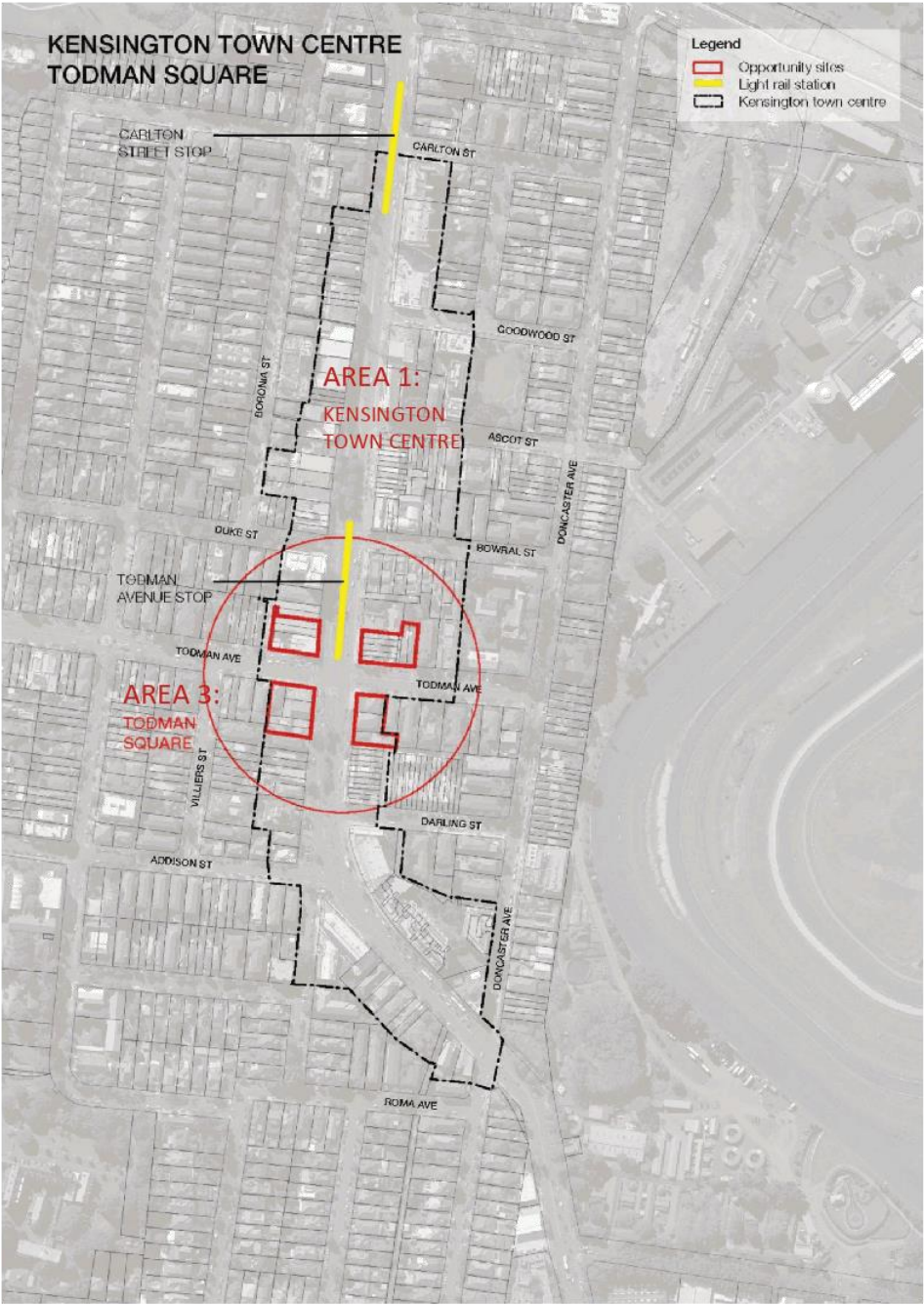


Figure 2: Kensington town centre and Todman Square Precinct

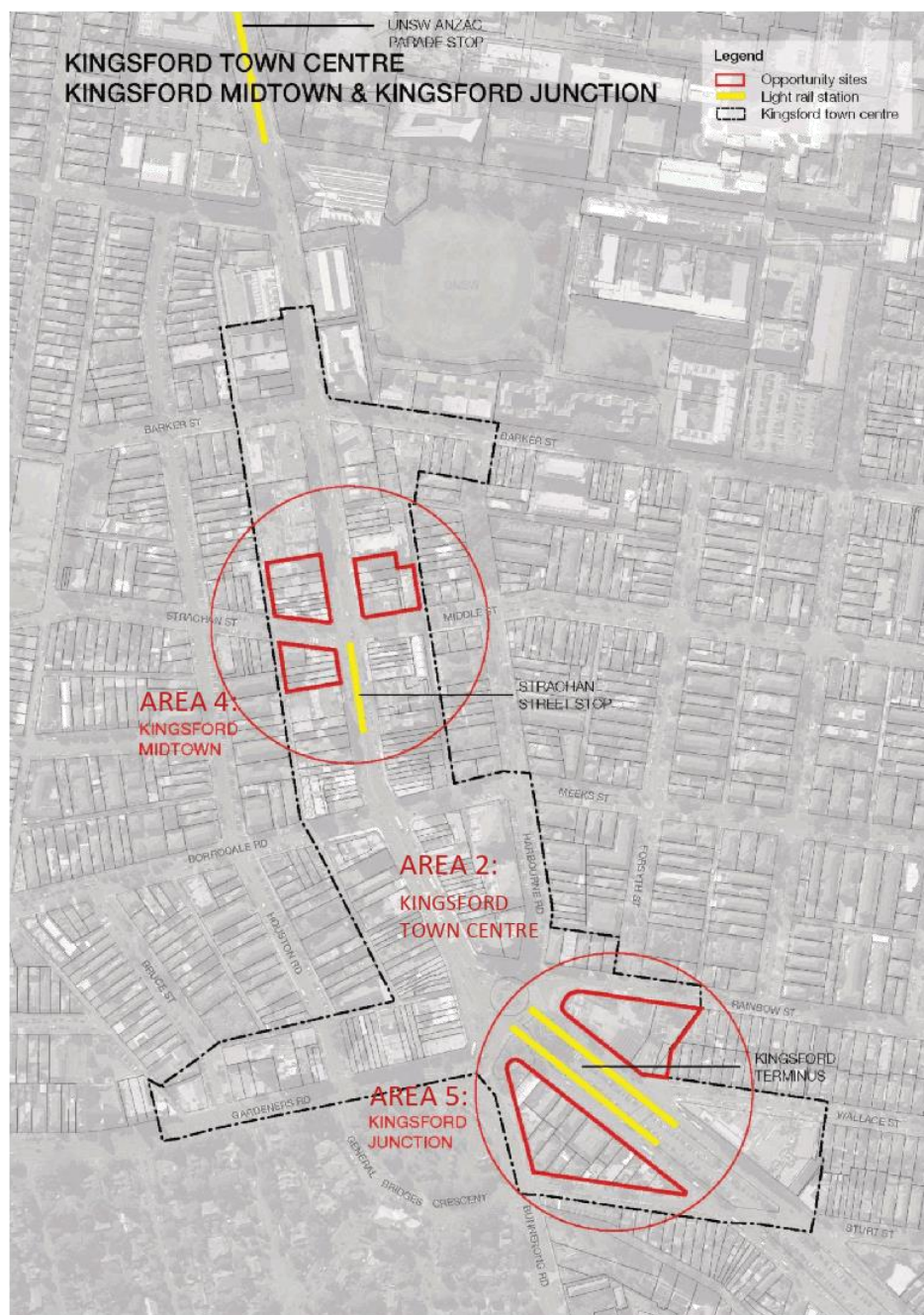


Figure 3: Kingsford town centre and Precincts

The proposed heights are as follows:

Table 2: Proposed height of building

Site	Height of Building	
	RLEP 2012	With design excellence
Area 1 (Kensington town centre)	31m	N/A
Area 2 (Kingsford town centre)	31m	N/A
Area 3 (Todman Square Precinct)	54m	60m
Area 4 (Kingsford Mid-Town Precinct)	54m	60m
Area 5 (Kingsford Junction Precinct)	51m	57m

The proposed height of building is detailed in the maps at Attachment D. Full details on the proposed building heights, including street wall controls and transition heights to adjoining residential areas are located in Part C, Section 5.2 Built Form Controls of the draft Strategy.

Floor Space Ratio

Kingsford town centre currently has an applicable floor space ratio (FSR) of 3:1 included in the RLEP 2012. Kensington town centre does not have an applicable FSR, rather site specific building envelopes identified in DCP 2013. Based on these envelopes, FSR in the Kensington town centre vary from 2.5:1 – 3:1.

The Urban Design Report investigated an appropriate FSR that would work in conjunction with the proposed revised building heights and still achieve a good urban design outcome for the town centres. Based on the outcomes of built form modelling, the following FSRs are proposed:

Table 3: Proposed floor space ratios

Site	RLEP 2012 FSR
Area 1 (Kensington town centre)	4:1
Area 2 (Kingsford town centre)	4:1
Area 3 (Todman Square Precinct)	5:1
Area 4 (Kingsford Mid-Town Precinct)	5:1
Area 5 (Kingsford Junction Precinct)	5:1

The proposed FSRs are as per the areas identified in Figures 2 and 3, and detailed in the maps at Attachment E. Full details on the proposed FSR are located in Part C, Section 5.4 Floor Space Ratio of the draft Strategy.

Minimum Non-Residential Floor Space Ratio

Analysis by Macroplan Dimasi predicts employment floor space demand for Kensington town centre to grow by around 6,000-6,500m² by 2036 and employment floor space demand for Kingsford town centre to grow by around 10,000-10,500m² by 2036.

A desktop analysis of approved Development Applications (DAs) was conducted to identify the quantity of commercial floor space in mixed-use buildings on Anzac Parade built since 2000. The analysis of floorplans revealed that on average, only 27% of the site, on the ground floor, is used for commercial floor space. In general, this is a significantly lower quantity of commercial floor space than was on the site prior to redevelopment. This means that over time, as new developments occur, each centre is undergoing a net loss of commercial floor space.

If current trends continue, where only around 27% of the ground floor of developments is used as commercial floor space, when each centre is fully developed, there will be a supply deficit of approximately 18,500m² in Kingsford and 24,000m² in Kensington, or 42,500m² across the two centres. This would be a significant reduction of existing commercial floor space and is inconsistent with the role of the centres, as identified in 'A Plan for Growing Sydney'.

Support for commercial floor space is required to ensure adequate floor space is delivered within the town centres to provide local retail and commercial services for residents of the centres. A minimum non-residential FSR of 1:1 in the RLEP 2012 applying at the key nodes of Todman Square, Kingsford Midtown and Kingsford Junction Precincts will ensure floor space is available for supermarkets, retail, childcare centres, local services, shared working spaces and innovation hubs. This minimum quantity of retail or commercial floor space will ensure the light rail stops become nodes of commercial and retail activity within the centres.

The proposed non-residential FSR maps are located at Attachment F. Full details on the proposed FSR are located in Part C, Section 4.4 Commercial Floor Space and Jobs Growth of the draft Strategy.

Active Frontages

While the minimum non-residential FSR applying at the three Precincts will ensure nodes of activity are created within the town centres, to ensure future employment needs can be accommodated within the town centres, and for vibrancy and safety in the town centres, it is necessary to ensure the entire extent of the town centre has active frontages.

An LEP active frontage provision will require sites provide commercial or retail floor space. This requirement, to be applied as per the active frontages map at Attachment G will ensure retail and commercial floor space is provided throughout the centre, and that streets and plazas have activity to provide vibrancy and passive surveillance. A DCP control will also be provided, to encourage developments to provide active frontages to mid-block links, secondary streets and laneways where active frontages are preferred.

B2 Local Centre Land Zone Boundary Extensions

Three key opportunity sites were identified in the draft Issues Paper as providing a logical extension to the Kingsford town centre given their strategic location. It is proposed that the B2 Local Centre zone be applied to these sites to reflect existing business uses, and ensure a cohesive zoning application across the entire block. The subject sites are listed in the table below and detailed further in Part C, Section 10.0 Zoning and Landuse and Appendix 3 of the draft Strategy. Maps demonstrating the proposed B2 Local Centre zone boundary are located at Attachment H.

Table 4: Proposed B2 zone boundary extensions

Site	Current Zone	Proposed Zone	Current RLEP 2012 Controls	Proposed RLEP 2012 Controls
16- 20 Barker Street, Kingsford	R3 Medium Density Residential	B2 Local Centre	Height: 9.5m FSR: 0.75:1	Height: 31m (9 storeys) FSR: 4:1
582-584 and 586-592 Anzac Parade, Kingsford	R2 Low Density Residential	B2 Local Centre z	Height: 9.5m FSR: 0.5:1	Height: 31m (9 storeys) FSR: 4:1

63 Harbourn Road and 12-18 Rainbow Street, Kingsford	R3 Medium Density Residential	B2 Local Centre	Height: 12m FSR: 0.9:1	Height: 31m (9 storeys) FSR: 4:1
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Proposed Site Specific DCP Provisions

The draft DCP for the town centres will replace the existing site specific DCPs contained in the Randwick Comprehensive DCP 2013. It is currently being prepared and will be placed on public exhibition in mid-2017. The main components of the draft DCP are as follows:

- Introduction
 - Existing character
 - Proposed character
- Affordable Housing Contribution
- Community Infrastructure – Kensington and Kingsford town centres
- Built Form
 - Design Excellence
 - Street wall heights
 - Building setbacks
 - Building depth and bulk
 - Building exteriors
 - Contributory buildings
 - Awnings
- Public Domain
 - Access network
 - Active street frontage
 - Addressing the street
 - Sun access to public spaces
- Site-specific controls (as required)

Part 3 - Justification

Section A - Need for Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

In early 2016 Council initiated a comprehensive planning review of the Kensington and Kingsford town centres to ensure the planning framework is up to date, robust and well aligned to meet future needs.

Both town centres are presently facing considerable redevelopment pressure, reflected by an increase in the number of planning proposals for various sites along Anzac Parade seeking substantial changes to the current planning controls. The town centres are also in the process of transition, stemming from the construction of the City to South East Light Rail network on Anzac Parade which forms the main spine of these centres.

The light rail will not only transform people's travel behaviour but will have a direct impact on the centres' identity, functionality and amenity. It is also likely to be a catalyst for urban renewal and growth as envisaged by the State Government's metropolitan planning objectives for key transport corridors in Sydney, and evidenced in other precincts and cities that have introduced such infrastructure.

The draft Issues Paper (March 2016, Appendix 5) identifies a number of pertinent planning, urban design and public domain challenges affecting the two centres and strategic directions to be addressed in a comprehensive planning strategy.

The following studies and reports have been prepared to inform the draft Strategy:

- Kensington and Kingsford Town Centres Urban Design Report 2016 (Conybeare Morrison; Appendix 2)
- Kensington and Kingsford Town Centres - Affordable Housing and Community Infrastructure to Support Growth 2016 (SG Haddad Advisory; Appendix 3)
- Kensington to Kingsford Infrastructure Contribution Financial Feasibility Assessment 2016 (HillPDA; Appendix 4)
- Liveability/walkability indicators (UNSW City Futures Centre; Appendix 7)
- Kensington, Kingsford and Randwick Junction Economic Impact of Light Rail (stage 1 and 2 reports) 2016 (Macroplan Dimasi; Appendix 8)
- Kensington and Kingsford Parking Controls Advice 2016 (ARUP; Appendix 9)
- Kensington and Kingsford Planning Strategy Traffic Assessment 2016 (Stage 1, ARUP; Appendix 10)
- Kingsford Heritage Review (Colin Brady; Appendix 11)
- Anzac Parade Corridor Light Rail Analysis 2016 (EMM Consulting; Appendix 13)

The draft Strategy outlines a range of objectives, strategies and actions to guide the future sustainable growth and development of the town centres, which includes amendments to the RLEP 2012.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal is underpinned by a comprehensive evidence-based strategy informed by technical and specialised studies, extensive community consultation and an international design competition, as detailed in Question 1 above. The planning proposal enables the establishment of new height and FSR controls, provision of affordable housing, delivery of community infrastructure and design excellence, to achieve the vision for the town centres outlined in Part 1. Therefore, along with the supporting DCP, affordable housing strategy and draft affordable housing plan and community infrastructure, the planning proposal is the best means to achieve the stated objective.

Section B - Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The planning proposal is consistent with the goals and priorities outlined in both the Sydney Metropolitan Plan - A Plan for Growing Sydney 2014 and the draft Central District Plan 2016, as demonstrated in Attachment I.

a) Does the proposal have strategic merit? Is it:

- Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or

- *Consistent with a relevant local council strategy that has been endorsed by the Department; or*
- *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

Yes, the proposal is consistent with the Sydney Metropolitan Plan - A Plan for Growing Sydney 2014, and the Central District Plan 2016, as demonstrated in Attachment I.

A local council strategy for Randwick City is yet to be endorsed by the Department of Planning and Environment.

The town centres are in the process of transition, stemming from the construction of the City to South East Light Rail, population growth and considerable redevelopment pressures. This planning proposal draws on specialised urban design input from Conybeare Morrison and proposes appropriate increases in height and floor space ratio to respond to growth and change (see Urban Design Report at Appendix 2).

As demonstrated above, the proposal is responding to a change in circumstances and is consistent with the relevant strategic plans and therefore has strategic merit.

b) Does the proposal have site-specific merit, having regard to the following:

- *the natural environment (including known significant environmental values, resources or hazards) and*
- *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
- *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

An outline of the existing character of the town centres is contained within Part B, Section 1.1 Kensington Town Centre: A Snapshot and Section 1.2 Kingsford Town Centre: A Snapshot. Part 1 of this planning proposal details the vision for each town centre, which guides the draft Strategy and proposed RLEP 2012 amendments.

The B2 Local Centre land use zone supports the mixed use nature of the town centres, in line with the vision detailed in Part 1 of this planning proposal. The active frontages LEP map and non-residential floor space ratio map provides opportunities to leverage the close proximity to the UNSW and health campus to encourage startups and innovation spaces to locate in the Kensington and Kingsford town centres. Further detail is contained in Part C, Section 3.3 Innovation Districts of the draft Strategy.

In relation to infrastructure provision, increasing density in the town centres will have implications for new and improved infrastructure. A schedule of infrastructure items and public domain works identified as being needed to support growth and change within the town centres and to help realise the town centres vision is attached in Attachment B.

To help fund the required infrastructure, the draft strategy has outlined a new funding framework to help deliver the community infrastructure needed to support the growth and change. This is detailed in Part E Funding Infrastructure of the draft strategy, supported by specialised strategic advice on infrastructure provision from SG Haddad Advisory (Appendix 3) supported by a financial feasibility assessment from Hill PDA (Appendix 4).

Both reports provide the strategic justification and evidence base which has informed the new funding framework to deliver the infrastructure and affordable housing needed to support growth and change in the town centres. See Question 10 for further discussion on the state infrastructure required to support the projected population growth in the town centres.

As demonstrated above, the proposal supports appropriate land uses and considers the existing and future infrastructure requirements and thus has site-specific merit and should proceed.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes, the planning proposal is consistent with the draft Planning Strategy for Kensington and Kingsford town centres, as outlined in the introduction to this planning proposal. The draft Strategy will be placed on exhibition with the planning proposal and a copy of the draft Strategy is contained at Appendix 1.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, the planning proposal is consistent with applicable State Environmental Planning Policies, as detailed in Attachment J.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes, the planning proposal is consistent with applicable Ministerial Directions, as detailed in Attachment K.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The amendments to the planning framework outlined in this Planning Proposal will not adversely impact any critical habitats or threatened species, populations or ecological communities as the centres are located within a highly modified urban environment.

The draft Strategy contains a range of actions to improve water quality and increase landscaping and vegetation within the town centres. Full details are contained within Part C, Section 7.0 Sustainability and Transport and Section 8.0 Public Domain and Landscape.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The draft Strategy underpinning this planning proposal contains a range of strategies and actions relating to environmental sustainability, at both an individual building and precinct level. These include:

- a design excellence competition for Precinct sites which assesses green star compliance
- water sensitive urban design
- increased tree cover to mitigate the heat island effect
- measures to encourage public and active transport and reduce private car usage

Part C, Section 8.0 Public Domain and Landscape of the attached draft Strategy details the range of sustainability actions proposed to be implemented within the two Centres.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The draft Strategy which underpins the planning proposal has adequately addressed a range of potential social and economic matters. The following sections of the draft Strategy outline how these matters are addressed:

- Projected population and dwelling growth, the need for housing diversity, the need for affordable housing - Part C, Section 2.0 Housing Growth and Diversity
- The provision of adequate social infrastructure, including schools and child care - Part C, Section 8.0 Social Infrastructure
- Protection of heritage items and contributory buildings - Part C, Section 6.0 Heritage Conservation
- Public transport provision; traffic and parking impacts – Part C, Section 7.0 Sustainability and Transport
- Projected employment and commercial floor space growth – Part C, Section 4.4 Commercial Floor Space and Jobs Growth
- Future retail and commercial uses, including opportunities for creative and innovation uses – Part C, Section 4.5 Innovation Districts
- Funding infrastructure – Part E Funding Infrastructure
- Airport restrictions on building height - Appendix 1 Sydney Airport's Prescribed Airspace on Building Height

Section D – State and Commonwealth Interests*Q10. Is there adequate public infrastructure for the planning proposal?*

Increased density in the town centre will have implications for community infrastructure, as addressed in Part C, Section 9.0 Social Infrastructure of the draft Strategy.

Kensington and Kingsford town centres are serviced by three primary public schools, being Kensington Public School, Daceyville Public School and Rainbow Street Public School, and Randwick Boys High School and Randwick Girls High School. In relation to school capacity, preliminary discussions have taken place with the Department of Education and Communities and further consultation will take place during the public consultation phase.

The two centres are located in proximity to the Hospitals campus which offer emergency and tertiary medical services and facilities. It is noted that as part of the District Planning process, a new Infrastructure Plan will be prepared for the Central District which will address further state infrastructure demand.

Regarding public transport capacity, a study by EMM consulting analysed predicted population growth, the CSELR system capacity and light rail stop capacity to identify appropriate levels of future public transport commuter services for the Anzac Parade corridor.

For the year 2020, the CSELR alone will not be sufficient to provide for the public transport needs of the Anzac Parade corridor. The report states that approximately 26 of the existing 81 morning peak hour peak direction bus services will need to be maintained to provide an acceptable level of service. In 2031 just under half of the existing morning peak hour peak direction bus services 35 hourly bus services (compared to 81 currently) will need to be maintained to service the growth in the corridor.

If adequate bus services are not provided in conjunction with the future Light Rail services, the projected population growth cannot be provided for within the Kensington and Kingsford town centres. The future level of bus service is yet to be released and discussions will need to occur with

TfNSW during the consultation period of the planning proposal. In addition, to accommodate population growth throughout Randwick City, in the future heavy rail will be required to Kingsford or Maroubra, to increase the public transport access of the whole LGA.

This planning proposal is in line with the Government's Metropolitan Strategy and draft Central District Plan, which would consider water and sewerage capacity. Council welcomes further discussions with infrastructure providers.

It is requested the Department of Planning and Environment arrange a workshop with relevant state agencies to discuss existing state infrastructure capacity and any required upgrades/augmentation resulting from this planning proposal.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

In preparing the draft Strategy, Council has undertaken engagement with the following state and Commonwealth agencies:

- Department of Planning and Environment – Sydney Region East
- Department of Education and Communities
- Australian Department of Infrastructure and Regional Development
- NSW Office of Water

The result of this preliminary consultation is contained within the draft Strategy. Further consultation is planned, as detailed in Part 5 – Community Consultation of this strategy.

Part 4 - Mapping

Maps have been prepared which demonstrate the proposed LEP provisions. These maps are attached to this planning proposal, as follows:

- Attachment D – Height of Buildings Map
- Attachment E - Floor Space Ratio Map
- Attachment F – Non-Residential Floor Space Ratio Map
- Attachment G – Active Street Frontages Map
- Attachment H – Town Centre Boundary Map

Part 5 - Community Consultation

In preparing the draft Strategy, Council has undertaken engagement with the following agencies and organisations:

- Department of Planning and Environment – Sydney Region East
- Department of Education and Communities
- Sydney Airport Corporation
- Australian Jockey Club
- Southern Sydney Regional Organisation of Councils
- NSW Office of Water

In addition to continuing consultation with the above agencies and organisations, the following agencies are to be formally notified of the planning proposal:

- Sydney Airport Corporation
- Transport for NSW and Sydney Buses

- Office of Environment and Heritage
- Department of Education and Communities
- Roads and Maritime Services
- Sydney Water
- South Eastern Sydney Local Health District
- University of NSW
- Centennial and Moore Park Trust
- Ausgrid

The next stage of the consultation will similarly involve a range of activities and actions developed through a Community Engagement Framework for the Planning Proposal and Draft Strategy. It is intended that the planning proposal be on exhibition for a minimum period of 6 weeks, and that the following range of communication and engagement activities, including innovative methods, will be undertaken:

- Online content on the Council website
- Dedicated “yoursay” website allowing for online consultation
- Direct mail out to local residents and businesses
- Local newspaper (Including media releases)
- Fact Sheets
- Telephone survey
- Social media posts on Council’s Facebook, Twitter and Instagram
- Feature story in Randwick eNews to 16,000 subscribers
- Flyers to owners and businesses
- Information provided to local precinct committees

Part 6 - Project Timeline

Council will undertake a minimum 6 week comprehensive consultation process and stakeholder engagement in February 2017 following the Department’s Gateway Determination. Reporting back to the Department is anticipated to be in May/June 2017, following consideration of community and stakeholder feedback received by Council in response to the exhibited draft Planning Proposal.

Attachment A – Draft Affordable Housing Clause

The suggested draft wording for this clause is as follows:

6.17 Affordable housing

(1) For the purposes of this clause, the Randwick City Affordable Housing Principles are as follows:

- (a) affordable housing must be provided and managed in Randwick City so that a socially diverse residential population representative of all income groups is available in Randwick City, and
- (b) affordable housing must be rented to tenants whose gross household incomes fall within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:

Very low income household - less than 50%

Low income household - 50% or more, but less than 80%

Moderate income household - 80–120%

and at rents that do not exceed a benchmark of 30% of their actual household income, and

- (c) dwellings provided for affordable housing must be managed so as to maintain their continued use for affordable housing, and
- (d) rental from affordable housing received by or on behalf of the Council, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), must be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing in Randwick City or for research and policy development for housing and affordable housing purposes, and
- (e) affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings within the development, especially in terms of internal fittings and finishes, solar access and privacy.

(2) Development consent must not be granted to the erection of residential accommodation on land identified as "Area 1" on the Special Provisions Area Map unless the consent authority has taken the following into consideration:

- (a) the Randwick City Affordable Housing Principles,
- (b) the impact the development would have on the existing mix and likely future mix of residential housing stock in Randwick City,
- (c) whether an affordable housing condition should be imposed on the consent.

Note. The affordable housing principles set out in Schedule 2 to State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) may also apply to the development.

(3) The following are draft affordable housing conditions:

(a) a condition requiring the payment of a monetary contribution to the consent authority by the applicant to be used for the purpose of providing affordable housing in accordance with the Randwick City Affordable Housing Principles as outlined that is the value, calculated in accordance with subclause (4), of:

Date of DA lodgement	Percentage of accountable total floor space to which the development application relates
To June 2019	3%
1 July 2019 onwards	5%

(b) if the proportion of that *accountable total floor space* provides a sufficient amount of gross floor area, a condition requiring:

(i) the dedication in favour of the consent authority, free of cost, of land of the applicant comprised of one or more complete dwellings with a gross floor area of not more than the amount equivalent to that percentage, each dwelling having a gross floor area of not less than 50 square metres, and

(ii) if the total amount of gross floor area of the complete dwelling or dwellings is less than the amount equivalent to that percentage, the payment of a monetary contribution to the consent authority by the applicant that is the value, calculated in accordance with subclause (4), of the gross floor area equivalent to the difference between those amounts, to be used for the purpose of providing affordable housing in accordance with the Randwick City Affordable Housing Principles.

(4) The amount of the contribution to be paid under a condition imposed under subclause (2) (c) is the value of the gross floor area concerned calculated by reference to the *market value* of dwellings of a similar size to those proposed by the development application.

Note. Section 94F of the Act permits the imposition of such a condition and specifies the circumstances under which such a condition may be imposed. Any condition imposed is subject to section 94G of the Act.

(5) This clause does not apply to development for the purpose of any of the following:

(a) community housing (as defined in section 3 of the Housing Act 2001),

(b) group homes,

(c) public housing (as defined in section 3 of the Housing Act 2001),

(d) Development for the purposes of residential accommodation that will result in the creation of a residential total floor area of less than 100 square metres.

(6) An affordable housing condition must not be imposed in relation to an amount of *accountable total floor space* if the consent authority is satisfied that such a condition has previously been imposed under this clause in relation to the same or an equivalent amount of accountable total floor space on the site.

(7) In this clause:

accountable total floor space means the gross floor area of the residential component of the development to which the development application relates.

market value means the comparable sales price of a similar size dwelling to those proposed by the development application.

Attachment B – Draft Schedule of Local Infrastructure and Community Facilities

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COMMUNITY INFRASTRUCTURE	
KENSINGTON	
Public art/sculpture	\$1,100,000
Bicycle networks	\$1,000,000
Cycle sharing facility	\$300,000
Todman Avenue Cycle Way	\$3,000,000
Green links	\$1,500,000
Multi-purpose community centre and exhibition centre	\$1,600,000
Innovation centre	\$3,000,000
Cycle sharing facility	\$300,000
Upgrades including water sensitive Urban Design	\$3,000,000
Pneumatic waste collection	\$6,400,000
TOTAL	\$20,900,000
KINGSFORD	
Public art/sculpture	\$ 1,000,000
Community facility	\$1,200,000
Kensington Park	\$1,600,000
Innovation centres	\$1,500,000
Underground bicycle storage facility	\$2,500,000
Cycle sharing facility	\$300,000
Upgrades incorporating water sensitive Urban Design	\$3,000,000
Pneumatic waste collection	\$7,600,000
TOTAL	\$18,700,000

LOCAL INFRASTRUCTURE	
K I N G S F O R D	
Improvements to Council owned carpark in Middle Lane/Meeks St	\$1,000,000
Improvements to Council owned carpark in Houston Lane	\$1,000,000
Anzac pde / Gardeners Rd / Rainbow St intersection (Kingsford Junction)	\$1,200,000
Wallace St public realm (adjoining Souths Juniors)	\$2,385,000
Anzac Pde footpaths and intersections	\$1,540,000
Undergrounding of overhead power lines	\$2,000,000
Multifunctional poles/smart poles	\$1,120,000
Southern Cross Close	\$300,000
Other public realm works and upgrades	\$2,000,000
Bicycle Network Improvements	\$400,000
Local road improvements and upgrades	\$3,500,000
Other Laneways	\$700,000
TOTAL	\$17,145,000
K E N S I N G T O N	
Bowral St footpath widening	\$528,000
Duke St public domain	\$600,000
Council car park upgrade Addison St/Anzac Pde	\$1,200,000
Anzac Pde footpaths and intersections	\$4,165,000
Undergrounding of overhead power lines	\$2,625,000
future open space acquisition (general)	\$12,000,000
Multifunctional poles/smart poles	\$1,200,000
Other public realm works and upgrades	\$2,500,000
Footpath widening along Todman Ave and Kensington Public School	\$1,000,000
Improvements and Upgrades	\$3,000,000
TOTAL	\$28,818,000

Attachment C – Draft Community Infrastructure Contributions Clause

The suggested drafting instructions for this new clause are as follows:

6.14 Community infrastructure height of buildings Kensington and Kingsford town centres

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

- (a) to allow greater building heights where Kensington and Kingsford town centres community infrastructure is also provided,
- (b) to ensure that such greater heights reflect the desired character of the localities in which they are allowed and minimise adverse impacts on the amenity of those localities,
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

(2) The consent authority may consent to development that results in additional building height accordance with subclause (4) if the development includes Kensington and Kingsford town centres community infrastructure.

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

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

(4) Under subclause (2), a building on land in an Area specified in paragraph (a), (b), (c), (d), (e) or (f) is eligible for the maximum building height specified in the relevant paragraph to the building:

- (a) Area 1—31m, (*Kensington spine*)
- (b) Area 2—31m, (*Kingsford spine*)
- (c) Area 3 – 54m (*Todman Square*)
- (d) Area 4 - 54m (*Kingsford Mid-Town*)
- (e) Area 5 – 51m (*Kingsford Junction*)

(5) In this clause:

Kensington and Kingsford town centres community infrastructure means development within Kensington and Kingsford town centres for the purposes of community infrastructure, to include but not limited to recreation areas, open space, public roads, drainage works, community facilities and other items and/or works as outlined in 'Providing Community Infrastructure in Kensington and Kingsford town centres' guidelines.

recreation areas, recreation facilities (indoor), recreation facilities (outdoor), public roads, drainage or flood mitigation works.

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Attachment D – Height of Buildings Map



Figure 1: Kensington height of building map

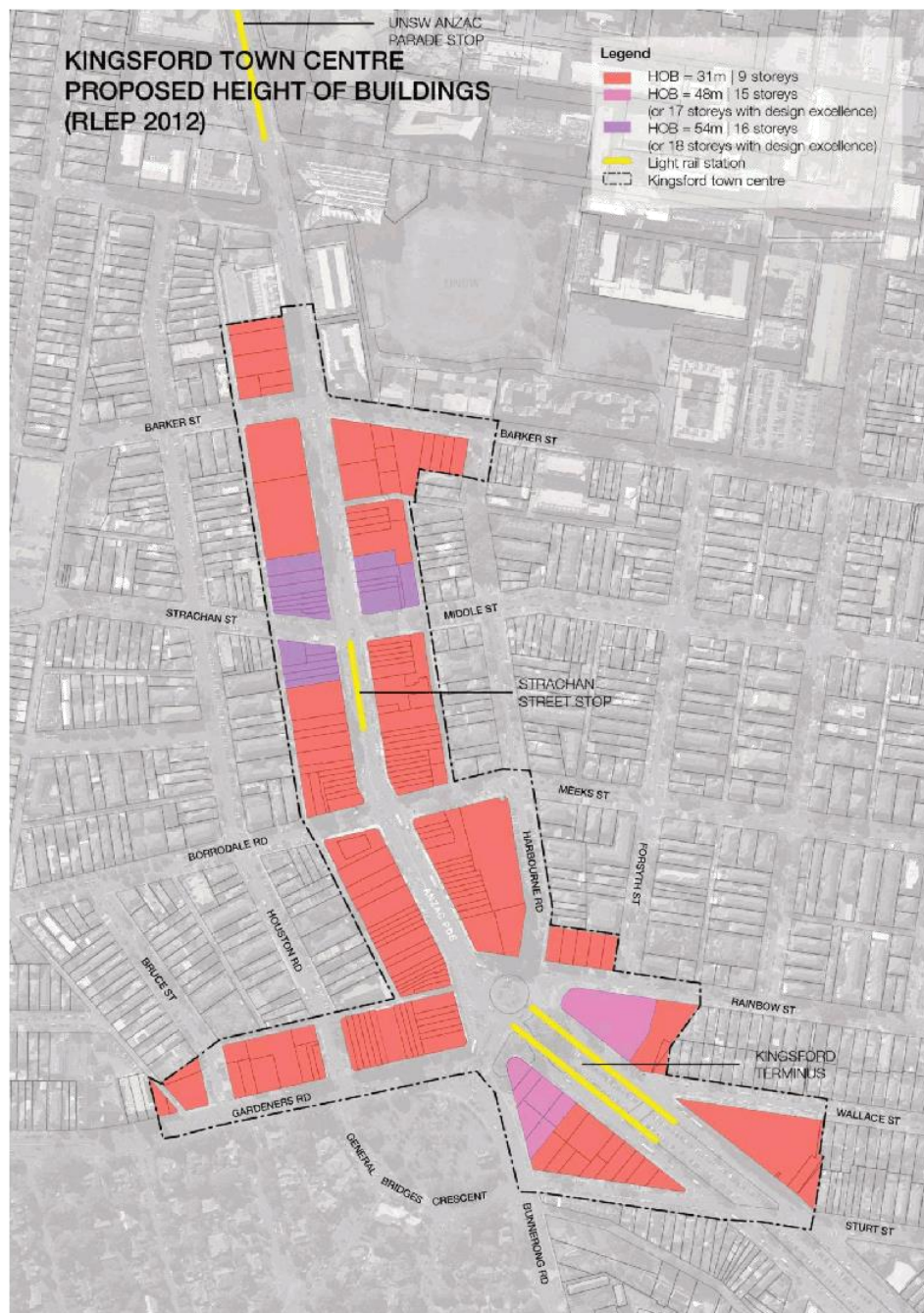


Figure 2: Kingsford height of building map

Attachment E - Floor Space Ratio Map

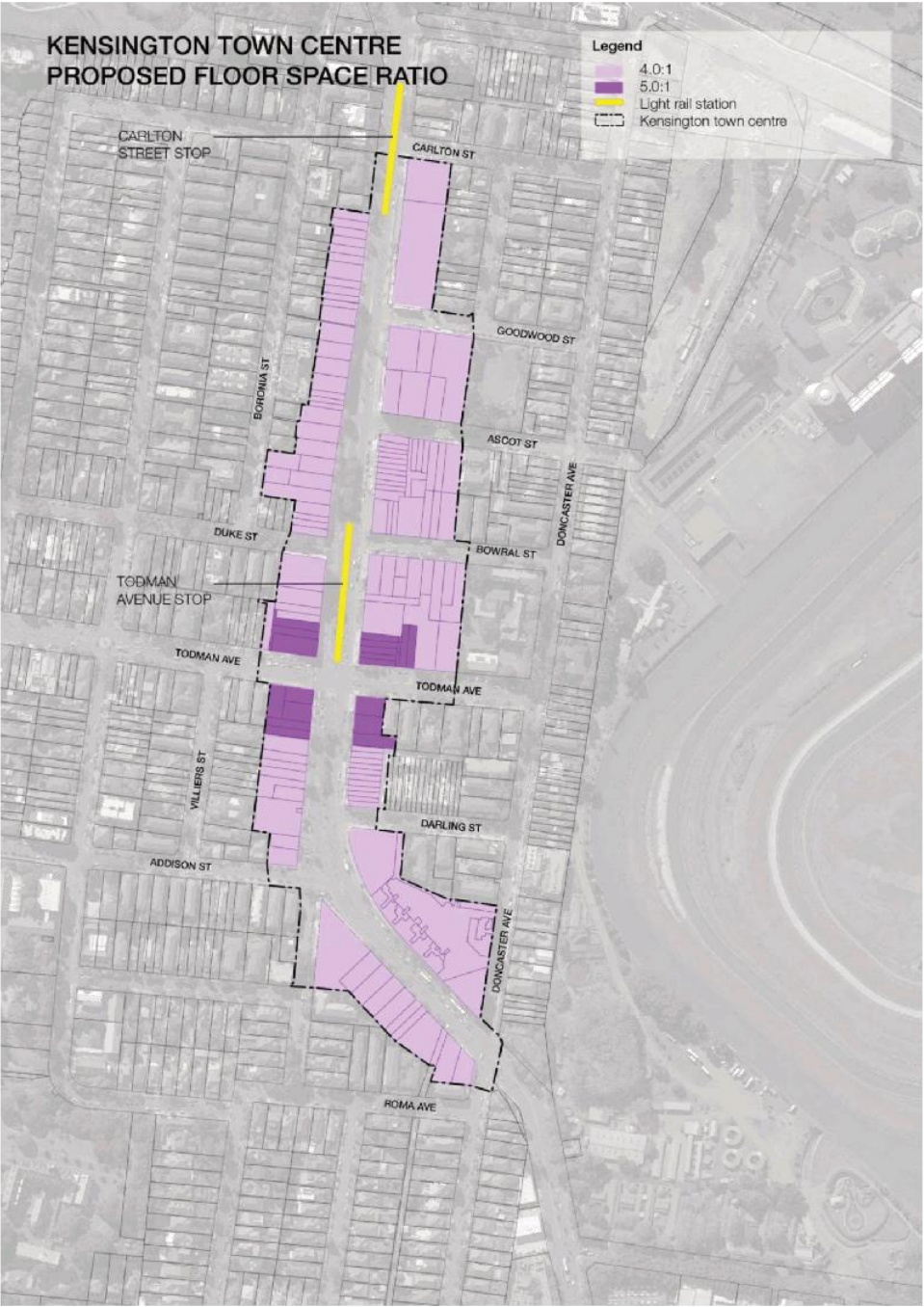


Figure 1: Kensington floor space ratio map



Figure 2: Kingsford floor space ratio map

Attachment F – Non-residential Floor Space Ratio Map



Figure 1: Kensington non-residential floor space ratio map

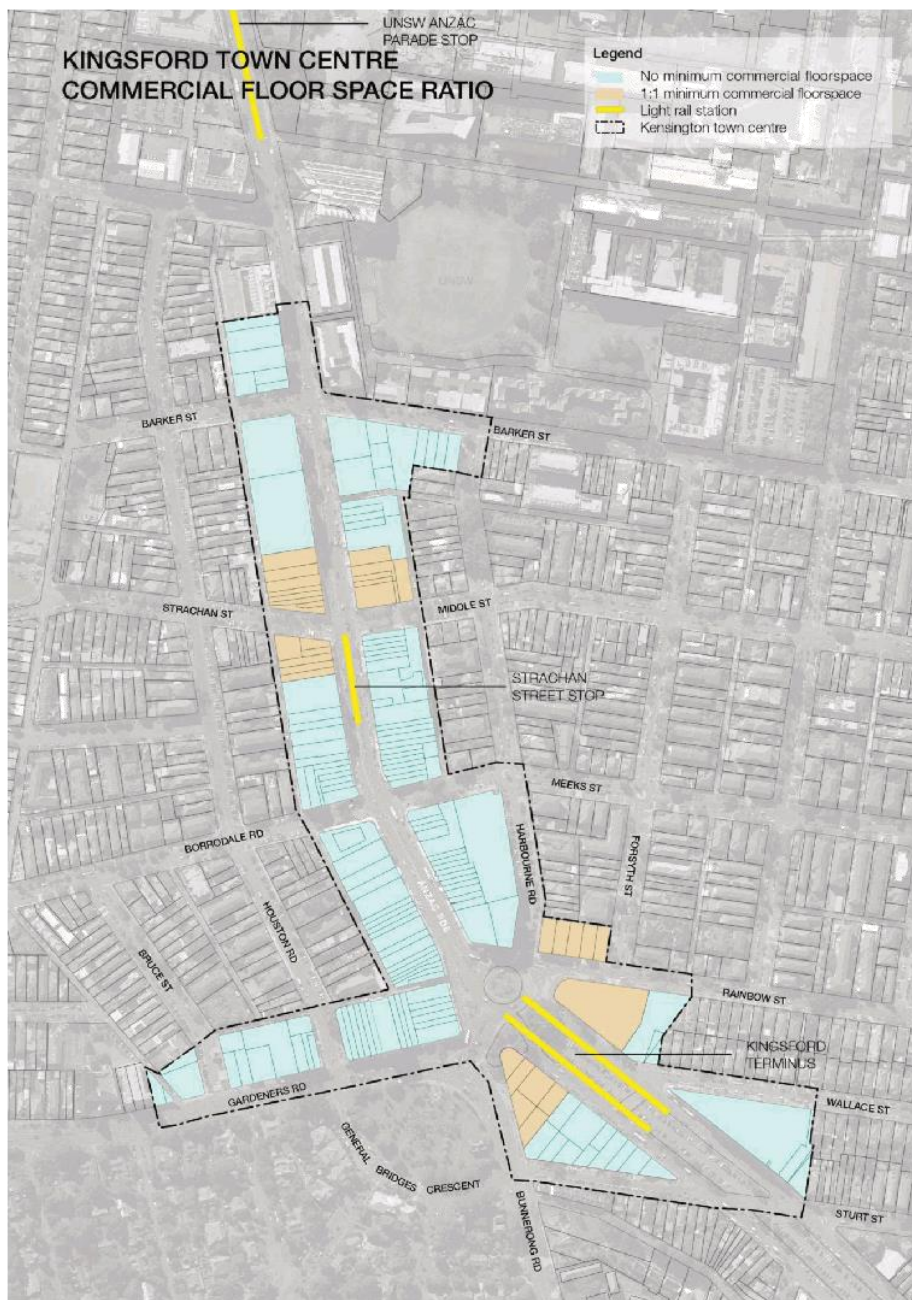


Figure 2: Kingsford non-residential floor space ratio map

Attachment G – Active Frontages Map

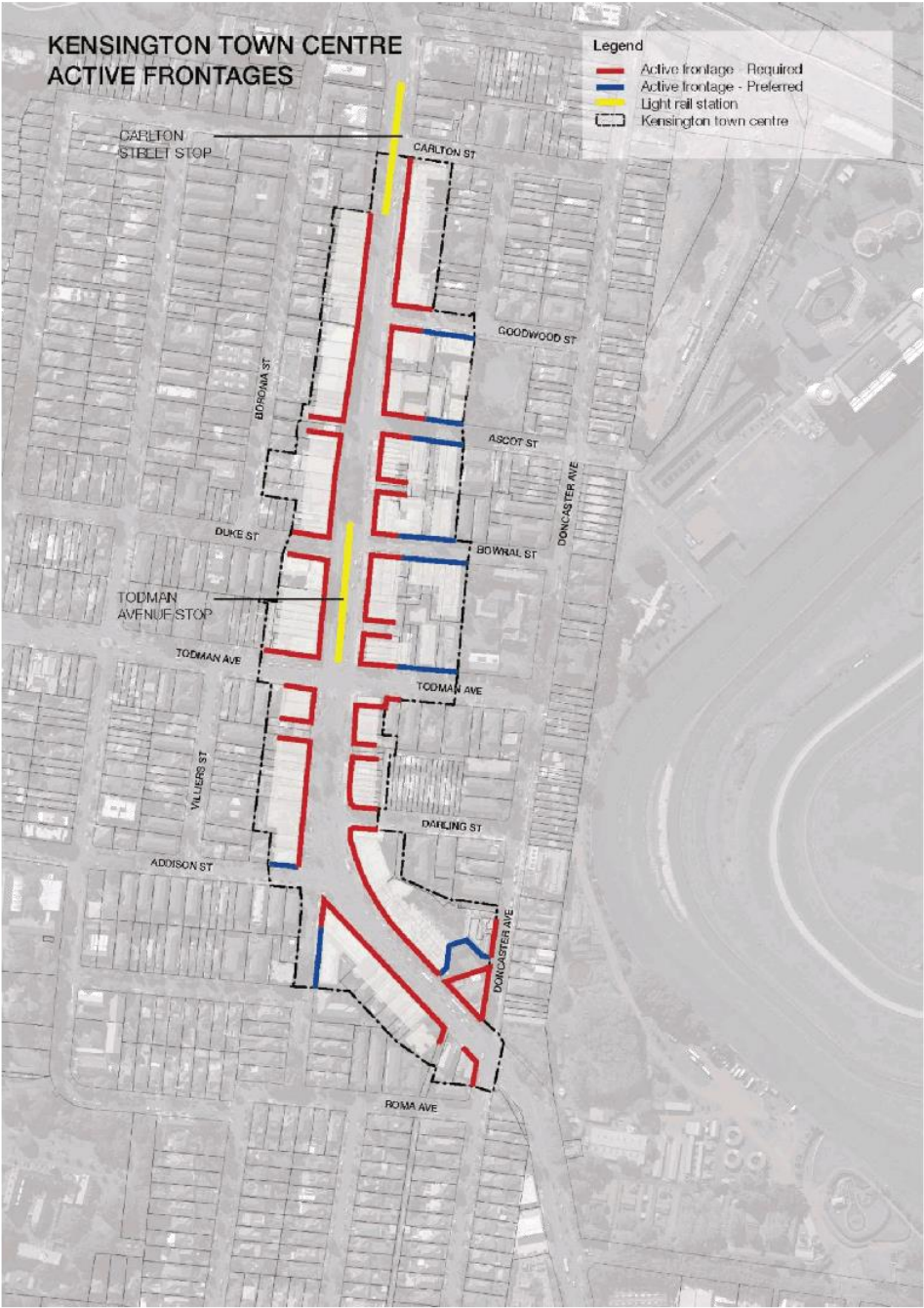


Figure 1: Kensington active frontages map

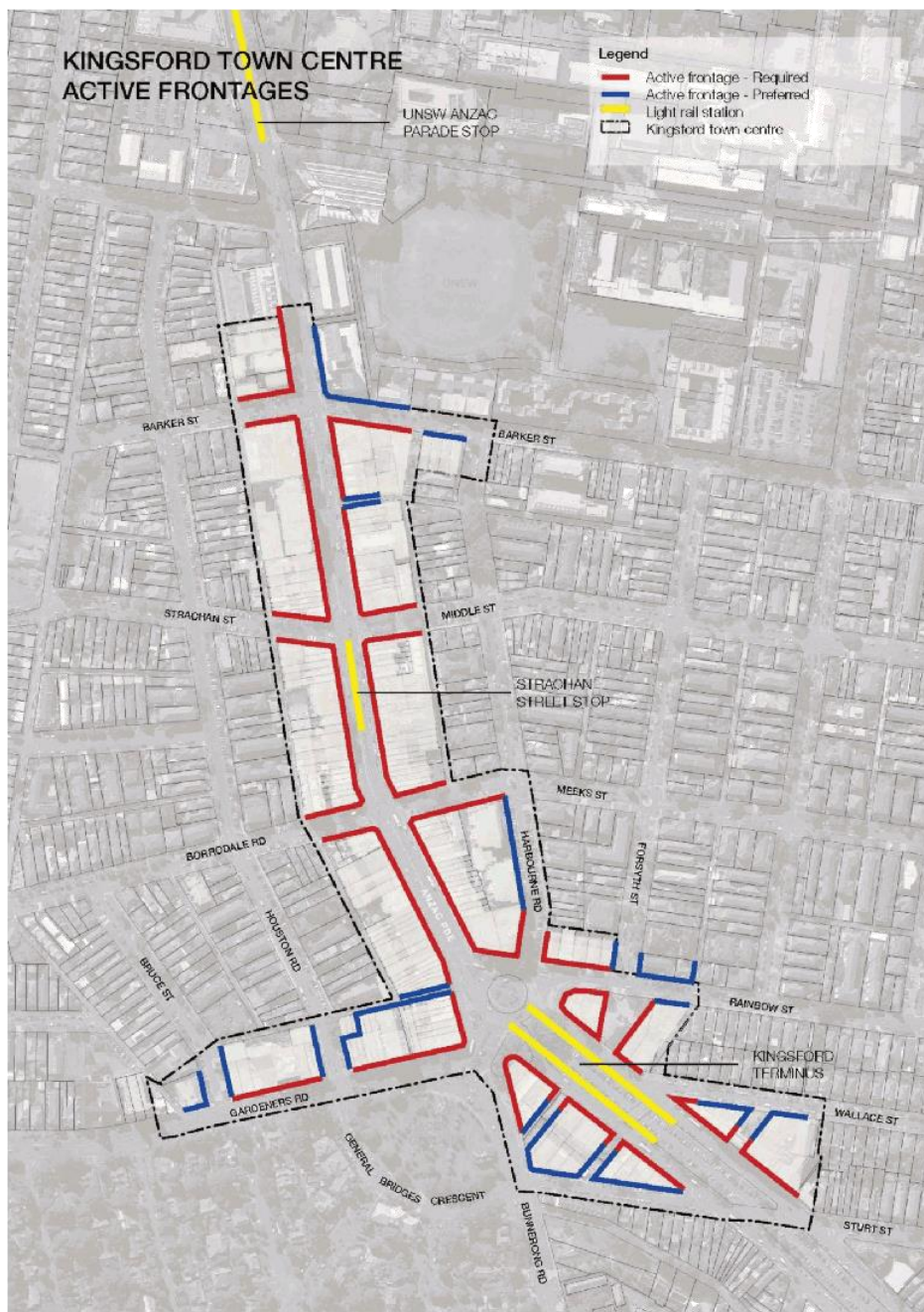


Figure 2: Kingsford active frontages map

Attachment H – Town Centre Boundary Map



Figure 1: Kensington B2 Local Centre land use zone map

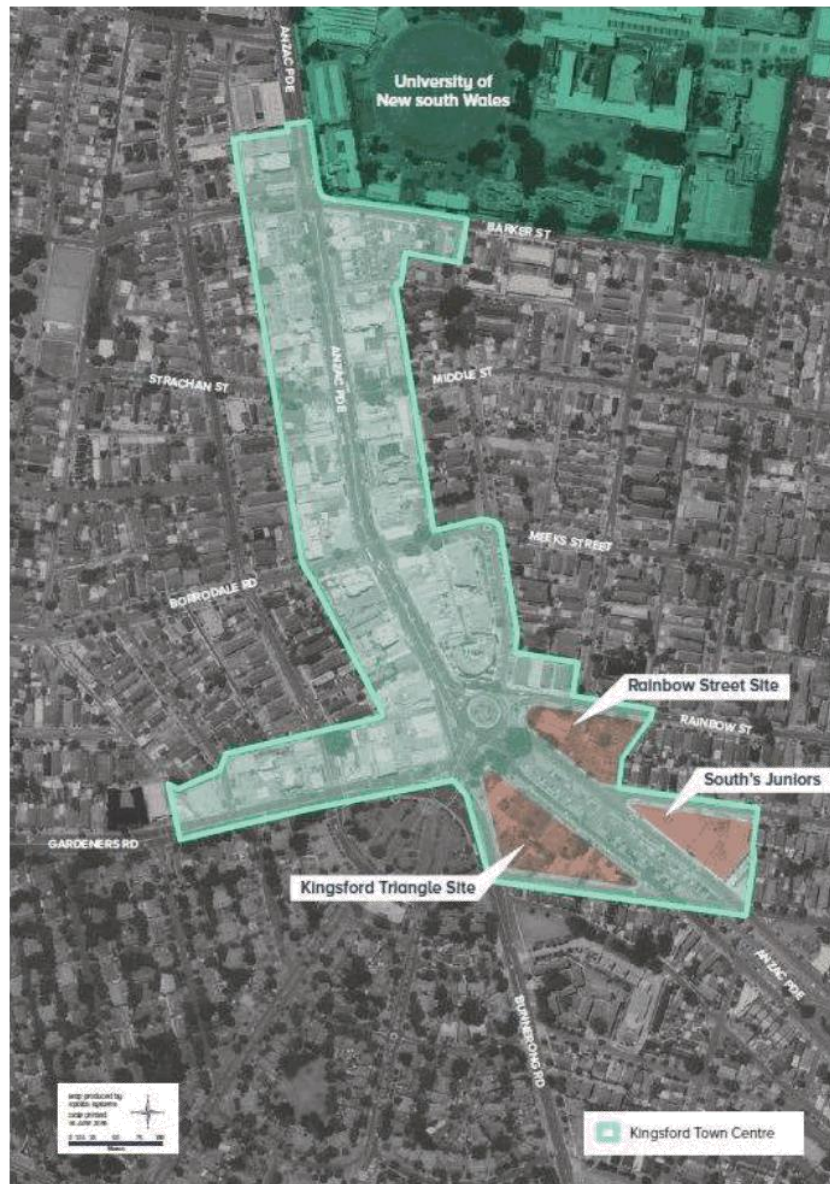


Figure 2: Kingsford B2 Local Centre land use zone map

Attachment I - Consistency with Strategic Plans

Table 1: Consistency with A Plan for Growing Sydney 2014

Direction	Actions	Planning Proposal Response
Goal 1 - A Competitive Economy with world-class services and transport		
1.1 Grow a more internationally competitive Sydney CBD	N/A	The site is not part of the Sydney CBD.
1.2 Grow Greater Parramatta – Sydney's second CBD	N/A	The site is not part of the Parramatta CBD.
1.3 Establish a new Priority Growth Area	N/A	The site is not part of the new Priority Growth Area.
1.4 Transform the productivity of Western Sydney	N/A	The site is not within Western Sydney.
1.5 Enhance capacity at Sydney's gateways and freight networks	N/A	The site is not a gateway site or part of a freight network.
1.6 Expand the Global Economic Corridor	Action 1.6.1: Grow high-skilled jobs in the global economic corridor by expanding employment opportunities and mixed-use activities. Action 1.6.2: Invest to improve infrastructure and remove bottlenecks to grow economic activity.	The Kensington and Kingsford town centres are located within the Global Economic Corridor as identified in A Plan for Growing Sydney. The active frontages LEP and DCP maps and the minimum non-residential floor space ratio LEP map will ensure that every site provides commercial or retail floor space and the light rail stops become nodes of commercial and retail activity within the centres, supporting the growth of commercial floor space (See Part C, <i>Section 4 Business and Economy</i>). Various infrastructure and public domain improvements are addressed within the draft Strategy to accommodate the associated growth within the town centres.
1.7 Grow strategic centres - providing more	Action 1.7.1: Invest in strategic centres across Sydney to grow jobs and housing and create	While the Kensington and Kingsford town centres do not form part of a strategic centre, various strategies and actions within the draft Strategy

jobs closer to home	<p>vibrant hubs of activity.</p> <p>Action 1.7.2: Improve councils' access to data on the demand and supply of homes, office and retail space.</p> <p>Action 1.7.3: Work with the greater Sydney commission to develop job targets for strategic centres.</p> <p>Action 1.7.4: Continue to grow Penrith, Liverpool and Campbelltown-Macarthur as regional city centres supporting their surrounding communities.</p>	<p>contribute to the growth of strategic centres to provide more employment opportunities closer to homes. These include:</p> <ul style="list-style-type: none"> Amend the RLEP 2012 building height and floor space ratio controls for Kensington and Kingsford town centres, to provide for forecast dwelling growth, and Concentrate higher density housing growth within key precincts and sites in walkable proximity to light rail/terminus. <p>Additional information can be found in <i>Part C, Section 3 Housing Growth and Diversity</i>.</p> <p>Analysis by Macroplan Dimasi has identified the projected employment growth for the Kensington and Kingsford town centres and the future role of the centres in providing daily needs of the local community and providing opportunities for innovative spaces.</p> <p>The draft Strategy outlines measures to support a range of retail business types and create nodes of activity to support the vitality and viability of the town centres. These measures include:</p> <ul style="list-style-type: none"> The minimum non-residential floor space ratio LEP map and the active frontages LEP and DCP maps. See <i>Part C, Section 4 Business and Economy</i> for more detail, and Improved walking and cycling connections and public realm, as identified in <i>Part C, Section 8 Public Realm and Landscape</i>.
1.8 Enhance linkages to regional NSW	N/A	The site is not a major regional transport link.
1.9 Support priority economic sectors	Action 1.9.1 Support the growth of priority industries with appropriate planning controls.	<p>The draft Strategy includes various strategies and actions to support the growth of innovation and creative industries within the Kensington and Kingsford town centres, including:</p> <ul style="list-style-type: none"> The B2 zoning allows for a flexibility of uses and the co-location of creative and retail uses within close proximity to the light rail, The minimum non-residential floor space ratio LEP Map will ensure adequate opportunities are provided for innovation and creative spaces,

		<p>and</p> <ul style="list-style-type: none"> The Kensington and Kingsford town centres draft infrastructure contributions scheme addresses the dedication to Council of a space in each town centre which can be used for the purposes of innovation and creative uses.
1.10: Plan for education and health services to meet Sydney's growing needs	<p>Action 1.10.1: Assist the department of education and communities, the catholic education commission and the association of independent schools of NSW to identify and plan for new school sites throughout Sydney.</p> <p>Action 1.10.2: Support the growth of complementary health and tertiary education activities in strategic centres.</p> <p>Action 1.10.3: Plan for expansion of health facilities to service Sydney's growing population.</p>	<p>The draft Strategy includes the following strategies and actions to plan for education and health services to meet Sydney's growing needs:</p> <ul style="list-style-type: none"> Provide for affordable housing options for students and key workers to enhance opportunities to live, work and learn together and to support the economic functions of the Randwick Education and Health Strategic Centre Support innovative approaches to shared use of school facilities. <p>Council has met with staff from the Department of Education in relation to local school enrolments and will further consult with the Department during the public exhibition stage of the Planning Proposal.</p> <p>Additional information can be found in <i>Part C, Section 3 Housing Growth and Diversity</i> and <i>Section 9 Social Infrastructure</i>.</p>
1.11: Deliver infrastructure	<p>Action 1.11.1: Preserve future transport and road corridors to support future growth.</p> <p>Action 1.11.2: Secure Sydney's water supplies.</p> <p>Action 1.11.3: undertake long-term planning for social infrastructure to support growing communities.</p> <p>Action 1.11.6: Prepare infrastructure plans for subregional planning.</p>	<p>The draft Strategy includes a range of strategies and actions to ensure adequate infrastructure is provided within the Kensington and Kingsford town centres to accommodate growth including:</p> <ul style="list-style-type: none"> <u>Transport infrastructure</u> A transport capacity analysis has been undertaken to address the future transport capacity requirements (See <i>Part C, Section 7 Sustainability and Transport</i>). <u>Social Infrastructure</u> The following strategies and actions are included in the draft Strategy to ensure social infrastructure is adequately provided within the subject areas. <ul style="list-style-type: none"> Encourage childcare centres to locate within Kensington and Kingsford town centres,

		<ul style="list-style-type: none"> • Support innovative approaches to shared use of school facilities, and • Support the establishment of a multi-purpose community services hub at Kingsford Rainbow Street site to meet the needs of a diverse community. • Attract arts and cultural facilities within the Kensington town centres by creating planning incentives for the dedication of floor space. <p>Additional information is contained within <i>Part C, Section 9 Social Infrastructure</i>.</p>
Goal 2 – A City of Housing Choice, with homes that meet our needs and lifestyles		
2.1 Accelerate housing supply across Sydney	<p>Action 2.1.1: Accelerate housing supply and local housing choices.</p> <p>Action 2.1.2: Accelerate new housing in designated infill areas (established urban areas) through the priority precincts and urban growth NSW programs.</p>	<p>Strategies and actions within the draft Strategy that contribute to housing growth include:</p> <ul style="list-style-type: none"> • Direct housing growth into locations and sites that have the capacity to accommodate change, and • Encourage a diversity and mix of apartment sizes in the town centres having regard to changing demography, housing trends and affordability for a resident population. <p>Additional information is contained within <i>Part C, Section 3 Housing Growth and Diversity</i>.</p>
2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs	<p>Action 2.2.1: Use the greater Sydney commission to support council-led urban infill projects.</p> <p>Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres.</p>	<p>Council has undertaken a comprehensive strategic approach supported by considerable background research and analysis, extensive community engagement and an independently run international design competition (which has successfully showcased innovative ideas in liveability, sustainability and economic prosperity). This Council led process has resulted in a planning strategy that contains the vision, built form controls, public domain and economic and social improvements that will guide the future growth of the town centres.</p> <p>A Plan for Growing Sydney identifies the Kensington and Kingsford town</p>

		centres as areas with opportunities for urban renewal. The Anzac Parade corridor has excellent access to employment, recreational opportunities, higher education, health facilities and social infrastructure. The CBD and South East Light Rail will better connect Randwick, Kensington and Kingsford to Sydney CBD. The draft Strategy seeks to increase housing supply that is closer to employment opportunities through various strategies and actions.
2.3: Improve housing choice to suit different needs and lifestyles	Action 2.3.1: Require local housing strategies to plan for a range of housing types. Action 2.3.3: Deliver more opportunities for affordable housing.	<p>The draft Strategy includes various strategies and actions to improve housing choice to suit different needs and lifestyles, including:</p> <ul style="list-style-type: none"> • Encourage a diversity and mix of apartment sizes in the town centre having regard to changing demography, housing trends and affordability for a resident population, • Encourage adaptable and accessible housing to enable the community to age in place, • Provide for affordable housing options for key workers to enhance opportunities to live, work and learn together and to support the economic function of the Randwick Education and Health Strategic Centre, and • Encourage the development of family friendly apartments to facilitate social diversity on the community. <p>Additional information can be found in <i>Part C, Section 3 Housing Growth and Diversity</i>.</p>
2.4: Deliver timely and well planned greenfield precincts and housing	N/A	N/A – There are no greenfield precincts or housing opportunities identified in the Kensington and Kingsford town centres.
Goal 3: A great place to live with communities that are strong, healthy and well connected		
3.1: Revitalise existing suburbs	Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth.	A Plan for Growing Sydney identifies the Kensington and Kingsford town centres as areas with opportunities for urban renewal. The opportunity for urban renewal has been driven by a range of factors including the implementation of the City to South East Light Rail corridor along Anzac Parade. The draft Strategy includes numerous strategies and actions that support urban renewal and revitalisation of the Kensington and Kingsford

3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney	Action 3.2.1: Deliver the Sydney green grid project.	<p>town centres.</p> <p>The draft Strategy includes a number of strategies and actions that create a network of interlinked, multipurpose open and green spaces. These include:</p> <ul style="list-style-type: none"> • Increasing the amount of open space within and around the town centre, • The establishment of an integrated open space network connecting the town centres with local parks and open spaces, • The establishment of a strong green ‘boulevard’ landscape character along Anzac Parade, and • Maximising the ‘greening’ of the public domain by applying a coordinated street tree and landscaping treatment. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
3.3: Create healthy built environments	Action 3.3.1: Deliver guidelines for a healthy built environment.	<p>The draft Strategy achieves a healthy built environment through the following strategies and actions:</p> <ul style="list-style-type: none"> • Increasing the amount of open space within and around the town centre, • Establishing an integrated open space network connecting the town centres with local parks and open spaces, • Creating a network of safe, attractive and vibrant urban public spaces, • Introducing new urban furniture to provide rest areas throughout the public domain, • Improving existing footpath surfaces by applying cohesive and high quality paving treatments, • Improving lighting, • Prioritising pedestrian access and safety throughout the public domain and street network, • Enhancing pedestrian permeability and connectivity throughout the public domain, • Improving the appearance, safety and sanitation of service lanes to

		<p>provide improved amenity for pedestrians, and</p> <ul style="list-style-type: none"> Designing streets and public spaces to increase natural surveillance and foster a sense of safety. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
3.4: Promote Sydney's heritage, arts and culture	<p>Action 3.4.3: Target investment in local arts and culture in priority precincts.</p> <p>Action 3.4.4: Identify and re-use heritage sites, including private sector re-use through the priority precincts program.</p>	<p>The draft Strategy contains actions to foster the creative arts and culture in the public domain and within new developments, including:</p> <ul style="list-style-type: none"> The Kensington and Kingsford town centres draft infrastructure contributions scheme addresses the dedication to Council of a gallery space within Kensington town centre and a space in each town centre which can be used for the purposes of innovation and creative uses (See <i>Part C, Section 4 Business and Innovation and Section 9 Social Infrastructure</i>), Commissioning a range of permanent artworks in various locations within the public domain, Coordinating public art with other public domain elements such as lighting, paving insets and specialised street furniture, Considering new DCP controls requiring the provision of public art for major development/key opportunity sites, Initiate programs and events to bring creativity and cultural activity into the experience of the town centre (See <i>Part C, Section 8 Public Realm and Landscape</i>). <p>The draft Strategy contains actions to promote and protect the heritage character and fabric of buildings that reflect the historical development of the town centres. These include continuing to protect the heritage significance of heritage items and contributory buildings through the consistent and rigorous application of relevant RLEP 2012 heritage provisions and DCP 2013 guidelines for heritage conservation.</p> <p>Additional information is contained in <i>Part C, Section 6 Heritage Conservation</i> of the draft Strategy.</p>

Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources		
Direction 4.1: Protect our natural environment and biodiversity	Action 4.1.1: Protect and deliver a network of high conservation value land by investing in green corridors and protecting native vegetation and biodiversity.	<p>Various strategies and actions have been implemented to protect biodiversity and the natural environment these include:</p> <ul style="list-style-type: none"> Increasing the amount of open space within and around the town centre, The establishment of an integrated open space network connecting the town centres with local parks and open spaces, The retaining and enhancing of large canopy trees throughout the town centres, The establishment of a strong green 'boulevard' landscape character along Anzac Parade, and Maximising the 'greening' of the public domain by applying a coordinated street tree and landscaping treatment. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
Direction 4.2: Build Sydney's resilience to natural hazards	N/A	N/A - Council will work with State Government to build Sydney's resilience to natural hazards.
Direction 4.3: Manage the impacts of development on the environment	Action 4.3.1: Apply urban green cover technical guidelines.	<p>The draft Strategy considers the environmental sustainability of the town centres, including at both a buildings and precinct level. It contains strategies and actions to reduce water consumption, energy use and greenhouse gas emissions, improve stormwater quality, reduce traffic congestion and improve walking and cycling access.</p> <p>Strategies and actions within the draft Strategy that contribute to the green cover include:</p> <ul style="list-style-type: none"> Increasing the amount of open space within and around the town centre, The establishment of an integrated open space network connecting the town centres with local parks and open spaces, The establishment of a strong green 'boulevard' landscape character

		<p>along Anzac Parade,</p> <ul style="list-style-type: none">• Maximising the ‘greening’ of the public domain by applying a coordinated street tree and landscaping treatment, and• The greening of the town centres through additional trees and landscaping, making the streets more pleasant for pedestrians. It will also enhance environmental performance in terms of thermal comfort. <p>Additional information is contained within <i>Part C, Section 7 Sustainability and Transport</i> and <i>Section 8 Public Realm and Landscape</i>.</p>
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Table 2: Consistency with Draft Central District Plan Priorities

Priority		Planning Proposal Response
A Productive City		
1. Creating opportunities for the growth of commercial floor space	<p>Relevant planning authorities need to consider the mechanisms to protect and enhance opportunities for the growth of commercial floor space.</p> <p>When planning strategic and district centres, relevant planning authorities should consider Productivity Priority 3 (Section 3.5), as well as strategies to:</p> <ul style="list-style-type: none"> • enhance the urban amenity and walkability of centres • promote the diversification of complementary commercial activities • maintain a commercial core for employment activities in targeted locations • support the economic viability of office development. 	<p>The active frontages LEP and DCP Map and the minimum non-residential floor space ratio LEP Map will ensure that every site provides commercial or retail floor space and that the light rail stops become nodes of commercial and retail activity within the centres, supporting the growth of commercial floor space.</p> <p>Additional information is contained in <i>Part C, Section 4 Business and Economy</i> of the draft Strategy.</p>
2. Support the growth of innovation and creative industries	<p>The relevant planning authority should investigate opportunities to support the growth of innovation and creative industries. Consideration should be given to the full spectrum of activities from high-end global businesses to small start-ups. This may be achieved through a range of mechanisms and strategies including:</p> <ul style="list-style-type: none"> • providing flexibility in appropriate zones for the co-location of creative industries in desirable locations with access to transport and ancillary uses such as retail, cafes and restaurants • incentivising opportunities for the provision of affordable space for creative and start-up businesses. <p>Councils and State agencies should also consider opportunities to grow innovation and creative industries by:</p> <ul style="list-style-type: none"> • providing affordable space for creative hubs on government-owned land and/or in large-scale government-led urban renewal 	<p>The draft Strategy includes various strategies and actions to support the growth of innovation and creative industries within the Kensington and Kingsford town centres, including:</p> <ul style="list-style-type: none"> • The B2 zoning allows for a flexibility of uses and the co-location of creative and retail uses within close proximity to the light rail, • The minimum non-residential floor space ratio LEP Map will ensure adequate opportunities are provided for innovation and creative spaces, and • The Kensington and Kingsford town centres draft infrastructure contributions scheme addresses the dedication to Council of a space in each town centre which can be used for the purposes of innovation and creative uses.

	<p>projects</p> <ul style="list-style-type: none"> • enhancing synergies and connectivity between health and education facilities • supporting increased opportunities for a diversity of housing choices including price points close to work opportunities. 	<p>The draft Strategy has addressed a range of mechanisms to guide the future sustainable growth of the town centres and meet forecast demand for housing and jobs.</p>
3. Manage growth and change in strategic and district centres and, as relevant, local centres	<p>When undertaking planning for strategic, district and local centres, the relevant planning authority should consider:</p> <ul style="list-style-type: none"> • opportunities for existing centres to grow and new centres to be planned to meet forecast demand across a range of retail business types, including: <ul style="list-style-type: none"> -- the need to reinforce the suitability of centres for retail and commercial, encouraging a competitive market -- the commercial requirements of retailers and commercial operators such as servicing, location, visibility and accessibility -- the use of B3 Commercial Core Zones in strategic centres, and where appropriate, in district centres to reinforce and support the operation and viability of non-residential uses, including local office markets. <p>When preparing strategic plans, the relevant planning authority needs to demonstrate how its planning for centres has considered strategies to:</p> <ul style="list-style-type: none"> • deliver on the strategic and district centre's job targets • meet the retail and service needs of the community • facilitate the reinforcement and/ or expansion of allied health and research activities • promote the use of walking, cycling and integrated public transport solutions • provide urban spaces such as meeting places and playgrounds • respond to the centre's heritage and history • promote community arts • reflect crime prevention through environmental design (CPTED) principles such as safety and management 	<p>Analysis by Macroplan Dimasi has identified the projected employment growth for the Kensington and Kingsford town centres and the future role of the centres in providing for the daily needs of the local community and providing opportunities for innovation spaces.</p> <p>The draft Strategy outlines measures to support a range of retail business types and create nodes of activity to support the vitality and viability of the town centres. These measures include:</p> <ul style="list-style-type: none"> • The minimum non-residential floor space ratio LEP Map and the active frontages LEP and DCP Map. See <i>Part C, Section 4 Business and Economy</i> for more detail, • Improved walking and cycling connections and public realm, as identified in <i>Part C, Section 8 Public Realm and Landscape</i>, and • The Kensington and Kingsford town centres draft infrastructure contributions scheme addresses the provision of a space in each town centre which can be used for the purposes of innovation and creative uses. <p>Design principles that underpin the urban design analysis include:</p> <ul style="list-style-type: none"> • Focussing density along the Anzac Parade spine with taller buildings at key nodes,

	<ul style="list-style-type: none"> • manage the transition between higher intensity activity in and around a centre and lower intensity activity that frames the centre. 	<ul style="list-style-type: none"> • Protecting residential amenity and creation of setbacks and new public space/plazas, • Reinforcing a 4 storey street wall of Anzac Parade, and • New public domain in side streets.
4. Prioritise the provision of retail floor space in centres	<p>When preparing retail and commercial strategies to inform local planning, the following matters should be considered:</p> <ul style="list-style-type: none"> • existing and future supply and demand for retail floor space within the District, based on the Department of Planning and Environment's medium population growth scenario • the accessibility of different types of retail and commercial floor space to communities • opportunities to allow retail and commercial activities to innovate • the impacts of new retail and commercial proposals to enhance the viability and vitality of existing and planned centres • the need for new retail development to reinforce and enhance the public domain • the net social, economic and environmental implications of new supply within different locations. 	<p>In 2016 Council conducted a survey to identify the existing supply of commercial floor space within the town centres. Analysis by Macroplan Dimasi has identified the projected employment growth for the Kensington and Kingsford town centres, and extrapolated to identify the projected demand for retail and commercial floor space.</p> <p>The draft Strategy identifies a range of measures to support a range of retail business types and create nodes of activity to support the vitality and viability of the town centres. These measures include:</p> <ul style="list-style-type: none"> • The minimum non-residential floor space ratio LEP Map and the active frontages LEP and DCP Map. See <i>Part C, Section 4 Business and Economy</i> for more detail, and • Improved walking and cycling connections and public realm, as identified in <i>Part C, Section 8 Public Realm and Landscape</i>.
A Liveable City		
1. Deliver Central District's five-year housing supply targets	<p>To deliver these five-year housing targets, councils need to:</p> <ul style="list-style-type: none"> • plan to provide sufficient capacity and monitor delivery of the five-year housing targets • liaise with the Commission to identify barriers to delivering additional housing in accordance with the targets. 	<p>The draft Strategy provides the framework for achieving sustainable housing growth across both Kensington and Kingsford town centres, recognising their strategic location, excellent access to services and capacity to accommodate change.</p>

		Additional information is contained in <i>Part C, Section 3 Housing Growth and Diversity</i> of the draft Strategy.
2. Deliver housing diversity	<p>Relevant planning authorities should consider the needs of the local population base in their local housing strategy and how to align local planning controls that:</p> <ul style="list-style-type: none"> • address housing diversity that is relevant to the needs of the existing and future local housing market • deliver quality design outcomes for both buildings and places. 	<p>The draft Strategy includes strategies and actions to ensure a suitable mix of housing stock in a range of sizes and designs to address declining housing affordability, and support the current and future needs of the community, which includes people of different age groups, cultures, lifestyles, incomes and life stages.</p> <p>Additional information is contained in <i>Part C, Section 3 Housing Growth and Diversity</i> of the draft Strategy.</p>
3. Implement the Affordable Rental Housing Target	<p>Building on Action 2.3.3 of A Plan for Growing Sydney, when preparing planning proposals or strategic plans for new urban renewal or greenfield areas, the relevant planning authority will include an Affordable Rental Housing Target as a form of inclusionary zoning.</p> <p>A target of 5% to 10% of new floor space will be applied at the rezoning stage so that it can factored into the development equation:</p> <ul style="list-style-type: none"> • within areas that have been shown, via a local housing strategy, or another form of appropriate research, to have current or future need for affordable rental housing • to applicable land within new urban renewal or greenfield areas (government and private) subject to development feasibility assessed at a precinct scale • to all new floor space (above the existing permissible floor space) • in addition to local and State development contributions and cognisant of any public or private subsidy for affordable rental housing provision • to provide a range of dwelling types including one, two and three+ bedroom homes • in accordance with any relevant guidance developed by the 	<p>A key component of the draft Strategy is Randwick LGA and specifically the Kensington and Kingsford town centres being listed in SEPP 70 as an area in housing need. In January 2017, the Minister for Planning informed Council of his support for an amendment to SEPP 70 with exhibition of these amendments to occur concurrently with the required amendments to Council's LEP. The draft Strategy proposes to introduce a staged affordable housing levy of 3% rising to 5% on the cost of carrying out development. This is based on the Affordable Housing plan and needs analysis prepared by Council.</p> <p>Additional information is contained in <i>Part C, Section 3 Housing Growth and Diversity</i> of the draft Strategy.</p>

	<p>Commission and Department of Planning and Environment.</p> <p>The Affordable Rental Housing dwellings will be secured by the relevant planning authority and passed onto a registered Community Housing Provider to manage, further developing this emerging sector of the economy.</p> <p>In this regard, we encourage the NSW Government to bring forward its own land to maximise affordable housing and Affordable Rental Housing.</p>	
4. Increase social housing provision	<p>Relevant planning authorities and the Department of Family and Community Services (and the Land and Housing Corporation) should collaborate to optimise housing and community diversity outcomes on sites of social housing concentration.</p> <p>Subject to appropriate consultation, feasibility considerations and environmental assessment, relevant planning authorities should translate optimal outcomes for social housing sites into land use controls.</p>	N/A –The draft Strategy provides for affordable housing provisions. See <i>Part C, Section 3 Housing Growth and Diversity</i> (see above).
5. Facilitate the delivery of safe and healthy places	<p>Relevant planning authorities should:</p> <ul style="list-style-type: none"> • facilitate the development of healthy and safe built environments • consider the inclusion of planning mechanisms such as floor space bonuses to incentivise the provision of: <ul style="list-style-type: none"> – neighbourhoods with good walking and cycling connections particularly to schools – social infrastructure such as public libraries or child care – urban agriculture, community and roof gardens for productive food systems. 	<p>The draft Strategy includes a range of actions to facilitate the development of healthy and safe built environments. This includes:</p> <ul style="list-style-type: none"> • Improvements to walking and cycling connections (See <i>Part C, Section 7 Sustainability and Transport</i>), • Improvements to cycling infrastructure (See <i>Part C7 Sustainability and Transport</i>), • Ensuring that the design of streets and public spaces incorporate CPTED principles including passive surveillance of streets, laneways and plazas (See <i>Part C, Section 8 Public Realm and Landscape</i>), • The draft infrastructure contributions scheme addresses the dedication to Council of space for the purpose of a community

		<p>hub in Kingsford town centre and gallery space within Kensington town centre (See <i>Part E, Section 1 Funding Infrastructure Contributions Scheme</i>), and</p> <ul style="list-style-type: none"> Provisions to encourage child care centres (See <i>Part C, Section 9 Social Infrastructure</i>).
6. Facilitate enhanced walking and cycling connections	Relevant planning authorities should facilitate enhanced walking and cycling outcomes by giving due consideration to the delivery of district and regional connections and walkable neighbourhoods.	<p>The draft Strategy identifies a range of actions to improve walkability, including future green links to strengthen connections between the town centres and Kokoda Park and Kensington Park.</p> <p>See <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
7. Conserve heritage and unique local characteristics	<p>Relevant planning authorities should:</p> <ul style="list-style-type: none"> require the adaptive re-use of historic and heritage listed buildings and structures in a way that enhances and respects heritage values protect Aboriginal, cultural and natural heritage and places, spaces and qualities valued by the local community. 	<p>The draft Strategy contains actions to protect the heritage character and fabric of buildings that reflect the historical development of the town centres. These include continuing to protect the heritage significance of heritage items and contributory buildings through the consistent and rigorous application of relevant RLEP 2012 heritage provisions and DCP 2013 guidelines for heritage conservation.</p> <p>The areas comprising both town centres has been extensively disturbed and there is no record of Aboriginal heritage or places in this location. There is potential for archaeological material subsurface and this will be addressed in detail in the DCP provisions.</p> <p>Additional information is contained in <i>Part C, Section 6 Heritage Conservation</i> of the draft Strategy.</p>
8. Foster the creative arts and culture	<p>Relevant planning authorities should:</p> <ul style="list-style-type: none"> integrate arts and cultural outcomes into urban development through planning proposals that nurture a culture of art in everyday 	<p>The draft Strategy contains actions to foster the creative arts and culture in the public domain and within new developments, including:</p>

	<p>local spaces and enhance access to the arts in all communities</p> <ul style="list-style-type: none"> • give due consideration to the inclusion of planning mechanisms that would incentivise the establishment and resourcing of creative hubs and incubators and accessible artist-run spaces. 	<ul style="list-style-type: none"> • The Kensington and Kingsford town centres draft infrastructure contributions scheme addresses the provision of a gallery space within Kensington town centre and spaces in each town centre which can be used for the purposes of innovation and creative uses (See <i>Part C, Section 4 Business and Economy</i> and <i>Section 9 Social Infrastructure</i>), • Commissioning a range of permanent artworks in various locations within the public domain, • Coordinating public art with other public domain elements such as lighting, paving insets and specialised street furniture, and • Considering new DCP controls requiring the provision of public art for major development/key opportunity sites (See <i>Part C, Section 8 Public Realm and Landscape</i>).
9. Share resources and spaces	Relevant planning authorities should consider the delivery of shared local facilities such as community hubs, cultural facilities and public libraries as multifunctional shared spaces.	<p>The draft Strategy includes implementation of a draft infrastructure contributions scheme for the delivery of new shared local facilities, including:</p> <ul style="list-style-type: none"> • A flexible community services hub within Kingsford town centre, • A gallery space within Kensington town centre, and • Spaces in each town centre which can be used for the purposes of innovation and creative uses. <p>Additional information is contained within <i>Part C, Section 4 Business and Innovation</i> and <i>Section 9 Social Infrastructure</i> of the draft Strategy.</p>
10. Support innovative	Relevant planning authorities should give due consideration to:	The draft Strategy supports innovative approaches

school planning and delivery	<ul style="list-style-type: none"> • innovative land use and development approaches, including: <ul style="list-style-type: none"> – using travel management plans, that identify travel options, to reduce car use – enabling the development and construction of schools as flexible spaces, so they can facilitate shared use and change over time to meet varying community need • the inclusion of planning mechanisms that would incentivise the: <ul style="list-style-type: none"> – development of new schools as a part of good quality and appropriate mixed use developments – the shared use of facilities between schools and the local community including playing fields and indoor facilities, so they can meet wider community needs. 	to shared use of school facilities. Additional information is contained within <i>Part C, Section 9 Social Infrastructure</i> of the draft Strategy.
11. Provide socially and culturally appropriate infrastructure and services	<p>Relevant planning authorities should:</p> <ul style="list-style-type: none"> • collaborate with Federal and State agencies and service providers to integrate local and District social infrastructure for Aboriginal residents including preschools, child care and aged care services • include appropriate planning mechanisms to incentivise the provision of these services required by local communities where appropriate. 	<p>Space has been allocated for a community services hub to allow use by a range of community service providers covering the broad scope of the community.</p> <p>Consultation with relevant government agencies will take place during the public exhibition period of the Planning Proposal.</p>
12. Support planning for health infrastructure	<p>Relevant planning authorities should give due consideration to the need to support the co-location of ancillary uses that complement health precincts, including:</p> <ul style="list-style-type: none"> • residential aged care facilities • housing for health workers • visitor and short-term accommodation • health and medical research activities • child care • non-critical patient care • commercial uses that are complementary to and service the health precinct <p>Consideration should also be given to the protection of health precincts and super precincts from residential encroachment into</p>	<p>The draft Strategy contains a range of actions to support the co-location of ancillary uses that complement the Randwick Education and Health precinct. These include:</p> <ul style="list-style-type: none"> • Small expansion of B2 zone, active frontages map and minimum non-residential FSR map will ensure adequate space is provided for commercial uses, such as medical uses and innovation which complement the Randwick Hospitals Campus, and • Affordable housing which may assist health workers (see <i>Part C, Section 3 Housing</i>)

	key employment areas.	<i>Growth and Diversity).</i>
13. Support planning for emergency services	Relevant planning authorities must consider the operational and locational requirements of emergency services.	Consultation with relevant government agencies will take place during the public exhibition period of the Planning Proposal.
14. Support planning for cemeteries and crematoria	Relevant planning authorities should give consideration to the need and locational requirements of cemeteries and crematoria	N/A - There are no cemeteries or crematoria located in the draft Strategy areas.
A Sustainable City		
1. Maintain and improve water quality and waterway health	<p>The Office of Environment and Heritage and the Environment Protection Authority have developed a risk-based framework to assist decisions that maintain, improve or restore water quality in the strategic planning process to help meet the NSW Water Quality and River Flow Objectives.</p> <p>Relevant planning authorities and managers of public land should:</p> <ul style="list-style-type: none"> • adopt the Office of Environment and Heritage and the Environment Protection Authority's framework to determine the appropriate stormwater and wastewater management targets that contribute to maintaining or improving water quality and waterway health to meet the community's values • consider more water sensitive approaches to managing stormwater to meet the water quality and quantity targets, including harvesting and re-use of water and management of riparian corridors • develop mechanisms to allow offsetting between sub-catchments and facilitate cost-effective opportunities to meet the management targets for whole catchments and water quality objectives for receiving waters • while management targets are being established, ensure that the quality of stormwater and wastewater from public land and new development in established urban areas maintains or improves the health of waterways, in line with community values and expectations of how waterways will be used. 	<p>The draft Strategy includes various strategies and actions to maintain and improve water quality and waterway health, including:</p> <ul style="list-style-type: none"> • Reducing mains water demand by investigating recycled or alternative non-potable water for the Kensington and Kingsford town centres, and • Integrating more vegetation into the town centres to slow down and filter pollutants from stormwater, improve localised flooding impacts and protect waterways by the implementing of water sensitive urban design. Water sensitive urban design is to be funded by community infrastructure contributions (See <i>Part E Funding Infrastructure</i>). <p>Additional information is contained in <i>Part C, Section 7 Sustainability and Transport</i>.</p> <p>Consultation with relevant government agencies will take place during the public exhibition period of the Planning Proposal.</p>

2. Protect and conserve the values of Sydney Harbour	When preparing strategic plans, relevant planning authorities around Sydney Harbour should consider opportunities to: <ul style="list-style-type: none"> • conserve and interpret Aboriginal and European heritage • protect and enhance aquatic and terrestrial biodiversity (also see Section 5.5) • enhance access to and along the foreshore and provide connected green space around the foreshore (also see Section 5.6) • manage demand for and the design of essential maritime facilities within the natural and built environment. 	N/A – Kensington and Kingsford town centres do not adjoin Sydney Harbour.
3. Enhance access to Sydney Harbour foreshore and waterways	Councils around Sydney Harbour should work with Roads and Maritime Services to revise foreshore and waterway access strategies for Sydney Harbour. These strategies should consider ways to manage competing demands placed on Sydney Harbour including: <ul style="list-style-type: none"> • protection of flora and fauna • public access to the foreshore and waterway • growth in boat ownership • changes in boat size • demand for moorings, marinas, dinghy storage and other boat support infrastructure • demand for on-street boat parking 	N/A – Kensington and Kingsford town centres do not adjoin the Sydney Harbour foreshore and waterways.
4. Avoid and minimise impacts on biodiversity Delivering Sydney's Green Grid	Efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable. Only when impacts cannot be avoided or minimised, should consideration be given to offsetting those impacts.	The draft Strategy includes a number of strategies and actions to avoid and minimise the impacts on biodiversity contributing to Sydney's Green Grid, including; <ul style="list-style-type: none"> • Establishing an integrated open space network connecting the town centres with local parks and open spaces, • Retaining and enhancing large canopy trees throughout the town centres, • Establishing a strong green 'boulevard' landscape character along Anzac Parade, and

		<ul style="list-style-type: none"> Maximising the 'greening' of the public domain by applying a coordinated street tree and landscaping treatment. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
5. Align strategic planning to the vision for the Green Grid	Consistent with Action 3.2.1 of A Plan for Growing Sydney, relevant planning authorities should consider opportunities to support the delivery of the Central District Green Grid. This could include consideration of how land use zones can be applied, how new development is designed, or where voluntary planning agreements and agreements for dual use of open space and recreational facilities could contribute to delivering the Green Grid.	<p>The draft Strategy aligns with the vision of a Green Grid through strategies and actions such as;</p> <ul style="list-style-type: none"> The establishment of an integrated open space network connecting the town centres with local parks and open spaces, The retaining of large canopy trees throughout the town centres, The establishment of a strong green 'boulevard' landscape character along Anzac Parade, and Maximising the 'greening' of the public domain by applying a coordinated street tree and landscaping treatment. <p>Additional information is contained in within <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
6. Maximise benefits to the public from the innovative use of golf courses	When new opportunities to examine the future use of golf courses arise, relevant planning authorities should consider how golf courses could be managed to provide greater public benefits to communities in a way that responds to local needs for green space and recreation.	N/A - There are no golf courses within the subject draft Strategy areas.
7. Protect, enhance and extend the urban canopy	When making strategic plans, relevant planning authorities should consider tree canopy cover in land release and established urban areas, with a focus on providing shade to streets. Councils should include green cover and shade tree planting along major transport corridors in local infrastructure investment planning, development control and urban design.	It is proposed to incorporate building setbacks to provide for wider footpaths of between 4.5 to 6m and enable the establishment of a tree canopy and to accommodate awnings, landscaped buffer planting, street furniture and more generous pedestrian circulation. Various other strategies and

		<p>actions have been implemented to protect, enhance and extend the urban canopy, these include;</p> <ul style="list-style-type: none"> • The establishment of an integrated open space network connecting the town centres with local parks and open spaces, • The establishment of a strong green 'boulevard' landscape character along Anzac Parade, and • Maximising the 'greening' of the public domain by applying a coordinated street tree and landscaping treatment. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
8. Improve protection of ridgelines and scenic areas	The scenic qualities of landscapes are already recognised and considered in some areas of Greater Sydney, as part of the strategic planning and development process. All councils should identify and map areas with high scenic value and develop strategies, planning and development controls that protect important scenic landscapes and vistas of them. Planning and development controls should prohibit opportunities for development on ridgelines that would diminish their scenic quality.	N/A – Kensington and Kingsford town centres are not located on a ridgeline.
9. Support opportunities for District waste management	<p>When making plans, relevant planning authorities should:</p> <ul style="list-style-type: none"> • use appropriate land use zones to minimise the potential for conflict with the operation and expansion of existing waste facilities • protect precincts that have functioning waste management facilities from encroachment by residential and other sensitive development • consider ways to encourage design measures such as fully enclosing waste facilities to minimise dust, odours and noise impacts to mitigate the risks and potential impacts on surrounding communities • consider opportunities to support co-location of waste 	<p>The draft Strategy will investigate and implement an automated underground waste collection system for the town centres.</p> <p>Additional information is contained within <i>Part C, Section 7.3 Waste Collection</i>.</p>

	management facilities with other activities that produce or reuse waste materials.	
10. Mitigate the urban heat island effect	Relevant planning authorities should consider where the urban heat island effect is experienced, and the location of vulnerable communities and use strategic plans to reduce impacts from extreme heat.	<p>The draft Strategy includes actions to mitigate against the urban heat island effect including:</p> <ul style="list-style-type: none"> The greening of the town centres through additional trees and landscaping, making the streets more pleasant for pedestrians. It will also enhance environmental performance in terms of thermal comfort. <p>Additional information is contained in <i>Part C, Section 8 Public Realm and Landscape</i>.</p>
11. Integrate land use and transport planning to consider emergency evacuation needs	Relevant planning authorities should coordinate with Transport for NSW and the State Emergency Service to consider land use and local road planning, so that it is integrated with emergency evacuation planning and takes into account the cumulative impact of growth on road evacuation capacity.	<p>A transport capacity analysis has been undertaken to address future transport capacity requirements.</p> <p>Consultation with relevant government agencies will take place during the public exhibition period of the Planning Proposal.</p> <p>Additional information is contained in <i>Part C, Section 7 Sustainability and Transport</i>.</p>
12. Assist local communities develop a coordinated understanding of natural hazards and responses that reduce risk	The Commission, the NSW Government and local councils will continue to adopt a range of tools and resources and implement actions to adapt to climate change and reduce risks to public and private assets. We will also explore ways to coordinate, improve and communicate information about risks associated with climate change to local communities.	<p>The draft Strategy considers the environmental sustainability of the town centres, including at both a buildings and precinct level. It contains a range of innovative strategies and actions to reduce water consumption, energy use and greenhouse gas emissions, improve stormwater quality, reduce traffic congestion and improve walking and cycling access.</p> <p>Additional information is contained within <i>Part C, Section 7 Sustainability and Transport</i>.</p>

Attachment J - Consistency with SEPPs

State Environmental Planning Policy (SEPP)	Consistent	Comment
SEPP No 1— Development Standards	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP No 14— Coastal Wetlands	N/A	Not applicable.
SEPP No 15— Rural Landsharing Communities	N/A	Not applicable.
SEPP No 19— Bushland in Urban Areas	N/A	Not applicable.
SEPP No 21— Caravan Parks	N/A	Not applicable.
SEPP No 26— Littoral Rainforests	N/A	Not applicable.
SEPP No 29— Western Sydney Recreation Area	N/A	Not applicable.
SEPP No 30— Intensive Agriculture	N/A	Not applicable.
SEPP No 32— Urban Consolidation (Redevelopment of Urban Land)	Yes	Consistent. This draft planning proposal aims to provide additional housing and a greater diversity of housing within the two town centres
SEPP No 33— Hazardous and Offensive Development	N/A	Not applicable.
SEPP No 36— Manufactured Home Estates	N/A	Not applicable.
SEPP No 39— Spit Island Bird Habitat	N/A	Not applicable.
SEPP No 44— Koala Habitat Protection	N/A	Not applicable.
SEPP No 47— Moore Park Showground	N/A	Not applicable.
SEPP No 50— Canal Estate Development	N/A	Not applicable.
SEPP No 52— Farm Dams and Other Works in Land	N/A	Not applicable.

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and Water Management Plan Areas		
SEPP No 55—Remediation of Land	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP No 59—Central Western Sydney Regional Open Space and Residential	N/A	Not applicable.
SEPP No 62—Sustainable Aquaculture	N/A	Not applicable.
SEPP No 64—Advertising and Signage	Yes	Consistent. This draft planning proposal suggests DCP provisions that address appropriate siting, size and positioning of outdoor signage.
SEPP No 65—Design Quality of Residential Flat Development	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP No 70—Affordable Housing (Revised Schemes)	Yes	An Affordable Housing Plan has been provided as an addendum to this planning proposal. The planning proposal is seeking to include a new clause in RLEP 2012 in relation to the provision of 3% affordable housing on redevelopment sites. Randwick City LGA has sought the Minister's support for inclusion in SEPP 70 as an area in need for affordable housing.
SEPP No 71—Coastal Protection	N/A	Not applicable.
SEPP (Affordable Rental Housing) 2009	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP. Draft LEP provisions require buildings on key sites to be designed to meet Green
SEPP (Exempt and Complying Development Codes) 2008	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Infrastructure) 2007	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	N/A	Not applicable.
SEPP (Development on Kurnell Peninsula) 2005	N/A	Not applicable.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	Not applicable.
SEPP (Miscellaneous Consent Provisions) 2007	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Penrith Lakes Scheme) 1989	N/A	Not applicable.
SEPP (Rural Lands) 2008	N/A	Not applicable.
SEPP (SEPP 53 Transitional Provisions) 2011	N/A	Not applicable.
SEPP (State and Regional Development) 2011	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (State Significant Precincts) 2005	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Sydney Drinking Water Catchment) 2011	N/A	Not applicable.
SEPP (Sydney Region Growth Centres) 2006	N/A	Not applicable.
SEPP (Temporary Structures) 2007	Yes	Consistent. This draft planning proposal does not contain provisions that contradict or would hinder the application of this SEPP.
SEPP (Sydney Region Growth Centres) 2006	N/A	Not applicable.
SEPP (Three Ports) 2013	N/A	Not applicable.
SEPP (Urban Renewal) 2010	N/A	Not applicable.
SEPP (Western Sydney Employment Area) 2009	N/A	Not applicable.
SEPP (Western Sydney Parklands) 2009	N/A	Not applicable.

Attachment K - Consistency with s117 Directions

No.	Direction	Comment
1. Employment and Resources		
1.1	Business and Industrial Zones	Consistent. This draft planning proposal does not reduce employment land in business and industrial zones and supports the economic viability of the Randwick Education and Health strategic centre by providing affordable and key worker housing.
1.2	Rural Zones	Not applicable
1.3	Mining, Petroleum Production and Extractive Industries	Not applicable
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Not applicable
2. Environment and Heritage		
2.1	Environment Protection Zones	Not applicable
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Consistent. This draft planning proposal does not impact on the heritage conservation of the site.
2.4	Recreation Vehicle Areas	Not applicable
3. Housing Infrastructure and Urban Development		
3.1	Residential Zones	Consistent. This draft planning proposal provides for diverse housing including affordable and key worker housing on site.
3.2	Caravan Parks and Manufactured Home Estates	Not applicable
3.3	Home Occupations	Consistent. This draft planning proposal does not contradict or hinder application of the home occupation provisions in Randwick LEP 2012.
3.4	Integrating Land Use and Transport	Consistent. This draft planning proposal is aligned with the objectives and directions of the integrating land use and transport by improving access to affordable housing close to jobs and services.
3.5	Development Near Licensed Aerodromes	Consistent. This draft planning proposal does not contradict or hinder application of airspace operations provisions in Randwick LEP 2012.
3.6	Shooting Ranges	Not applicable
4. Hazard and Risk		
4.1	Acid Sulfate Soils	Consistent. This draft planning proposal does not contradict or hinder application of acid sulfate soils provisions in Randwick LEP 2012.
4.2	Mine Subsidence and Unstable Land	Not applicable
4.3	Flood Prone Land	Consistent. This draft planning proposal does not contract or hinder application of flood planning

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		provisions in Randwick LEP 2012.
4.4	Planning for Bushfire Protection	Not applicable
5. Regional Planning		
5.1	Implementation of Regional Strategies	Not applicable
5.2	Sydney Drinking Water Catchments	Not applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.8	Second Sydney Airport, Badgerys Creek	Not applicable
5.9	North West Rail Link Corridor Strategy	Not applicable
5.10	Implementation of Regional Plans	Not applicable
6. Local Plan Making		
6.1	Approval and Referral Requirements	Consistent. This draft planning proposal does not include any concurrence, consultation or referral provisions nor does it identify any development as designated development.
6.2	Reserving Land for Public Purposes	Consistent. This draft planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site Specific Provisions	Justifiably inconsistent. This draft planning proposal will introduce a site-specific provision for affordable housing.
7. Metropolitan Planning		
7.1	Implementation of A Plan for Growing Sydney	Consistent. This draft planning proposal is aligned with the goals, directions and action of A Plan for Growing Sydney; and does not contradict or hinder application of A Plan for Growing Sydney.
7.2	Implementation of Greater Macarthur Land Release Investigation	Not applicable.