

Randwick Local Planning Panel Meeting

Thursday 12 September 2019



RANDWICK LOCAL PLANNING PANEL

Notice is hereby given that a Randwick Local Planning Panel meeting will be held in the Council Chamber, 1st Floor, 90 Avoca Street, Randwick on Thursday, 12 September 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. D44/19

Subject: 253 Fitzgerald Avenue, Maroubra (DA/597/2018)

Proposal: Demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works (variation to floor space ratio control).

Ward: Central Ward

Applicant: Marjoe Pty Ltd

Owner: Mrs A Strmecki

Cost of works: \$2,298,098

Reason for referral: The application is subject to the 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 Secretary of the Department of Planning, Industry & 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. DA/597/2018 for demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works at No. 253 Fitzgerald Avenue, Maroubra, subject to the development consent conditions attached to this report.

D44/19

D44/19



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is subject to SEPP 65.

The proposal seeks development consent for demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works.

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the DCP. As a result of this notification, no submissions were received.

The key issues associated with the proposal relate to the non-compliances with the FSR, height of building, landscaping, external wall height of building, side setback and overshadowing and whether the proposed bulk, scale and increased intensity on site will be consistent with the desired future character of the area and will not result in additional adverse impacts upon residential amenity of neighbouring properties having regard to visual bulk, overshadowing, privacy impacts and increased demand for parking in the area.

The proposed development has a maximum floor space ratio of 0.849:1, which does not comply with the development standard of 0.75:1 (9.88% variation, 58.4m² above the standard) under Clause 4.4 of the LEP 2012 and a building height of 9.8m, which also does not comply with the development standard of 9.5m (2.85% variation, 300mm above the standard) under Clause 4.4 of the LEP 2012. The applicant has submitted a request under Clause 4.6 for the exceptions to the floor space ratio and height of building standards and the request is considered to be well founded. The proposed development is considered to be consistent with the relevant objectives of the development standards and the R3 Medium Density Residential zone, is consistent with the recently approved residential flat building adjoining the subject site at no. 251 Fitzgerald Avenue and there are sufficient environmental planning grounds to justify the strict compliance with the standards is unreasonable and unnecessary in the circumstances of the case.

The proposed development adopts a maximum wall height of 9.3m, which does not comply with the wall height control of the DCP. The proposed variation is considered satisfactory given the extent of articulation and the setbacks provided to both sides of the building. The proposed external wall heights do not result in adverse visual impact or excessive overshadowing, and the proposed external wall height is also compatible with modern designs for residential flat buildings. Despite the proposal including minor variations to the height of building and floor space development standards, the proposed design is generally compatible with the area and is considered to be an appropriate built form in the locality.

The proposed development would be suitable for the site and would have minimal impacts on the amenity of the adjoining and surrounding properties.

For these reasons, the proposed development is recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is known as 253 Fitzgerald Ave, Maroubra and is legally described as Lot 20 in DP 36217. The site is 590.8m², is regular in shape and has a frontage width of 16.155m to Fitzgerald Avenue and a depth of 36.575m.

The site currently contains a single storey brick and tile dwelling house, a carport structure on the eastern side of the house, a shed to the rear of the house and a double garage near the rear boundary. The site is relatively flat with a slight fall to the street.



Photo 1: Subject site and adjoining dwellings.

The surrounding locality comprises a mix of detached dwellings, attached dwellings, multi-unit housing and residential flat buildings. Adjoining the site to the west at no. 251 Fitzgerald Avenue is a two-storey dwelling house. This site has been approved for demolition of existing structures and construction of a three-storey residential flat building containing 7 units over basement garage (DA/89/2018).

Adjoining the site to the east at no. 255-259 Fitzgerald Avenue are four public housing apartment buildings of 4 and 5 storeys. The site extends through Malabar Road and Yorktown Parade.

Adjoining the site to the rear (south) at no's. 102 Yorktown Parade is two storey residential flat building containing 4 dwelling apartments and 104 Yorktown Parade is two storey residential flat building containing 5 dwelling apartments.

On the opposite side of Fitzgerald Avenue is a predominantly low density residential area with privately developed single and two storey dwelling houses.

Fitzgerald Avenue is predominantly a residential street that forms the northern boundary of the Coral Sea Park Estate. Originally developed in the 1950s as a planned social housing neighbourhood with a mix of low and medium density housing types, many properties have since been sold to private owners over the years and redeveloped with modern infill townhouses and apartments. However, the area still retains its original planned layout and balanced mix of housing densities, with the expansive Coral Sea Park a central feature.

3. Relevant history

The plans have been amended twice and the most recent amendments were submitted to Council on 20 August 2019 to address the Design Review Panel comments dated 8 October 2018 and clarify details of the proposal. The main design changes included in the revised drawings were:

- The breezeway has been included in the FSR calculations;
- Additional detail of screen batten walls to the breezeway, bike storage and front entry gate. The front entry gate within the breezeway area is also relocated to reduce the FSR on site.
- Additional dimension for heights and floor to ceilings shown on the plans;
- Booster location shown;
- Updated storm water plan;
- Additional notes and dimensions on the plans showing areas etc. of open space;
- Updated section 4.6 Exemption to Development Standards to Height of Building and FSR; and
- Updated statement of responses to the panels issue list.

This assessment has been undertaken based on the recent amended plans and documentation received by Council on 20 August 2019.

4. Proposal

The proposal seeks development consent for demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings (3 x 1 bedroom units and 4 x 2 bedroom units), basement car parking for 10 cars, landscaping and associated works.

The development is arranged in two building elements over a common basement area. The elements are connected by a central breezeway with common lift & staircase. The front building contains 3 units and the rear building contains 4 units. The ground floor contains 3 units (2 x 1 bedroom units & a 2 Bedroom unit), the first floor contains 2 units (2 x 2 bedroom units) and the second floor level contains (1 x bedroom unit plus study & 1 x 2 bedroom apartment). A communal area of 50.29m² is provided to the north western corner to the front of the site.

A breakdown of the units proposed are indicated in Table 1.

Table 1:

Level	Unit	Bedroom	Floor Area	Outdoor Area
Ground	Apartment 1	One bedroom	50m ²	19.77m ²
	Apartment 2	Two bedroom	83m ²	Approx. 87.04m ²
	Apartment 3	One bedroom	50m ²	Approx. 81.76m ²
First	Apartment 4	Two bedroom	75m ²	20.10m ² (balcony)
	Apartment 5	Two bedroom	75m ²	16.8m ² (balcony)
Second	Apartment 6	Two bedroom	75m ²	20.10m ² (balcony)
	Apartment 7	One bedroom plus Study	58m ²	22.4m ² (balcony)

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 were received as a result of the notification process.

5.1. Re-notification

The amended plans were not re-notified as the changes proposed will not further impact on neighbouring properties or public domain.

6. Relevant Environment Planning Instruments

6.1. SEPP (Affordable Rental Housing) 2009

The proposal does not provide affordable housing on the site and therefore this SEPP is not applicable.

6.2. SEPP 55 – Remediation of Land

The objectives of SEPP 55 are:

- (1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.
- (2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:
 - (a) by specifying when consent is required, and when it is not required, for a remediation work, and
 - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
 - (c) by requiring that a remediation work meet certain standards and notification requirements.

Clause 7 of SEPP 55 requires the consent authority to consider whether the land is contaminated and whether the land is or can be made suitable for the purpose for which development is proposed.

The site has traditionally been developed for residential purposes and there are no immediate contamination issues that would reasonably impact works associated with the proposed development.

6.3. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The proposed development is for a residential flat building that is 3 storeys containing 7 dwellings, therefore SEPP 65 applies. The relevant provisions of SEPP 65 are addressed below.

In accordance with Clause 28 of SEPP 65, the development was referred to Council's Design Excellence Panel ("DEP") who have assessed the development against the design quality principles of SEPP 65 (refer to Appendix 1). An assessment has also been carried out against the design criteria of the Apartment Design Guide ("ADG") (refer to Appendix 3). In summary, the development complies with the majority of the design criteria with the exception of minimal required area of communal open space and parking. The variations are assessed as part of the Key Issues and are supported as the development achieves the objectives of the criteria and the design guidance.

The proposal was referred to the Design Excellence Panel for Comment, the comments are provided as follows:

PANEL COMMENTS

This is the first time the Panel has seen this proposal. The development involves demolition of the existing dwelling and outbuilding, and construction of a residential flat building containing 7 apartments over three levels and a single level basement car park accommodating 10 cars and 1 motorbike. Some bicycle parking is suggested.

The front building element has 3 units (one per level), consisting of a 50m² one-bedroom unit on the ground floor, a 75m² two-bedroom unit on the first floor and a 58m² one-bedroom unit with study on the second floor. The rear element has 4 apartments consisting of a 50m² one-bedroom unit and an 84m² two-bedroom unit on the ground floor, 75m² two-bedroom units on the first and second floors. The Panel has visited the site and is familiar with the area. The nominated Architect has a New South Wales registration number.

Principle 1: Context and Neighbourhood Context

The site is located on the southern side of Fitzgerald Avenue in the middle of the block defined by Malabar Road to the east and New Orleans Crescent to the west. Fitzgerald Avenue is a predominantly residential street that forms the northern boundary of the Coral Sea Park Estate. The street features a wide nature strip that is turfed and planted with mature trees creating an open open-park-like character.

The width of the property is less than 20 metres. On the site is a single storey brick and tile dwelling of mid-20th century construction, a carport on the eastern side of the house, a shed behind the house and a double garage near the rear boundary.

Principle 2: Scale and Built Form

The development is arranged into separate building elements over a common basement. The elements are connected by a central vertical circulation zone with common lift and staircases. This circulation zone is not accepted by the Panel as a breezeway, and if not open to the east and west should be counted in floorspace calculations.

The bay windows should be angled out from the building to achieve northern light, and to become less bulky to the neighbours. The roof should be cut back between the bay windows in apartment number 6 to reduce the overall bulk and become true bay windows. Balustrades to apartment number 5 should be redesigned to give privacy from the street. The master bedroom in apartment 7 should become a generous master bedroom and the study smaller so as not to become an additional bedroom.

Overall the form and materiality of the building needs to be further refined. It is a competent resolution in response to the controls; additional design resolution is needed to elevate the project into a fine piece of architecture. The roof plan should be amended to align with the falls as shown.

Planner's comments

The plans have been amended so that the central circulation zone is opened up to the east side adjacent to the bicycle rack area. The wall has been replaced with vertical battens spaced out to allow for improved cross flow ventilation to the breezeway. The breezeway is also open to the entry gate at ground floor and to the west side of the staircase there is open battens. There is a small pocket of open battens adjacent to the lift on the east side. The bicycle rack area and part of the walk way entry due to the relation of the entry doors have been excluded from the FSR calculations. The remaining areas within the breezeway is now included in the FSR calculations.

The bay windows on the western side have been angled to allow for northern lighting. The upper level window is extended to the floor and articulated from the roof to reduce the bulk and represent as true bay windows.

The balustrade to apartment 5 are changed to obscured glazing to give privacy from the street.

The master bedroom to apartment 7 is increased in width reducing the study to 2.1m wide.

Further detailing has been noted on the plans and some changes have been proposed to the breezeway to create a better refined architectural design and language to the built form.

Principle 3: Density

The Panel notes that the floor space exceeds the controls by 6.7% (25m²); this overage could be acceptable if the relationship to the public domain were greatly improved.

Planner's comments

The design within the front setback area has been modified to improve the relationship to the public domain. The changes include:

Relocating the bin enclosure, providing covered bicycle parking within the building envelope and direct access within the setback from the entry to the communal open space. The private and public domain areas are separated by screening planting and low wall to maintain an open character to the front streetscape and provide a buffer between the private and public areas.

Principle 4: Sustainability

Key considerations:

- a) *All bathrooms on external walls including the main bathroom in apartment 7 should have operable external windows to reduce the need for artificial ventilation.*
- b) *The method of window operation and their fire treatment on each elevation should be indicated on the drawings.*
- c) *Awning windows provide poor ventilation options. Louvres should be considered.*
- d) *Sun-shading and or weather protection should be provided to suit orientation.*
- e) *Consideration should be given to a solar hot water system.*
- f) *Ceiling fans for bedrooms and living areas are shown on the plans and no air conditioning is shown. The Panel supports this approach.*
- g) *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.*
- h) *The skylights to apartment 6 bring natural daylight, and northern winter sun should ideally be pop-ups with vertical louvres.*
- i) *Some of the natural ventilation claims indicated on the plans are suspect (solid walls, narrow corridors, etc.). Natural ventilation solutions should be clearly documented, and in accord with the architectural solutions.*
- j) *Window types and operation to accommodate different weather conditions, and allow occupants a variety of ventilation options whilst maintaining security.*
- k) *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.*
- l) *Outdoor clothes drying areas should be shown.*
- m) *Rainwater should be harvested, stored, treated and re-used, for WC's, laundries and garden irrigation.*

Planner's comments

- a) The applicant has noted that all external bathrooms have operable windows.
- b) Window operation is detailed on the architectural elevations.
- c) Louvres and sliding windows have been added to the development.
- d) Appropriate screens and shading has been incorporated into the design.
- e) Gas instantaneous 5 star system has been specified in the BASIX.
- f) Ceiling fans have been provided to all bedrooms and are shown on the amended plans.
- g) Photovoltaics have been included in the BASIX.
- h) Three roof skylights are provided to apartment 6 which will improve solar access into this apartment.
- i) Natural ventilation is functional with cross flow ventilation facilitated by all units being dual or triple aspect. The living areas generally all have operable windows with dual aspects.
- j) Window type are shown on the elevations and provide variation for different conditions and uses.
- k) The applicant has noted that the roof is constructed of insulated metal deck.
- l) Clothes drying facilities are shown on the amended plans.
- m) Rainwater is collected to the basement for irrigation to common areas.

Principle 5: Landscape

A set of landscape drawings by ATC Landscape Architects have been provided. The landscape area is 4% below the requirements and should be reviewed. The contravention of the required setbacks by apartment number 2 on the western side may be an area where this can be resolved. The relationship between the public footpath and apartment 1 should be carefully considered in the fencing and in the planting schedule. A 1200mm high palisade fence with planting, designed to give privacy, should be shown in the landscape drawings.

The position of the bins as the main feature of the entry should be reconsidered. Planting is shown over basement levels but no soil depth has been shown. A BCA consultant should advise on the possibility of deleting the north western stair and from the garage and possibly relocating fire pumps to give a more usable communal open-space.

The landscape open space is under the required minimum, while the communal open-space nominated is both inaccessible from the central circulation of the building, and has a stair and path running through the middle of it. The communal open space should be designed to be both amenable to specific uses, and readily accessible from all units.

Details of the permeable paving over deep soil areas needs to be provided, to ensure suitable absorptivity of rainwater. A high quality product should be specified, to ensure its long-term viability. Adequate soil depth need to be provided over the basement slab in those areas where either turf or planting is indicated.

Visitor bicycle parking should be provided in a dedicated, covered area immediately accessible from the entry.

The eucalypt positioned in the north-eastern corner of number 104 Yorktown Parade should be shown on all drawings including the accurate drip line. The application should consider improvements to the wide landscape verge between the property and the street – these improvements could improve the relationship of private landscape to the public domain, create enhanced public amenity and add additional tree canopy to the street.

Planner's comments

The landscaped area is increased and whilst it does not meet the minimum landscape requirement of 50% of the site area is considered to be acceptable and as discussed in the relevant section of this report will meet the objectives of the control. The increased area is created by relocating the bin enclosure and reducing the living room extension of Apartment 2. The front setback and landscaped area has been revised to include a 1.2m high palisade fence with planting to improve the relationship of private to the public domain, (this includes the relationship between the public footpath and apartment 1).

The common open space and access has been redesign to be accessible for the units.

The bins have been relocated to the western side of the building and is enclosed with a solid sliding doors to reduce odour and smell.

The hydrant booster has been shifted away from the main building entry and is located adjacent to the western end of the front fence.

The visitor bicycle parking is located within the breezeway in a dedicated area adjacent the entry.

Details have been provided in relation to the permeable pavers and planter soil depth.

Principle 6: Amenity

Bedroom 2 of apartment 2 needs to be a minimum of 3m wide. Apartment 1, if it is the accessible unit, should be noted as such. Apartments in 255-257 Fitzgerald Avenue should be shown accurately on all plans, including the basement apartments on the basement parking plan, and on all cross sections and shadow diagrams. The relationship of the bank and retaining wall on the property to the east, and the methodology of supporting the excavation for the garage driveway in this proposal should be shown on a cross-section. The subsoil drainage diagram on the Soliman Hanna drawing D1 needs to be reviewed.

Page 5 of the DCP analysis says the apartments to the east get two hours of sunlight. This needs to be demonstrated. The view sharing statement on page 6 of the DCP compliance review States that 255 -257 Fitzgerald Avenue apartments are not affected. This needs to be demonstrated to the Panel.

The Exhaust duct shown on the ground floor drawing doesn't rise up through the building. It should be demonstrated that any tandem car park is allocated to a single unit.

The bicycle parking spaces nominated have inadequate access - this needs to be addressed.

The eucalypt tree and dripline at the north eastern corner is shown of the site plan.

Planner's comments

Bedroom 2 to apartment 2 has been amended to have a minimum width of 3m. Apartment 1 is noted as an accessible unit and layout details are also noted on the plans.

Additional sun access studies are updated and include the impact on adjoining building at no. 255-257 Fitzgerald Avenue. The development meets the solar access requirements under the SEPP as assessed within this report.

Additional retaining wall and contiguous piling details are shown on the basement plan. The neighbouring apartments are shown accurately on the plans.

The amended plans note that the tandem car parking spaces are allocated to individual Units.

Principle 7: Safety

Car park 1 has an additional 250mm in width. Is this compliant?

Development Engineers have reviewed the amended basement plan and the parking layout complies with the minimum requirement under the BCA.

Principle 8: Housing Diversity and Social Interaction

The Panels supports the additional density in this well serviced area.

Principle 9: Aesthetics

The materiality, texture and finishes of the building need to be refined and simplified, and further details to turn this adequate resolution of the controls into a fine piece of architecture.

Planner's comments

As discussed above, further detailing has been noted on the plans and some changes have been proposed to the breezeway to create a better refined architectural design and language to the built form.

SUMMARY AND RECOMMENDATIONS

This proposal has learned from the neighbouring development designed by the same architects, which has responded satisfactorily to the site controls. The design of this building, however, still needs further refinement to achieve a comparatively good design standard.

Assessment Officer's Comment:

An analysis of the development's compliance with the design principles of SEPP 65 and the objectives of the Apartment Design Guide (ADG) has been provided by Prescott Architects, together with a design verification statement.

Amendment to the proposal were made as a result of the Panel's comments and accordingly, the amended analysis shows that the development satisfies the matters raised by the panel and is now considered to be consistent with the design principles and the objectives of the ADG.

The Design Review Panel did not request to review the application once amendments were made and therefore, did not require to be referred to the Panel for further consideration.

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 provide a variety of housing types within a medium density residential environment. The proposal will be compatible with the established character of the area, sufficiently recognises the desirable elements of the existing streetscape in a manner that will contribute to the desired future character of the area and protect resident amenity of the neighbouring residents with regards privacy and overshadowing impacts.

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 maximum floor space ratio of 0.849:1, which does not comply with the development standard of 0.75:1 (9.88% variation, 58.4m ² above the standard)	0.849:1 9.88% variation or 58.4m ² (the ground floor breezeway is included in the calculations).	No – Refer to Clause 4.6- <i>Exceptions to development standards</i> below.
Cl 4.3: Building height (max)	9.5m	Maximum – 9.8m	No – Refer to Clause 4.6 - <i>Exceptions to development standards</i> below.

6.4.1. Clause 4.6 - *Exceptions to development standards*

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

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standards 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)	0.75:1	0.849:1	58.4m ²	9.88%
Cl 4.3: Building height (max)	9.5m	Maximum - 9.8m	300mm	3%

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. 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 will be consistent with neighbouring development in particular the adjoining developments within the streetscape. The adjoining development at no. 251 Fitzgerald Avenue which was recently approved under DA/89/2018 with a similar bulk and scale. The site also adjoins a complex of large scale residential flat building of 4 & 5 Storeys and is of a bulk and scale larger than the proposed development.

When assessing the overall streetscape and development adjoining the site it is considered that the size and scale of the development will be compatible with the desired future character of the locality and in particular to adjoining development in the streetscape.

- (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 development is well articulated in terms of arrangement of building elements, side and rear setbacks, wall articulation and variation of building material and finishes.

The proposal is appropriately articulated and landscaped at ground floor level and will provide for an overall high standard and quality of public domain and amenity, which will improve the overall public domain within the streetscape.

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 the additional area resulting in a non-compliance will not create or exacerbate amenity impacts on neighbouring properties. Appropriate privacy measures have been implemented on the site to minimise privacy impacts and the variation to the height does not impact on overshadowing as it is localized to the ridge at the centre towards the rear of the building.

There are no significant views affected by the proposed development.

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 non-compliance is minor and does not create an unacceptable bulk and scale of development due to the modest footprint and setback and detailed articulation of the building;
- The site is adjacent to a complex of large scale, 4 & 5 storey residential flat buildings. The minor FSR proposed will assist in achieving a transition in bulk & scale from the large flats along Malabar Road to the lower scale flats and houses in the west part of the Coral Sea Park Estate;
- The non-complying FSR does not create or exacerbate amenity impacts on neighbouring properties;
- The proposed FSR non-compliance enables the development to better realise the objectives of the R3 zone to encourage housing affordability. The proposed apartments utilize efficient layouts to minimise gross floor area whilst providing a high standard of amenity through generous rooms with excellent natural light and ventilation. Apartment sizes are at or close to the minimum areas recommended in the Apartment Design Guide.
- The breezeway also has 32.5m² which is included in the total FSR calculation as the small opening alongside the lift to the western elevation are too small to be classify the breezeway as external space.

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 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 desired future character of the locality is established 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 present as a three storey development which is consistent in size and scale with adjoining properties. The non-compliance will not result in unreasonable impact upon the amenity of the neighbouring properties or streetscape.

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

Assessing officer's comment: This objective is satisfied in that the building envelope is well articulated on all facades and all habitable rooms will receive adequate light and ventilation and respond well to the environmental and energy needs.

In addition, 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: A detailed assessment of privacy impacts is provided in Appendix 4 (Item 5.3 – Visual Privacy).
- Overshadowing: A detailed assessment of the overshadowing impacts is provided in Appendix 4 (Item 5.1 – Solar access and overshadowing). The assessment shows that there will be unavoidable overshadowing impacts to the rear yards of the subject and neighbouring properties due to site orientation in a north-west axis. However, on balance the shadow diagrams demonstrate that the overall degree of impacts is acceptable and a reasonable level of solar access will be maintained to the neighbouring properties east and west facing windows. The proposed development also demonstrates that 71% of the units will receive 3 hours or more of direct solar access to their living areas which complies with the ADG requirement.

- **Parking:** There is shortfall of 2 visitor's car spaces. The shortfall is supported by the Council's Development Engineers. (Refer to detailed comments made below under **Appendix 1: Referrals.**)
- **Views:** There are no significant views affected by 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 floor space ratio standard.

Assessment against objectives of the R3 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 three storey scale building 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.

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

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

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

(e) 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 height and scale of the development is comparable to the neighbouring property at no. 251 Fitzgerald Avenue which was recently approved under DA/89/2018. The site also adjoins a complex of large scale residential flat building of 4 & 5 Storeys in height and will provide a transition in scale to the lower rise development to the west. When assessing the overall streetscape and development adjoining the site it is considered that the size and scale of the development will be compatible with the desired future character of the locality and in particular to adjoining development in the streetscape.

The non-compliance is localized to the centre towards the rear section of the building and the departure is minor. As demonstrated in Figure 1 below, towards the front of the development as viewed from Fitzgerald Avenue the building height is compliant with the control.



Figure 1: Section running through the building – red dashed lines showing non-compliant height section

- (f) *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 development is well articulated in terms of arrangement of building elements, side and rear setbacks, wall articulation and variation of building material and finishes.

The proposal is appropriately articulated and landscaped at ground floor level and will provide for an overall high standard and quality of public domain and amenity, which will improve the overall public domain within the streetscape.

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

- (g) *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.

- (h) *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 visual bulk is moderated by modest footprint and setbacks and detailed articulation. Appropriate privacy measures have been implemented to minimise overlooking impacts. The overshadowing impacts are not significant and a reasonable level solar access is maintained to neighbouring properties living spaces. There are no significant view loss impacts.

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

6. 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 Height of Building development standard as follows:

- The non-compliance is minor and does not create an unacceptable bulk or scale to the development due to the modest footprint and setbacks and detailed articulation of the building;
- The site is adjacent to a complex of large scale, 4 & 5 storey residential flat buildings. The minor additional FSR proposed is consistent in achieving a transition in bulk from large flats along Malabar Road to the lower scale flats and dwelling houses in the western [art of the Coral Sea Park Estate];
- The non-complying FSR does not create or exacerbate amenity impacts on neighbouring properties; the height is generally limited to the ridge area and skylight at the rear of the site only; and
- Generally the height at the roof perimeter and as viewed from the public domain and at the front elevation comply with the control.

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.

7. 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 Building standard and R3 - Medium Density Residential zone is provided below:

Assessment against objectives of floor space ratio standard

- (e) *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 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 present as a three storey development which is consistent in size and scale with adjoining properties.

The variation only occurs mainly through the centreline of the roof and skylights to the rear of the site only and is considered to be a minor non-compliance to the control. The development as viewed from the public domain and street complies with the control.

- (f) *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 different wall finishes and materials including planters to minimise the visual bulk. The development complies with the setback control and the upper levels to the development are setback greater than the minimum requirement towards the rear boundary which minimise potential overshadowing impacts to the south neighbours.

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

- (g) *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.

- (h) *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 a variation of building material and finishes; and provides suitable setbacks from the site boundaries ensuring suitably visual amenity.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Appendix 4 (Item 5.3 – Visual Privacy).
- Overshadowing: A detailed assessment of the overshadowing impacts is provided in Appendix 4 (Item 5.1 – Solar access and overshadowing). The assessment shows that the non-complaint section of the building does not result in additional overshadowing impacts as the non-compliant section is localized to the centre of the ridge toward the rear of the site as shown in Figure 1 above.

The proposed development also demonstrates that 71% of the units will receive 3 hours or more of direct solar access to their living areas which meets the ADG requirements.

- Views: There are no view loss impacts associated with this 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 Height of Building standard.

Assessment against objectives of the R3 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 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 & FSR standards 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 height of building standard and the R3 Medium Density Residential zone. Therefore the development will be in the public interest.

8. 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 height of building 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 Building 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 'Matters for Consideration'	Comments
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 4 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(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

Landscaped open space and deep soil area

The control requires a minimum of 50% be provided as landscaped area with 25% being deep soil planting. The proposal only provides 44.44% (or 262.56m²) landscaped area on the site with 23.4% (or 138.2m²) of the site allocated for deep soil planting. The applicant has included the planter on the first floor level within the calculation which resulted in the landscaped area to be 294.93m² and has indicated that the proposed development complies with the control. As defined under the DCP planters above 1.5m above floor level are not calculated as landscaped area.

The variation to the design criteria is supported for the following reasons:

- An appropriate level of space is provided for recreational activities for the units;
- The landscape design plans submitted demonstrates that there is a suitable variety of trees, shrubs and planting proposed to the front, side and rear of the boundaries to provide screening between private and public domain and neighbouring properties;
- Deep soil areas are located to the front and rear of the development in suitable areas which will provide adequate storm water filtration to the site. The development also is

well over the minimum ADG requirement of 7% of the site being allocated for deep soil planting; and

- Impermeable surface cover including hard paving have been limited on the site.

Side setback

The minimum side setback requirement for a frontage width of 16.155m is 3m. The proposal provides a minimum setback requirement of 3m for majority of the building with the exception of Unit 2 on the western side of the ground floor which is setback only 1.8m.

The variation to the design criteria is supported for the following reasons:

- All walls have been well articulated and provide good visual amenity.
- Non-compliant section of the wall is only limited on the ground floor and will not be significantly reducing solar access to neighbouring properties.
- The setbacks allow for cross ventilation and wherever possible solar access hence achieve the intent of the controls.
- Increasing the side setback will not provide better amenity for the site nor will it improve deep soil planting on the site as it is above the basement level, it will only reduce solar access from the protruding north facing living room with little benefits to the neighbouring properties.

External Wall Height

The external wall height control for the subject DA is 8m. The proposal adopts a maximum wall height of 9.2m with a relatively flat roof profile across the site. This is indicated in Figure 1 below.

The proposed variation is considered satisfactory given the extent of articulation and the setbacks provided to both sides of the building. In particular the building is setback 4.1m from the eastern side boundary which exceed the minimum side setback requirement of 3m under the DCP and therefore, the potential impacts as a result of the non-complying wall height will be minimised.

The proposed external wall heights do not result in any unreasonable adverse visual impact or excessive overshadowing, and the proposed external wall height is also compatible with modern designs for residential flat buildings within the immediate streetscape, (in particular the adjoining properties, recently approved development at no. 251 Fitzgerald Avenue (DA/89/2018) and neighbouring property at no. 255-257 Fitzgerald Avenue). Despite the proposal including a minor variation to the floor space development standard, the proposed design is generally compatible with the area and considered to be an appropriate built form in the locality.

The assessment shows that there will be unavoidable overshadowing impacts to the rear yards of the subject and neighbouring properties due to site orientation in a north-south axis. However, on balance the shadow diagrams demonstrate that the overall degree of impacts is acceptable and a reasonable level of solar access will be maintained to the neighbouring properties east and west facing windows. The proposed development also demonstrates that 71% of the units will receive 3 hours or more of direct solar access to their living areas which complies with the ADG requirement.

The assessment shows that the non-complaint section of the building does not result in additional overshadowing impacts as the non-compliant section is localized to the centre of the ridge toward the rear of the site.

Notwithstanding 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.



Figure 1 | Excerpt from Prescott Architects, East Elevation and Materials, A3101, Issue D dated 20 August 2019, showing the maximum external wall height of the building.

Solar access for surrounding development

The shadow diagrams submitted demonstrate that the living areas of the neighbouring properties will still receive a minimum of 3 hours of direct sunlight access to parts of their windows between 8am and 4pm on 21 June.

This assessment also shows that there will be unavoidable overshadowing impacts to the rear yards of the subject and neighbouring properties due to the site orientation in a north-west axis. This level of overshadowing on balance is considered to be acceptable as the setback to upper most levels to the rear of the building are greater than the minimum requirement under the DCP.

The variation to the height of building standard does not result in additional overshadowing impacts as the non-compliant section is localized to the centre of the ridge toward the rear of the site. Any compliant built form will result in similar overshadowing impacts.

Despite the height and FSR minor non-compliances, they are isolated encroachments and the overall impact of the development is in-line with the objective of the control.

10. Conclusion

That the application to demolish all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works be approved (subject to conditions) for the following reasons:

- The proposed development is in accordance with the design criteria requirement of Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide under Apartment Design Guide.
- The variations made under Clause 4.6 Exemption to Development Standards to the Height of Building and FSR are considered to be well founded.
- 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

An application has been received for the demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works (variation to floor space ratio control) at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Prescott Architects dated 17th August 2018;
- Statement of Environmental Effects by Shanahan Planning dated 15th Sept 2018;
- Detail & Level Survey by D&C Surveying dated 25/05/2018;
- Traffic And Parking impact report by Motion Traffic Engineers;
- Geotechnical Report by Alliance Geotechnical dated 15th December 2017;
- Concept Drainage Plans by Soliman Hanna & associates dated 28th August 2018;
- Landscape Plans by ATC, dwg's L00-02, rev. A, dated 05/09/18.

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 Fitzgerald Avenue; or;
- ii. To Council's underground/street drainage system located in 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),

Parking Comments

Parking Requirements for the 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 space per 2 bedroom unit
- 1 visitor space per 4 units

The proposed 7 unit development comprises of 3 x 1 bedroom and 4 x 2 bedroom units

Parking required under DCP = (4 X 1.2) + (3 X 1) + 7/4 (visitor)
 = 4.8 + 3.0 + 1.75
 = 9.55
 = say 10 spaces (including 1-2 visitor spaces)

Vehicle Parking proposed = 10 spaces (complies)

Motorbike Parking

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

Motorbike Parking Required $= 0.05 \times 10$
 $= 0.5 = \text{say } 1 \text{ space}$

Motorbike Parking proposed = 1 space (complies)

Bicycle Parking

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

Bicycle Parking Required $= 7/2 + 7/10$
 $= 3.5 + 0.7$
 $= 4.2$
 $= \text{say } 4 \text{ spaces}$

Bicycle Parking proposed = 7 spaces (complies)

Although the proposed development numerically complies with Council's DCP requirements it is noted that 6 of the vehicle spaces are provided in a tandem arrangement (3 x 2). Development Engineering would require that each of the tandem spaces be dedicated to a single unit;

Spaces 5 & 8 are tandem spaces & so must be allocated to a single unit
 Spaces 6 & 9 are tandem spaces & so must be allocated to a single unit
 Spaces 7 & 10 are tandem spaces & so must be allocated to a single unit

This leaves the 4 spaces against the rear basement wall to be divided between the remaining 4 units which shall presumably be allocated 1 each, leaving no spaces for visitors. This is not generally supported.

The lack of visitor parking has not been addressed in the Statement of Environmental Effects or in the submitted Traffic Report. It would be Development Engineering's preference that visitor parking be provided.

In consideration of;

- the numerically compliant site parking
- the apparent availability of street parking along the site frontage at time of site inspection
- proximity of public transport,
- The neighbouring development at No.251 Fitzgerald Ave which was approved with an almost identical layout (see DA/89/2018)

No objections are raised to the parking allocation and configuration in this instance.

Carpark Layout & Access driveway

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. In this regard, no concerns are raised on the proposed layout, although it is noted that point turn manoeuvre will likely be necessary to enter some of the spaces.

Despite the low number of units, the widened driveway near the front property alignment is supported due to the wide Council verge at this location, which will increase the likelihood of vehicle conflict on the long crossing if a single width crossing is provided. The additional width will allow two vehicles to pass each other should such a conflict arise.

Traffic Comments

The traffic and parking report satisfactorily demonstrates that the proposed development will not significantly impact on the performance of nearby intersections including the signalled intersection at the corner of Fitzgerald Avenue and Malabar Road.

Undergrounding of power

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 = $7/2 = 3.5 = 4$ (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 = 4 (normal) + 4 (recycling) + 2(green waste)
= 10 x 240L BINS

Total Number of BINS proposed = Not explicitly indicated on plans

The proposed 'refuse' enclosure proposed at the front of the property will comfortably accommodate 7 x 240L bins. A green waste bin is also proposed in the basement but could also accommodate another bin adjacent without impact on any maneuvering in the basement. This will leave a shortfall of 1 x 240L bin (9 provided, 10 required)

The remaining required bin could be installed adjacent to the BBQ area and can be addressed with the waste management plan (WMP) approval. Conditions relating to the required number of bins and submission of a waste management plans have been included in the recommended engineering conditions.

Tree Management Comments

The site inspection of 11 March 2019 revealed a mature *Eucalyptus robusta* (Swamp Mahogany) on Council's verge, close to the western edge of the existing vehicle access, which while being an endemic species and covered by the DCP, is in very poor condition due to past heavy lopping away from the wires, which has modified its form and reduced its true size, with all branches and foliage now restricted purely to its eastern aspect only.

The plans show that the existing crossing will be widened further to the west, so as to link up with the new basement entry ramp and waiting bay, and as this will be in direct conflict with the tree,

which has no prospects of recovery, irrespective of these works, Council requires its removal and replacement, wholly at the applicant's cost.

While the mature Port Jackson Fig, also on the Fitzgerald Avenue verge, further to the west, in front of the neighbouring site at no.251, should not be directly affected by these works, in recognition of its place within a formal avenue planting of this species, which as a group, are important in the streetscape, minimal protection measures have still been imposed.

A similar situation also applies to the Cottonwood on Council's verge, on the opposite side, beyond the eastern boundary, as it is located close to the existing/new driveway, so protection and pruning conditions have been included.

All vegetation in the front setback was observed to be insignificant, including the centrally located Frangipani, as well as the Bottlebrush along the western boundary, both of 4m in height, so can all be removed and replaced with the new landscape treatment as shown.

While access to the rear yard was restricted at the inspection, it was observed from the driveway, as well as from a review of the submitted survey, that there is a group of shrubs/small trees around the southwest corner, both within the subject site and on those neighbouring properties to the south and west, close to the respective common boundaries.

Despite exact identification of species and location not being possible, none are significant, so those within the subject site will not pose a constraint to the works, with the relevant consent provided for their removal, with reasonable separation to be provided from those on adjoining properties given that both the Basement & Ground Floor plans (dwg's A2100 & A2101 respectively) show that the southern edge of all parts of the works will be offset a distance of 5700mm from the rear/southern boundary, and 1500mm from both side boundaries, which is sufficient to avoid any direct impacts.

There is a large and mature Swamp Mahogany beyond the southeast site corner, located wholly on the adjoining private property at no.257, which is prominent in the immediate area, and while its trunk is physically sited well clear of the common boundary and any works so that its root system would not be affected, the western aspect of its canopy overhangs slightly above the subject site, and while it was observed to be at such a height that no conflict should result, conditions allow minimal clearance pruning if needed so as to avoid direct damage.

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

Clause 4.6 request for variation of FSR standard

Clause 4.6 of RLEP2012 enables approval of a development notwithstanding that it does not comply with a development standard if:

- *A written request has been made which demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard;*
- *The development will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.*

Request is hereby made for approval of a proposed non-compliance with the floor space ratio (FSR) standard. The requirements of Clause 4.6 are addressed below in support of this request. The rationale presented below is similar to that accepted by Council for a FSR variation approved for a comparable development on neighbouring property No251 Fitzgerald Ave (DA/89/2018). A slightly larger FSR variation is proposed in this case (6.7%) compared to DA/89/2018 (4%) on the basis that this site directly adjoins a complex of large scale residential flat buildings of 4 & 5 storeys, and therefore can support a greater FSR in order to provide for a transition in scale to the lower rise development to the west.

Proposed variation

Clause 4.4 of RLEP2012 specifies a maximum FSR of 0.75:1 for development on this site. The development has a gross floor area of 473m². This is a 6.7% variation of the FSR standard (an extra 29.9m² of gross floor area beyond the 443.1m² GFA normally permitted).

Objectives of the standard

The development is consistent with the objectives of the standard set out in Clause 4.4(1) of RLEP2012, as detailed below:

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

The site is within the Coral Sea Park Estate, a planned neighbourhood developed by the former Housing Commission in the 1950s. The Estate contains a mixture of dwelling types including cottages, duplexes and residential flats. The latter includes large scale apartment complexes such as those adjoining the site to the east (No255-259 Fitzgerald Ave). These 4 & 5 storey buildings are at the northern end of a band of similarly large-scale buildings running along Malabar Rd which defines the eastern boundary of the Estate. A characteristic of the Estate noted in the Area Specific Controls of the DCP (Section 8.1) is the balanced mix of density.

The proposed development provides for a transition in size and scale from the large flats along Malabar Rd to the lower scale flats and houses elsewhere in the Estate.

The development has been carefully designed to ensure that its size and scale is comparable with other modern residential flat developments, such as those illustrated previously in **Photos 7 – 16** of this SEE. This has been achieved by:

- Units with efficient, compact floor layouts to maximise useable space and avoid 'dead space' or excessive room sizes and circulation areas which unnecessarily add to GFA;
- Arranging the development into two inter-connected building elements each of moderate size rather than a single large monolithic structure (emphasised by a central roofing element slightly raised relative to the front and rear roofs);
- Detailed vertical and horizontal articulation of walls and variation of materials and finishes to further reduce apparent size and scale (enhanced by lightweight metal cladding to the upper floor).

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

Clause 4.6 request for variation of standard

Clause 4.6 of RLEP2012 enables approval of a development notwithstanding that it does not comply with a development standard if:

- a written request has been made which demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard;
- the development will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.

1.0 Request for variation of FSR standard.

Request is hereby made for approval of a proposed non-compliance with the floor space ratio (FSR) standard. The requirements of the Clause 4.6 are addressed below in support of this request.

The rationale presented below is similar to that accepted by Council for a FSR variation approved for a comparable development on neighbouring property No251 Fitzgerald Ave (DA/89/2018). A slightly larger FSR variation is proposed in this case (9%) compared to DA/89/2018 (4%) on the basis that this site directly adjoins a complex of large scale residential flat buildings of 4 & 5 storeys, and therefore can support a greater FSR in order to provide for a transition in scale to the lower rise development to the west.

Proposed variation

Clause 4.4 of RLEP2012 specifies a maximum FSR of 0.75:1 for development on this site. The development has a gross floor area of 501.5m². This is a 9% variation of the FSR standard (an extra 58.4m² of gross floor area beyond the 443.1m² GFA normally permitted).

2.0 Request for variation of height standard.

Request is hereby made for approval of a proposed non-compliance with the height standard. The requirements of the Clause 4.6 are addressed below in support of this request.

Proposed variation

Clause 4.3 of RLEP2012 specifies a maximum height of 9.5m for development on this site. The development has a height of 9.8m at its highest point. This is a 3% variation of the FSR standard (an extra 300mm of height beyond the 9.5m height normally permitted), this only occurs mainly through the centreline of the roof and skylights to the rear of the site only.

3.0 Objectives of the standard

The development is consistent with the objectives of the standard set out in Clause 4.4(1) of RLEP2012, as detailed below:

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

The site is within the Coral Sea Park Estate, a planned neighbourhood developed by the former Housing Commission in the 1950s. The Estate contains a mixture of dwelling types including cottages, duplexes and residential flats. The latter includes large scale apartment complexes such as those adjoining the site to the east (No255-259 Fitzgerald Ave). These 4 & 5 storey buildings are at the northern end of a band of similarly large-scale buildings running along Malabar Rd which defines the eastern boundary of the Estate. A characteristic of the Estate noted in the Area Specific Controls of the DCP (Section 8.1) is the balanced mix of density. The proposed development provides for a transition in size and scale from the large flats along Malabar Rd to the lower scale flats and houses elsewhere in the Estate.

The development has been carefully designed to ensure that its size and scale is comparable with other modern residential flat developments, such as those illustrated previously in **Photos 7 – 16** of this SEE. This has been achieved by:

- units with efficient, compact floor layouts to maximise useable space and avoid 'dead space' or excessive room sizes and circulation areas which unnecessarily add to GFA;
- arranging the development into two inter-connected building elements each of moderate size rather than a single large monolithic structure (emphasised by a central roofing element slightly raised relative to the front and rear roofs);
- detailed vertical and horizontal articulation of walls and variation of materials and finishes to further reduce apparent size and scale (enhanced by lightweight metal cladding to the upper floor).

Another aspect of the Estate's character noted in the DCP is the prevalence of rear landscaped areas with significant trees. There is currently a double garage, driveway and shed currently occupying the rear yard of the property. The development involves removal of these outbuildings and provides a deep soil landscaped area across the entire rear boundary that is 5.7m in width and will be planted with 2 medium-large trees, together with numerous shrubs and groundcovers, thereby creating the leafy rear yard character sought by the DCP. The development effectively achieves the DCP's 50% standard for landscaped open space (48.5% provided) and provides 25.8% deep soil area which complies with the 25% required by the DCP. This confirms that the additional FSR is not manifested in an excessive building footprint or a compromised landscape solution.

The height of the proposed building is predominantly consistent with the height standard except for lift overrun, skylights and an encroachment at the ridge, the eaves are compliant on all sides.

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

As noted above, the development is well articulated in terms of the arrangement of building elements, the articulation of walls and the variation of building materials and finishes.

It also utilises voids and balconies of varying size to further articulate the building form. This contributes to environmental and energy objectives by introducing natural light and ventilation throughout the building.

(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 site is not within a conservation area or near a heritage item. Nonetheless it is within the Coral Sea Park Estate which is recognised as having a distinctive character. As noted above, the development will be compatible with the scale and character of buildings within the Estate.

(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 development has been carefully designed to ensure that it does not adversely impact on the amenity of adjoining and neighbouring lands. In particular:

- **visual bulk** has been moderated by the arrangement of building elements, the articulation of walls, the variation of building materials and finishes and the building height and setbacks;
- **privacy** has been protected by the following measures:
 - keeping the ground floor level at or below existing ground level to minimise overall height;
 - provision of side setbacks which generally meet or exceed DCP controls;
 - orientation of the main living room windows and balconies towards the front and rear of the site rather than to the sides;
 - use of privacy screens on each side of the rear balconies at first and second floor levels;
 - angled louvre privacy screens are provided to bedroom and dining room windows in the western side elevation at first and second floor level;
 - the eastern elevations of Apartment 4 on the first floor and Apartment 6 on the second floor have high-sill windows in the kitchen & bathroom and narrow slit window to the bedroom which protects privacy of the easterly adjacent 5 storey residential flat building (No255-259 Fitzgerald Ave);
 - windows in the eastern elevations of Apartment 5 on the first floor and Apartment 7 on the second floor are positioned opposite the lift shaft and screened balconies of No255-259 therefore do not impact on the privacy of the neighbouring flats;
 - bathroom windows facing side boundaries will be fitted with opaque glass.
- **overshadowing** has been minimised to a reasonable level by:
 - the favourable north-south orientation of the site, which ensures that shadows are cast towards neighbours to the east and west for only part of the day;
 - the variation to the height does not impact on overshadowing
- there are no significant **views** affected by the development.

The proposed additional FSR and height therefore does not result in additional or unreasonable amenity impacts. It is concluded that the proposal is consistent with the objectives of the FSR and height standard.

Objectives of the zone

It was shown in **Table 1** above that the proposal is consistent with the zone objectives.

1.1 Justification of the contravention of the FSR standard

It is considered that the proposed variation is justified on the basis that compliance is unnecessary and unreasonable in the circumstances of the case and there are sufficient environmental planning grounds supporting the variation, as detailed below:

- the non-compliance is minor and does not create an unacceptable bulk or scale of development due to the modest footprint, & setbacks and detailed articulation of the building;
- the site is adjacent to a complex of large scale, 4 & 5 storey residential flat buildings. The minor additional FSR proposed will assist in achieving a transition in bulk & scale from the large flats along Malabar Rd to the lower scale flats and houses in the western part of the Coral Sea Park Estate;
- the non-complying FSR does not create or exacerbate amenity impacts on neighbouring properties;
- the proposed FSR non-compliance enables the development to better realise the objective of the R3 zone to encourage housing affordability. The proposed apartments utilise highly efficient layouts to minimise gross floor area whilst providing a high standard of amenity through generous rooms with excellent natural light and ventilation. Apartment sizes are at or close to the minimum areas recommended in the *Apartment Design Guide*, as illustrated below.

Unit	Rooms	Proposed area (m ²)	ADG reco (m ²)	Difference (m ²)
1	1BR, 1BTH	50	50	0
2	2BR, 2BTH	82	75	+ 7
3	1BR, 1BTH	50	50	0
4	2BR, 2BTH	77	75	+2
5	2BR, 2BTH	75	75	0
6	2BR, 2BTH	77	75	+2
7	1BR+STUDY, 1BTH	58	50/62*	+8/-4
TOTAL DIFFERENCE				+17/+5

* ADG recommended area of Unit 7 is 50m² if regarded as a one-bedroom unit, or add 12m² if the study is regarded as an additional bedroom.

As noted above, the total GFA is at most 17m² above the GFA that would result if units were at ADG minimum areas. Strict compliance with the FSR standard would require the deletion of 25.9m² of GFA, therefore cannot be achieved by trimming unit areas back to ADG minimums and would require deletion of one unit. Logically, the smallest unit would be deleted and the 'spare' GFA distributed amongst the other units to increase their area.

This would result in 6 larger units rather than 7 more modest units which provides a lesser contribution to housing stock at a time of continued long term underlying housing shortage in Sydney (notwithstanding record housing construction in the last year or two). The proposed units which are at or close to the ADG minimum recommended size will promote housing affordability through lower construction cost, lower purchase price and lower long-term operating costs (lighting, heating & cooling). They also promote environmental objectives through lower resource use and reduced embodied energy in construction, and lower energy use over long term occupation, per person housed.

The breezeway also has 32.5m² which has been included in the total GFA calculation as the small opening alongside the lift to the Western Elevation may be too small to classify the breezeway as technically an external space.

The proposal is therefore considered to represent a superior planning outcome in terms of housing supply, affordability and environmental objectives.

2.1 Justification of the contravention of the height standard

It is considered that the proposed variation is justified on the basis that compliance is unnecessary and unreasonable in the circumstances of the case and there are sufficient environmental planning grounds supporting the variation, as detailed below:

- the non-compliance is minor and does not create an unacceptable bulk or scale of development due to the modest footprint, & setbacks and detailed articulation of the building;
- the site is adjacent to a complex of large scale, 4 & 5 storey residential flat buildings. The minor additional FSR proposed is consistent in achieving a transition in bulk from the large flats along Malabar Rd to the lower scale flats and houses in the western part of the Coral Sea Park Estate;
- the non-complying FSR does not create or exacerbate amenity impacts on neighbouring properties;
- the height is generally limited to the ridge area and skylights at the rear of the site only
- generally the height at the roof perimeter and as viewed from the public domain and the front elevation is acceptable.

The public interest

As the proposal has been shown to be consistent with the objectives of the development standard and the zone, it is considered to be within the public interest.

Having regard to the above, it is considered that the proposed variation is well founded and has resulted in a superior planning outcome than would be achieved if strict compliance with the standard was required.

Conclusion

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

Appendix 3: Compliance with ADG Design Criteria

Apartment Design Guide (ADG)

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

Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A -1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed.	Site analysis satisfactory and addresses elements in the checklist.	Yes
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1).	Apartments 1, 5 & 7 are oriented to Fitzgerald Avenue. Pedestrian entry from Fitzgerald and vehicular access is provided.	Yes
	Where the street frontage is to the east or west, rear buildings should be oriented to the north.	Lot is orientated to the north.	Yes
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be oriented to the east and west.	The site is north facing and the development has been designed to minimise overshadowing impacts where possible.	Acceptable.

Clause	Requirement	Proposal	Compliance
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.	<p>Solar access requirements will be achieved for the development with a minimum of 70% of the units receive solar access</p> <p>The design orientates the living areas to maximize solar access.</p> <p>The communal open space is located to the north west to the front of the building and will receive good solar access.</p>	Yes
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered.	<p>Adequate solar access is received to the living rooms and parts of the balconies and private open space will receive the minimum solar access requirements.</p> <p>The apartment to the rear have a south facing aspect and due to the orientation of the site will be overshadowed by the existing and proposed development.</p> <p>This will be the case for majority of the surrounding residential flat buildings and is largely unavoidable.</p> <p>On balance, the subject site and neighbouring sites will receive a reasonable level of solar access to their windows in particular the shadow diagrams demonstrate that the neighbouring east and west facing windows will still receive the required 3 hours of solar access to their living areas.</p> <p>It should be noted that majority of the additional overshadowing impacts will be a result of the site orientation and any compliant built form will result in similar overshadowing impacts as presented for this proposal.</p>	Yes
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures	Adjoining neighbours receive three hours of solar access.	Yes

D44/19

D44/19

Clause	Requirement	Proposal	Compliance
	solar access to neighbouring properties is not reduced by more than 20%.		
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	Solar access remains satisfactory.	N/A
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks.	The upper levels are setback an additional metres (2.5m total) from the southern boundary and solar access is considered to be acceptable.	Yes
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.	There are no solar collectors on adjoin properties.	N/A
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	<p>Minimum required for the site = 147.7m²</p> <p>A communal area of 50.29m² is provided to the north western corner to the front of the site.</p> <p>Given that the site is constrained in terms of orientation this is an acceptable outcome. The individual units are provided with larger private open space areas which are accessible and generally receive good solar access, which given that the development includes seven dwellings, this is an acceptable outcome.</p>	No but outcome is acceptable.
	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).	The shadow diagrams provided demonstrate that the communal open space to the north western corner of the site will receive at least two hours solar access during the winter solstice.	Yes
3E-1	Deep Soil Zones		
	Deep soil zones are to meet the following requirements: Site Area: less than 650m ² = 7% of Site area.	The proposal includes adequate areas of deep soil zones well over the minimum requirement.	Yes
3F-1	Visual Privacy		
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from	<p>The setbacks are generally acceptable.</p> <p>All apartments are generally orientated to the front or the rear of the site. The windows</p>	Yes

Clause	Requirement	Proposal	Compliance																																																																																																																								
	buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys) – Habitable rooms and balconies = 6m, non-habitable rooms = 3m	which are orientated to the side boundaries have been screened or are highlight windows. On the ground floor the windows will be obscured by landscaping and or the proposed 1.8m side fence.																																																																																																																									
3J-1	Bicycle and Car Parking																																																																																																																										
	The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	The car parking requirement is 10 spaces for cars and four bicycle spaces. The proposal was assessed by Council's Development Engineers who have considered the parking arrangement as being acceptable.	Refer to Appendix 1 – referral comments made by Council's Development Engineers.																																																																																																																								
Part 4: Designing the Building																																																																																																																											
4A	Solar and Daylight Access																																																																																																																										
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	Five of the units achieve in excess of 2 hours solar access to part of their living area (71%), refer to matrix table below. Unit 2 only receive two hours of solar access, due to the orientation of the site. However, there are south facing living room windows that receive daylight. Unit 3 receives less than one hour solar access, due to living area and private open space being orientated to the eastern side of the site. This is acceptable given the orientation of the site.	Yes.																																																																																																																								
A sun access matrix table from 21 June has been provided by the applicant below:																																																																																																																											
<div>SUN ACCESS MATRIX 21 JUNE</div> <table><tr><th>UNIT</th><th>9.00</th><th>9.30</th><th>10.00</th><th>10.30</th><th>11.00</th><th>11.30</th><th>12.00</th><th>12.30</th><th>13.00</th><th>13.30</th><th>14.00</th><th>14.30</th><th>15.00</th><th>TOTAL HOUR</th></tr><tr><td>LG_01</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>6.0</td></tr><tr><td>LG_02</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>1.0</td></tr><tr><td>LG_03</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>0.0</td></tr><tr><td>L1_04</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>2.0</td></tr><tr><td>L1_05</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>6.0</td></tr><tr><td>L2_06</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>○</td><td>3.0</td></tr><tr><td>L2_07</td><td>●</td><td>●</td><td>○</td><td>○</td><td>○</td><td>○</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>●</td><td>4.0</td></tr></table> <div>71% OF UNITS RECIEVE 2 HOURS OR MORE DIRECT SOLAR ACCESS ON JUNE 21</div>				UNIT	9.00	9.30	10.00	10.30	11.00	11.30	12.00	12.30	13.00	13.30	14.00	14.30	15.00	TOTAL HOUR	LG_01	●	●	●	●	●	●	●	●	●	●	●	●	●	6.0	LG_02	○	○	○	○	○	○	○	○	○	○	○	○	○	1.0	LG_03	○	○	○	○	○	○	○	○	○	○	○	○	○	0.0	L1_04	○	○	○	○	○	○	○	○	○	○	○	○	○	2.0	L1_05	●	●	●	●	●	●	●	●	●	●	●	●	●	6.0	L2_06	○	○	○	○	○	○	○	○	○	○	○	○	○	3.0	L2_07	●	●	○	○	○	○	●	●	●	●	●	●	●	4.0
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L1_05	●	●	●	●	●	●	●	●	●	●	●	●	●	6.0																																																																																																													
L2_06	○	○	○	○	○	○	○	○	○	○	○	○	○	3.0																																																																																																													
L2_07	●	●	○	○	○	○	●	●	●	●	●	●	●	4.0																																																																																																													
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Only apartment LG-03 receives no direct solar access between 9am and 3pm at mid-winter. The remaining 6 apartments which equates to 85.7% will	Yes																																																																																																																								

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Clause	Requirement	Proposal	Compliance
		received direct sunlight between 9 am and 3 pm at mid-winter.	
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	All apartments have good cross ventilation.	Yes
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable Rooms – 2.7m Non-habitable – 2.4m	A 2.7m floor to ceiling heights for habitable rooms is indicated in the SEE and is reflected on the sections provided.	Yes
4D	Apartment Size and Layout		
	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio - 35m² 1 bedroom - 50m² 2 bedroom - 70m² 3 bedroom - 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p>	<p>1 bedroom = 50m²</p> <p>2 bedroom = Minimum 75m² (including additional bathroom)</p>	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All habitable rooms comprise of a window opening for the purposes of light and will not have an area less than 10% of the floor area of the room. For the purposes of ventilation all apartments have multiple aspects.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	All habitable room depth other than open plan layouts which are discussed below will comply.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan layouts are located within an 8 metres depth of a habitable window.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Bedrooms will achieve minimum area requirements.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms have a minimum dimension of 3m.	Yes

Clause	Requirement	Proposal	Compliance																								
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments	The dimensions are greater than the minimum width requirement.	Yes																								
4E	Apartment Size and Layout																										
	All apartments are required to have primary balconies as follows: Studio apartments 4m ² 1 bedroom apartments 8m ² 2m dim. 2 bedroom apartments 10m ² 2m dim. 3+ bedroom apartments 12m ² 2.4m dim. The minimum balcony depth to be counted as contributing to the balcony area is 1m	All the private open space areas are adequate. <table><tr><th>Unit</th><th>Bedroom</th><th>Outdoor Area</th></tr><tr><td>Apartment 1</td><td>One bedroom</td><td>19.77m²</td></tr><tr><td>Apartment 2</td><td>Two bedroom</td><td>Approx. 87.04m²</td></tr><tr><td>Apartment 3</td><td>One bedroom</td><td>Approx. 81.76m²</td></tr><tr><td>Apartment 4</td><td>Two bedroom</td><td>20.10m² (balcony)</td></tr><tr><td>Apartment 5</td><td>Two bedroom</td><td>16.8m² (balcony)</td></tr><tr><td>Apartment 6</td><td>Two bedroom</td><td>20.10m² (balcony)</td></tr><tr><td>Apartment 7</td><td>One bedroom plus Study</td><td>22.4m² (balcony)</td></tr></table>	Unit	Bedroom	Outdoor Area	Apartment 1	One bedroom	19.77m ²	Apartment 2	Two bedroom	Approx. 87.04m ²	Apartment 3	One bedroom	Approx. 81.76m ²	Apartment 4	Two bedroom	20.10m ² (balcony)	Apartment 5	Two bedroom	16.8m ² (balcony)	Apartment 6	Two bedroom	20.10m ² (balcony)	Apartment 7	One bedroom plus Study	22.4m ² (balcony)	Yes
Unit	Bedroom	Outdoor Area																									
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Apartment 7	One bedroom plus Study	22.4m ² (balcony)																									
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	Ground floor apartments all have courtyards ranging from 19.77m ² – 87.04m ²	Yes																								
4F	Common Circulation and Spaces																										
	The maximum number of apartments off a circulation core on a single level is eight	The core provides entry to a maximum of 3 apartments.	Yes																								
4G	Storage																										
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio apartments 4m ³ 1 bedroom apartments 6m ³ 2 bedroom apartments 8m ³ 3+ bedroom apartments 10m ³ At least 50% of the required storage is to be located within the apartment	A storage diagram has not been provided, although the SEE suggest that the storage is compliant with storage lockers provided to the basement level. It appears only 3 of the unit have been allocated storage space on the basement level. However, there is potential for the other units to be allocated storage lockers spaces within the basement area. A diagram showing the storage is included as a condition of consent.	Subject to a condition of consent.																								

Appendix 4: DCP Compliance Table**3.1 Section C2 - Medium Density Residential**

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.

B7	Transport, Traffic, Parking and Access		
3.	Parking & Service Delivery Requirements		
	Control	Comment	Compliance
	Car parking requirements: 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	<p>The proposed 7 unit development comprises of 3 x 1 bedroom and 4 x 2 bedroom units.</p> <p>Parking required under DCP:</p> <p>4 x 1.2 (Two bedroom) + 3 x 1 (One bedroom) + 7/4 (visitor)</p> <p>= 4.8 (Two bedroom) + 3.0 (One bedroom) + 1.75 (Visitor)</p> <p>= 9.55</p> <p>Say 10 spaces (including 2 visitor spaces)</p> <p>A total of 10 car spaces are provided for the Units.</p> <p>Apartments 1, 3, 5 & 7 = One car space is provided for each of the units.</p> <p>Apartments 2, 4 & 6 = two car spaces in a stacking format are provided for each of the units.</p>	Does not comply with visitor's car parking spaces requirement of 2 spaces. Refer to Development Engineer comments above in Appendix 1, which supports the deficiency.
	Motor cycle requirements: 5% of car parking requirement	<p>Motorbike Parking required = $0.05 \times 10 = 0.5$ (say 1 space is required)</p> <p>One motor cycle space is provide in the basement level.</p>	Yes
4.	Bicycles		
	Residents: 1 bike space per 2 units Visitors: 1 per 10 units	A total of 4.2 bicycle spaces are required, 7 spaces are indicated on the ground floor plan.	Yes

C2	Medium Density Residential		
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 	A site analysis plan has been provided.	Yes
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	Site area = 590.8m ² Minimum required = 262.56m ² (or 44.44%)	Does not comply. Refer to Key Issues above.
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	The calculations provided include paved areas at the front and rear of Units 1, 2 and 3. These areas do not satisfy the definition of deep soil areas, hence the total deep soil provided on the site is Approx. 138.2m ² or 23.4% of the site area. In this instance a reduced amount of deep soil area is acceptable as it exceeds requirement of the ADG (i.e. 7%).	No – however acceptable given the circumstances.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	As discussed the proposal has included areas which are paved which do not satisfy the definition of deep soil area.	Acceptable.
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.	The landscape plan, prepared by Prescott Architects, dated 05/09/2018, drawing numbers L/00, L/01 & L/02 details a range of species in varying sizes. The proposal has been reviewed by Council's Landscape officer and comments have been provided.	Yes – see comments on Landscaping
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Deep soil areas are proposed to the rear of the property beyond the basement level below.	Yes

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	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Appropriate contiguous deep soil zone is provided on the site of adjacent properties.	Yes
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <ul style="list-style-type: none"> (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. 	<p>The private open spaces have been designed to comply. Unit 1 has private open space, fronting the street. Screen planting has been incorporated into the design hence is acceptable.</p> <p>Currently Unit 3 has their private open space facing the eastern side boundary and is directly off the living area. There is also adequate area at the back of the apartment which also can be used for private open space. The private open space for Unit 2 is located to the rear of the unit off the main living area and adequate screen planting and dividing fence provide for reasonable privacy levels for this unit. Adequate balcony space is provided for Units 4, 5, 6 & 7 which either have a north or south aspect to maximise solar access. Screen planting and privacy screens are proposed to minimise overlooking into neighbouring properties.</p>	Acceptable.
	<p>For residential flat buildings:</p> <ul style="list-style-type: none"> (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 with the dwelling. (vii) Private open space for apartments has a minimum area of 8m² and a minimum dimension of 2m. 	All of the private open space areas comply.	Yes
2.3.2	Communal open space		
	<p>Communal open space for residential flat building is to be:</p> <ul style="list-style-type: none"> (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. 	<p>The communal open space is located forward of the building line, with good solar access and passive surveillance. The area will be adequately screened as recommended by the Design Excellence Panel.</p>	Yes

	(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.		
3	Building Envelope		
3.1	Floor space ratio		
	The floor space ratio for the site is 0.75:1	The proposal seeks approval for a floor space ratio of 0.849:1. Accordingly the provisions of Clause 4.6 have been considered.	No – refer to the Clause 4.6 assessment contained in Section 7 of this report.
3.2	Building height		
	The site has a permissible building height of 9.5m.	The proposal includes a maximum building height of 9.8m.	No. Refer to Clause 4.6 assessment contained in Section 7 of this report.
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	The development has a maximum building depth of 13.8m. There is adequate visual interest in the building massing and finishes materials.	Yes
3.4	Setbacks		
3.4.1	Front setback (i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	The proposal has adopted a front setback of 6m to the building line which is generally consistent with the average setback of neighbouring properties.	Yes
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below:	Frontage width is 16.155m. Majority of the building is setback a minimum distance of 3m from the	No. Western side to Unit 2 does not comply. Refer to Key Issues above.

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	<ul style="list-style-type: none"> - 16m ≤ site frontage width < 18m: 3m <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>	<p>site boundaries with the exception of Unit 2 on the western side which is setback only 1.8m.</p>	
3.4.3	Rear setback		
	<p>For residential flat buildings, provide a minimum rear setback of 15% (5.78m) of allotment depth or 5m, whichever is the greater.</p>	<p>Site depth = 38.575</p> <p>The requirement is 5.78m.</p> <p>The proposal has a rear setback of 5.7m at the ground level and increase to 8.2m at the first and second floor levels.</p>	<p>The non-compliance at the ground level is minor, being only 0.78m and is not considered to result in any unacceptable amenity impacts to the neighbouring properties in terms of privacy and overshadowing. The first and second floor levels are setback much greater than the minimum requirement. The rear setback is considered to be acceptable and will meet the objectives of the control.</p>

4	Building Design		
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	<p>The building facades are generally acceptable. The design includes a mixture of different finishes, articulation and regular openings to allow for visual interest. The design addresses the front boundary adequately. The proposal does not include any excessive blank walls.</p>	Yes
4.2	Roof design		
	<ul style="list-style-type: none"> (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. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (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. (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. (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 	<p>A flat roof design has been adopted which adequately responds to the modern design of the building and the scale. The roof is also broken up, with the stair core roof set below the other sections, breaking up the visual mass. The fixed skylights are set within the roof and do not protrude above it.</p>	Yes

	<p>are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	Not proposed.	N/A
4.4	External wall height and ceiling height		
	<p>(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.</p>	The external wall height will exceed 8m and will be approximately a maximum height of 9.2m.	No – refer to Key Issues above.

	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m ceiling height	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	A clearly defined pedestrian entry is provided at the front of the property.	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 than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.	The entry is well designed and clearly identifiable. The mail boxes will be subject to a condition of consent.	Yes – subject to a condition of consent.
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <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. 	The circulation areas are open and receive cross ventilation.	Yes

	<ul style="list-style-type: none"> - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	A single access core is acceptable in this instance.	Yes
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	N/A	N/A
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	The apartments have maximized natural light and ventilation despite the lot being a north/south orientation and having four units primarily orientated to the south. The depth of the units has been limited. Skylights have been incorporated for Unit 6. All habitable rooms have operable windows.	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	The units are appropriately designed.	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Each unit has private open space.	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	The kitchens are appropriately located.	Yes
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.	All the balconies are appropriately dimensioned.	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.	There are no terrace areas proposed.	N/A
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 light-weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	<p>The colours and finishes have been detailed in the architectural drawings and indicated on the elevations.</p> <p>The proposed external colours and finishes are of brick, metal cladding, render and brown and natural light grey light & charcoal tones.</p> <p>There is a variety of finishes proposed. The materials selected will present an acceptable outcome for the building and break up the built form to reduce visual bulk.</p>	Yes
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural</p>	<p>A maximum cut of 2.9m is proposed for the basement parking level. No other cut and fill has been indicated.</p> <p>The proposed excavation works are acceptable and are not anticipated to result in any unreasonable amenity impacts to the</p>	Subject to standard conditions is acceptable and will meet the objective of the control.

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	<p>landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>neighbouring properties in relation to overshadowing, privacy and view loss.</p> <p>Appropriate conditions are included within the consent to ensure that the excavation works are properly guarded and supported to prevent the danger of life, movement of soil and to support the adjacent land and buildings. Adequate conditions have also been included to ensure that adequate provisions are made for drainage.</p>	
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	<p>The proposed retaining wall and contiguous piling is proposed along the eastern side of the boundary to accommodate the driveway and basement level.</p> <p>The proposed retaining wall and contiguous piling are acceptable and will not result in any unreasonable amenity impacts to the neighbouring properties in relation to overshadowing, visual impacts, privacy and view loss.</p>	Acceptable and will meet the objectives of the control
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p>	The proposal includes two units with less than 3hrs solar access. This matter has been discussed under the ADG, the proposal will be acceptable given that the lot is orientated north/south.	No- however acceptable in this circumstance.
	<p>(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.</p>	Five of the seven units will have adequate solar access which equates to 71%.	Yes
	<p>(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.</p>	All units have dual or multi aspects.	Yes

	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	The proposal has maximized solar access and natural ventilation.	Yes
Solar access for surrounding development			
	<p>(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.</p> <p>(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.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	Complies with the objectives of the control.	Refer to Key Issues above.
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, fan lights above doorways and highlight windows in internal partition walls.	Skylights have been included to improve solar access. All habitable rooms include operable windows for ventilation.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	On the western elevation screening has been included and the openings have been reduced.	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.	Complies	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Complies	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.	Complies	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Complies	Yes

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	(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.	Complies	Yes
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	<p>The proposal adequately addresses visual privacy.</p> <p>The majority of the apartments are orientated to the rear or front boundary. Where there are windows or openings which address the sides screening, angled windows and highlight windows have been employed to avoid any opportunity for overlooking. The ground floor openings have been screened by landscaping and 1.8m side fences.</p>	Yes
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	The proposal has been adequately designed to consider acoustic privacy.	Yes

5.5	View sharing		
	<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(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.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>	No views are affected.	N/A
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	The access will allow for security of the residents. A condition will be included to incorporate motion sensitive lighting in the common areas, including the basement, the stairwell and the entry corridor.	Yes – subject to conditions.
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Stair access is provided from the garage to the main entry. Secure access will be provided to the garage and to the lobby.	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	The doors and windows are adequately located.	Yes
	(v) Avoid high walls and parking structures around buildings and	None are proposed.	Yes

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	open space areas which obstruct views into the development.		
	(vi) Resident car parking areas must be equipped with security grilles or doors.	An automated access control is indicated at the garage.	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	A condition will be included to ensure this is provide.	Yes- subject to a condition.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	A condition of consent will be included accordingly.	Yes – subject to a condition.
	(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.	The proposal will include casual surveillance opportunities with a number of windows overlooking the street.	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	A condition of consent will be included accordingly.	Yes – subject to a condition.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	A condition of consent will be included accordingly.	Yes – subject to a condition.
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	N/A	N/A
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The proposed basement garage is acceptable.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	No side setback has been proposed. In this instance there will be considerable landscaping within the front setback. No issue have been raised in the landscaping comments by Council's Development Engineers. Given this, the location of the driveway on the side boundary will be an acceptable outcome in this instance.	No – however acceptable in this circumstance.
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a	The proposal includes a basement car park.	Yes

	<p>basement or semi-basement for new development.</p> <p>(b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage.</p> <p>(c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.</p>		
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.	The garage has an acceptable design and has been addressed in the Development Engineer's comments.	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.	The maximum width of the drive is 5.5m and tapers in to 3.65m.	Yes
	<p>(iv) Provide basement or semi-basement car parking consistent with the following requirements:</p> <p>(a) Provide natural ventilation.</p> <p>(b) Integrate ventilation grills into the façade composition and landscape design.</p> <p>(c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding.</p> <p>(d) Use landscaping to soften or screen any car park enclosing walls.</p> <p>(e) Provide safe and secure access for building users, including direct access to dwellings where possible.</p> <p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the 	A ventilation shaft is provided.	Yes

	<p>car park entry recess to the extent visible from the street as a minimum.</p> <ul style="list-style-type: none"> - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7	Fencing and Ancillary Development		
7.1	Fencing		
	<p>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	The proposed fence design is constructed of durable materials and complements the building design.	Yes
7.2	Front Fencing		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p>	The front fence will align with the front boundary.	Yes
	<p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</p>	<p>The front fence is constructed of a low solid base wall with open palisade style infill above. Majority of the fence is below 1.5m, only the driveway entry gate reaches a height of 2m where the site falls to the east. A condition is included which requires the driveway entry gate to be at a maximum height of 1.5m from the ground floor level.</p> <p>The front entry gate including majority of the front fence is of open design which is generally consistent with the established fencing form and height in the street.</p> <p>A 1.8m side and rear boundary fence are proposed.</p>	Conditioned to comply.

	(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.	The front fence is constructed of a low solid base wall with open palisade style fencing above and to the entry gates.	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	N/A	N/A
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	N/A	N/A
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The proposed fence will be constructed out of face brick and is rendered, the palisade open portions of the fence is constructed in metal.	Yes
	(vii) Gates must not open over public land.	Complies	Yes
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	Complies	Yes
7.3	Side and Rear Fencing		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing). (ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits. (iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.	A 1.8m high side and rear fence is proposed.	Yes



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	(iv) Side or common boundary fences must be finished or treated on both sides.		
7.6	Storage		
	(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling. (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. (iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: (a) Studio apartments – 6m3 (b) 1-bedroom apartments – 6m3 (c) 2-bedroom apartments – 8m3 (d) 3 plus bedroom apartments – 10m3	There are some storage spaces shown on the basement level. A storage schedule is required and will be included as a condition of consent.	Yes - subject to a condition.
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Drying facilities are indicated in each of the private open spaces. Internal laundry are provided for each of the units.	Yes
	(ii) Provide internal laundry for each dwelling unit.		
	(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.		
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.	The air-conditioning units are not proposed to be located within the windows.	Yes
8	Area Specific Controls		
8.1	Coral Sea Park Estate, Maroubra		
	i) Building materials and external finishes are to be consistent with the dominant themes in the Estate.	The subject site is located within the Coral Sea Park Estate. Colour and materials scheme submitted is compatible with newer development within the Coral Sea Estate. No change is proposed to	Meets the objectives of the control.
	ii) Site area and dimensions, particularly width, are of sufficient size to allow and maintain the existing themes of large rear garden areas and open spaces between buildings to continue.		
	iii) Sites have a minimum frontage of 20		

	metres for development of more than 2 dwellings.	the subdivision pattern, which has a frontage of 16.155m and has an area of 590.8m ² which is adequate to accommodate a residential flat building.	
	iv) Open spaces in front of buildings are not fenced off from the street. Where fencing is proposed it is no more than one metre high.		
	v) Front setbacks of development must consider consistency with the surrounding buildings. Front façade design must consider compatibility with the form, massing and articulation of existing development.	<p>Front fence is higher than 1m but is consistent with other recent developments in Coral Sea Estate.</p> <p>The proposal maintains the established front setback of adjoining properties and the front façade design is compatible with the built form, massing and articulation of existing and recently approved development in the street.</p>	

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Attachment/s:

1.   Dev Consent Conditions - DA/597/2018 253 Fitzgerald Ave, Maroubra

Development Consent Conditions (Medium density residential)



Folder /DA No:	DA/597/2018
Property:	253 Fitzgerald Avenue, MAROUBRA NSW 2035
Proposal:	Demolition of all existing structures, construction of a 3 storey residential flat building containing 7 dwellings, basement car parking for 10 cars, landscaping and associated works (variation to floor space ratio control).
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	Received by Council
A0002 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2100 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2101 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2102 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2103 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2104 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A2105 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3100 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3101 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3102 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3103 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3200 (Issue D)	Prescott Architects	20/08/2019	20/08/2019
A3201 (Issue D)	Prescott Architects	20/08/2019	20/08/2019

BASIX Certificate No.	Dated	Received by Council
959777M	14 September 2018	20 August 2019

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The driveway entry gate/fence shall be a maximum height of 1.5m from the natural ground floor level.
 - b. The external entries, pedestrian paths, basement, the stairwell, entry corridor and communal areas must be appropriately illuminated, with sensor lighting (where appropriate) to ensure safety but not create a nuisance.
 - c. All entries to the building and garage should be fitted with an appropriate security control system that allows for intercom and remote locking systems to provide adequate security for the residents.
 - d. A storage schedule is to be submitted, indicating the adequate provision and location of 6m³ of storage for all apartments, in addition to kitchen cupboards and bedroom wardrobes, within the development.
 - e. Mailboxes shall be provided at the front of the building in an accessible location.

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 \$2,298,098 the following applicable monetary levy must be paid to Council: \$22,981.

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 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 \$2,298.10 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.

Security Deposit

7. 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*:

- \$9000.00 - 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

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 **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.

Street Tree Removal

9. The applicant must submit a payment of **\$813.72** (plus GST) to cover Council's costs for the following:
- a. To remove, stump-grind and dispose of the existing *Eucalyptus robusta* (Swamp Mahogany) from the Fitzgerald Avenue verge, just to the west of the existing vehicle crossing, so as to accommodate the new/ widened access as part of the new Basement Level in this same area as shown;
 - b. To supply, plant and maintain 1 x 25 litre street tree *Cupaniopsis anacardioides* (Tuckeroo) back on the verge, an equal distance between the western edge of the new, widened crossing and western 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 street tree prior to the commencement of site works, as well as upon completion, to arrange for planting of the replacement.

After this, any further enquiries regarding scheduling/timing or completion of works are to be directed to Council's Tree Preservation & Maintenance Coordinator on 9093-6858.

Street Tree Protection Measures

10. In order to ensure retention of the *Ficus rubiginosa* (Port Jackson Fig) which is located on Council's verge, in front of the adjoining property to the west, no.251,

as well as the *Hibiscus tileaceus* (Cottonwood) that is also on the verge, in front of the adjoining site to the east, no.257, 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. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be located between the western edge of the new crossing and western site boundary, with all plans to be prepared on this basis, and are then to be installed on-site in accordance with this requirement.
- c. Both trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **2 metres** on all four sides (measured off the outside edge of their trunks at ground level), matching up where needed with either the back of the kerb, the pedestrian footpath or the driveway, in order to completely enclose both trees for the duration of works.
- d. 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".
- e. If additional trunk or branch protection is required, this can be provided by way of wrapping layers of geo-textile, underfelt or Hessian around affected areas, to which lengths of evenly spaced hardwood timbers shall be placed around their circumference, and are then to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- f. Other than the approved works, the applicant is not authorised to perform any other works to these public trees, and must contact Council's Landscape Development Officer on 9093-6613 should pruning or similar works appear necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to the issue of an Occupation Certificate.
- g. 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.
- h. 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.
- i. 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 & Relevant Standards

11. 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).
12. 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

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

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

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

Site stability, Excavation and Construction work

14. 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:-
 - a) 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.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) 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.

- d) 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*.
- e) 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

- 15. 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.
- 16. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

- 17. 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 along the full site frontage.**

The design alignment levels at the property boundary as issued by Council and their relationship to the footpath 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.

- 18. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$856** 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

- 19. 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.
20. 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 Fitzgerald Avenue or
 - ii. To Council's underground/street drainage system located in Yorktown parade 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) 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.
- h) 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.

- i) 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).

- j) 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)
 - i. 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)
 - ii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iii. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - iv. 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.

- k) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- l) 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.
- m) Mulch or bark is not to be used in on-site detention areas.
- n) 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.
- o) Any onsite detention/infiltration systems shall be located in areas accessible by residents of all units.

Groundwater

- 21. As the proposed basement level/s may extend into the water table (or be affected by fluctuations of the water table), the following requirements apply:

- a. The design and construction of the basement level/s must preclude the need for dewatering after construction.

That part of the development that may be impacted by the water table must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.

- b. Groundwater management systems shall be designed to transfer groundwater around, through or under the proposed development without a change in the range of the natural groundwater level fluctuations in the locality.

Where an impediment to the natural flowpaths is created as a result of the nature of the construction methods utilised or the bulk of the below-ground structure, artificial drains such as perimeter drains and through drainage may be utilised. These systems may only be utilised where it can be demonstrated that the natural groundwater flow regime is restored both up-gradient and down-gradient of the site, without any adverse effects on surrounding property or infrastructure.

Groundwater management systems:

- Are to be designed to be easily maintained.
 - Should have a design life of 100 years.
- c. The basement level/s of the building must be designed by a structural engineer who is qualified and experienced in the design of structures below a water table. Details of the proposed methods of managing groundwater, tanking and waterproofing must be submitted to and approved by the certifying authority, prior to issuing the **construction certificate**. A copy of the engineer's qualifications and experience must also be submitted to the Certifying Authority.

In the event of the development being modified in a manner that changes building/structural loads or alters the basement design, a suitably qualified and experienced structural engineer must certify that the design of the basement remains adequate for the site conditions.

22. Prior to the issue of a construction certificate, a report must be submitted to and approved by the Certifying Authority, detailing the proposed methods of excavation (including support), managing groundwater and dewatering the site, as required.

The report is to be prepared by a suitably qualified and experienced Geotechnical and/or Hydrogeological Engineer and include:

- a. Details of compliance with relevant approvals and licences (e.g. Council's conditions of consent and Water Licence from the Office of Water.
- b. The proposed method of excavation, shoring/piling and dewatering.

- c. Assessment of the potential risk of off-site impacts such as damage to surrounding buildings or infrastructure due to differential sediment compaction and surface settlement during and following pumping of groundwater. *Note: The assessment must demonstrate that the proposed method of excavation and dewatering will not pose an unacceptable risk of damage.*
- d. The zone of any possible settlement.
- e. Details of the proposed temporary disposal of groundwater and/or construction site stormwater to Council's drainage system. *Note: Prior to discharging groundwater (or site stormwater) into Council's stormwater drainage system, separate written approval must be obtained from Council in accordance with Section 138 of the Roads Act 1993.*
- f. The location of any proposed re-injection points in relation to the property boundaries (where re-injection equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
- g. Details of groundwater quality and proposed disposal of any potentially contaminated groundwater in an environmentally sensitive manner. The details must demonstrate compliance with relevant requirements and approvals of the Office of Environment & Heritage, Council and the Protection of the Environment Operations Act 1997.
- h. The program to monitor fluctuations of the water table during dewatering/construction to ensure that the conditions of consent and other relevant requirements are satisfied.
- i. The location of all proposed monitoring and pumping equipment in relation to the property boundaries (where monitoring or pumping equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
- j. Details of any consultation and arrangements made with owners of any potentially affected nearby premises (i.e. in relation to access, monitoring and rectification of possible damage to other premises)
- k. Certification that the proposed methods of dewatering and excavation are:
 - appropriate and in accordance with 'best practice' principles; and
 - should not result in any unacceptable levels of settlement or damage of the adjoining or nearby buildings within the zone of influence.

A copy of the approved report must be submitted to Council, (for Council's record keeping purposes and as confirmation that this condition has been complied with), prior to the commencement of any site construction works.

Any practices or recommendations made by the consulting engineer/s in the approved report must be implemented accordingly and the dewatering process must be monitored by the consulting engineer/s to the satisfaction of the Principal 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 waste storage area/s shall be sized to contain a total of 10 x 240 litre bins (comprising 4 garbage bins, 4 recycle bins & 2 green waste) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
25. If provided in basement, 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 Fitzgerald Avenue. 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 Plans

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 A Total Concept Landscape Architects, dwg's L/00 – 02, rev A, dated 05/09/18, with this statement and plans to 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

29. 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

30. 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

31. 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

32. 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

33. 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

34. 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

35. 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

36. 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 Fitzgerald Avenue 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.

37. 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.

38. 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

39. 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

40. 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

41. 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

42. 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

43. 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

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.

Sediment & Erosion Control

45. 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

46. 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

47. 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:
- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
 - Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
 - All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
 - An overhead ('B' Class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:
 - materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
 - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
 - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
 - as may otherwise be required by WorkCover, Council or the PCA.

Notes:

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

Public Safety & Site Management

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

- 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

49. 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

50. 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
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An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Survey Requirements

51. 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

52. 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

53. 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) 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.
 - b) 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

- 54. 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.
- 55. 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.
- 56. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

- 57. 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.

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

Tree Removal

59. Approval is granted for removal of the following vegetation from within the subject site, so as to accommodate the works and new landscaping in these same areas as shown, subject to full implementation of the approved Landscape Plans:
- a. All of those in the front setback, as they are all insignificant, including the centrally located Frangipani, as well as the Bottlebrush along the western boundary;
 - b. Those in the rear setback, on the rear boundary and around the southwest site corner, where in conflict with the approved works.

Pruning

60. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the upper crown on the western aspect of the Swamp Mahogany that is located beyond the southeast site corner, wholly on the adjoining private property at no.257, only where they overhang the common boundary above the subject site and need to be pruned in order to avoid damage to the tree; or; interference with the approved works.
61. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of this tree, the applicant must negotiate with the neighbours/tree owner/s for access to perform this work.
62. All pruning can only be undertaken by an Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

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

63. 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

64. 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

65. 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

66. 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

67. 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

68. 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.

69. 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.

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

71. The owner/developer must meet the full cost for a Council approved contractor to:
- Construct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements .
 - Re-construct kerb and gutter for the full site frontage except opposite the vehicular entrance and exit points, to Council's specifications and requirements.
 - 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.
72. 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.
73. 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

74. 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 issuing an *Occupation Certificate***, whichever the sooner.

Undergrounding of Power

75. The existing overhead power feed between the nearest mains distribution pole in Fitzgerald Avenue and the development site shall be relocated to an underground (UGOH) connection. All work shall be to the requirements and satisfaction of Ausgrid and at no cost to Council.

Stormwater Drainage

76. 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.

77. 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 orifice size/s (if applicable);
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

78. 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.

79. 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

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 Plan by A Total Concept Landscape Architects, dwg's L/00 – 02, revision A, dated 5/09/2018.

80. 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.
81. 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 the issue of any Occupation Certificate.

Waste Management

82. 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.

The waste storage areas shall be clearly signposted.

OPERATIONAL CONDITIONS

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

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

Use of parking spaces

83. 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.

Management if parking on-site

84. A *Strata Parking Management Plan* must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.

Strategies and measures may include:

- Adoption of parking by-laws;
- Installation of suitable barriers, bollards, low-height fencing and gates;
- Installation of signage and notices;
- Intercom or key card systems;
- Security systems and security personnel;
- Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management

Fire Safety Statements

85. 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

86. 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.

Stormwater Detention/Infiltration System

87. The detention area/infiltration system must be regularly cleaned and maintained to

ensure it functions as required by the design.

Residential Parking Permits

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

Future Strata Subdivision

90. Any future Strata subdivision of the property must comply with the following parking allocations;

Each unit must be allocated a minimum of 1 car space.

Each of the tandem spaces must be allocated to a single unit.

The allocated car spaces must form part of the residential strata lot. Utility lots are not permitted.

Use of parking spaces

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

GENERAL ADVISORY NOTES

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

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

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

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

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

- A3 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance

with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works
- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-
- Install or erect any site fencing, hoardings or site structures
 - Operate a crane or hoist goods or materials over a footpath or road
 - Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

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

- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.
- Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.
- A12 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.
- A13 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.
- A14 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A15 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

Development Application Report No. D45/19

Subject: 40 Melrose Parade, Clovelly (DA/587/2018)

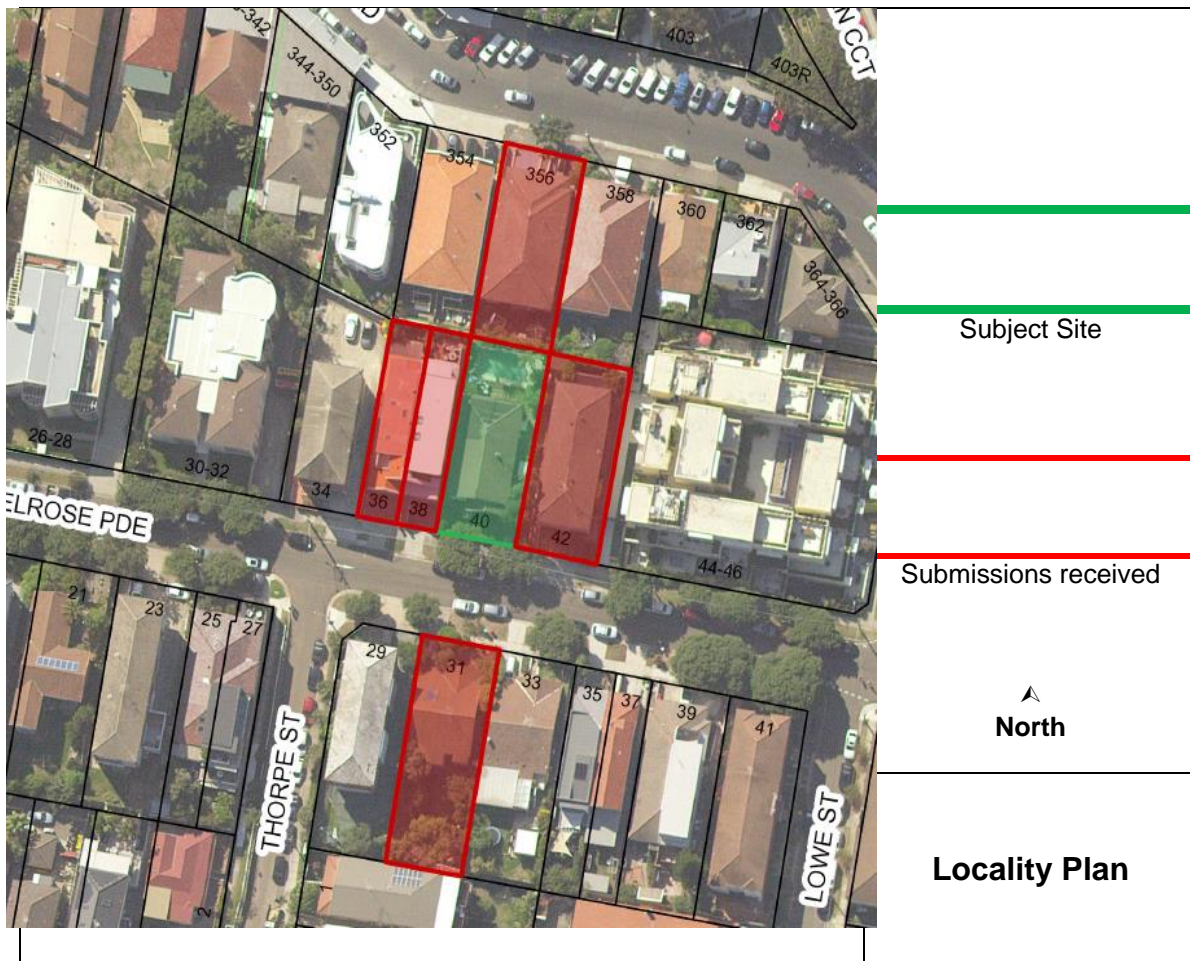
Proposal:	Demolition of existing structures and the construction of a four storey residential flat building containing 3 units with a basement carpark.
Ward:	North Ward
Applicant:	Mr A J Lam
Owner:	Mr A J Lam, Mrs A J Lam
Cost of works:	\$1,684,175
Reason for referral:	10 or more unique submissions by way of objection were received.

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. 587/2018 for demolition of existing structures and the construction of a four storey residential flat building containing 3 units with a basement carpark, at No. 40 Melrose Parade, Clovelly, subject to the development consent conditions attached to this report.

D45/19

D45/19



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.

The proposal seeks development consent for demolition of existing structures and the construction of a residential flat building ("RFB") containing 3 units with a basement carpark.

The key issue associated with the proposal relate to the uppermost roof and habitable roof space. The roof does not integrate well with the design of the building and will not protect and enhance the natural, visual and environmental qualities of the scenic area as part of the Foreshore Scenic Protection Area. The fourth bedroom within the habitable roof space will provide poor residential amenity and the large terrace will result in privacy and acoustic impacts on neighbouring properties.

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

- The entire fourth storey (habitable roof space) including the terrace shall be deleted.
- The internal stair from the basement storage to Unit 1 shall be deleted with secured access provided at the basement level.
- The east-facing sections of the front-facing, wrap-around balconies to bedroom 1 on the first and second floors shall be deleted and privacy screening provided.
- The solid walls to the western side of the south-facing balconies off bedroom 1 on the first and second floors shall be deleted and the balconies extended to occupy the full width of the front façade.

2. Site Description and Locality

The subject site is known as 40 Melrose Parade, Clovelly and is legally described as Lot 41 Sec 1 in DP 5871. The site is 417.3m², is regular in shape and has a 13.41m frontage to Melrose Parade

to the south. The site slopes down approximately 1.3m from west to east and contains a single storey dwelling with swimming pool at the rear and driveway on the eastern side.

The neighbouring property to the west is a two storey dwelling house, and to the north and east are two storey residential flat buildings. The surrounding area comprises dwelling houses, semi-detached dwellings and RFBs as part of the R3 Medium Density Residential zone and that is also part of the Foreshore Scenic Protection Area.



Figure 1. Subject site looking west.

3. Relevant history

A request for additional information was provided to the Applicant on 20 November 2018 requiring compliant FSR, clearer drawings, improved casual surveillance, increased side setback, reduced size of rear-facing balcony, and a view loss analysis. Engineering concerns were also provided to the Applicant requiring compliance with Australian Standards, reconfigured car parking spaces, and provision of compliant waste storage.

Revised drawings and a view loss analysis was received on 5 February 2019. The revised drawings made the following changes:

- Reconfigured basement parking and storage (same number of parking spaces being 5).
- Reconfigured lift / lobby / stair.
- Decreased size of rear-facing balconies.
- Deletion of raised planter bed along eastern elevation.
- Reduced FSR to comply.

The revised drawings were referred to Council staff and publically re-notified.

4. Proposal

The proposal seeks development consent for demolition of existing structures and the construction of a four storey residential flat building containing 3 units with a basement carpark.

Basement

- 5 car parking spaces (4 tandem).
- Unit storage and waste storage.
- Lobby and lift.

Ground Floor – Unit 1

- Excavation of western side of site by approximately 0.7m and provision of retaining wall along western side boundary.
- Common lobby / stair / lift access on western side.

- 3 bedroom unit comprising 2 bathrooms and rear-facing living.
- Rear-facing terrace stepping down to a private garden.

First Floor – Unit 2

- 3 bedroom unit comprising 2 bathrooms and rear-facing living.
- Rear-facing balcony off living, and side and front-facing balcony off bedroom 1.

Second Floor – Unit 3

- 4 bedroom unit comprising 3 bathrooms and rear-facing living.
- Rear-facing balcony off living, and side and front-facing balcony off bedroom 1.

Third Floor – Unit 3

- Habitable roof space comprising bedroom, bathroom and rumpus.
- Rear and side-facing rooftop terrace.

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. 8 submissions were received following initial notification and 2 submissions received following re-notification. The following submissions were received as a result of the notification process:

- 356 Clovelly Road, Clovelly
- 31 Melrose Parade, Clovelly
- 36 Melrose Parade, Clovelly
- 38 Melrose Parade, Clovelly
- 1/42 Melrose Parade, Clovelly
- 4/42 Melrose Parade, Clovelly

Issue	Comment
The mansard roof is not of a similar design to adjacent buildings as required by the RDCP.	Noted. The roof is not supported (refer to Key Issues section).
The habitable roof space is dominating and out of character and does not read as a roof.	Noted. The habitable roof space is not supported (refer to Key Issues section).
Side facing windows and the sides of the rear-facing balconies will directly overlook neighbouring properties.	Conditions are recommended to provide privacy screening and raised window sills where necessary (refer to assessment against Section 5.3 of the RDCP in Appendix 2).
Inadequate screen planting along the rear boundary will result in privacy impacts from the rear-facing balconies.	The rear-facing balconies exceed the minimum rear setback and therefore, adverse privacy impacts to northern properties will not occur.
The rooftop terrace will result in adverse privacy and acoustic impacts.	Noted. The terrace is not supported (refer to Key Issues section).
Privacy impacts to the ground floor unit from the street and common access.	Conditions are recommended to provide privacy screening to protect privacy for the ground floor unit.
The common stair will directly overlook the neighbouring property to the west.	Conditions are recommended to provide privacy screening to the common stair and lobby.
Poorly design car park will result in occupants parking on the street.	Compliant car parking is provided that has been assessed by Council's Development Engineer, who recommends approval subject to conditions (refer to Appendix 1).
No bicycle parking has been provided.	The storage areas are of sufficient size to permit bicycle storage for each unit.
Adverse noise impacts due to open common stair, which should be enclosed and therefore will contribute to GFA.	The common stair serves 3 dwellings, which will not result in adverse acoustic impacts.

Issue	Comment
Concerns with increased stormwater runoff.	Stormwater has been assessed by Council's Development Engineer, who recommends approval subject to conditions (refer to Appendix 1).
No letterboxes shown.	Sufficient area exists as part of the common access on the western side of the site to accommodate 3 letterboxes. A condition is recommended to ensure details are to be submitted to Council for approval.
No delineation between communal and private open space, or landscape / deep soil calculations. No landscape plan.	No communal open space is provided. Given 3 units are proposed this is not considered necessary. Council's Landscape Officer has recommended conditions to ensure that an appropriate landscape plan is provided (refer to Appendix 1).
Incomplete details regards window functionality.	Suitable details have been submitted for DA assessment. Conditions are recommended to ensure privacy screening and raised window sills is provided where necessary (refer to assessment against Section 5.3 of the RDCP in Appendix 2).
No analysis of impacts upon the Foreshore Scenic Protection Area.	Noted. Council has assessed the proposal against Clause 6.7 of the RLEP and it is considered that the proposed roof and habitable roof space is not supported (refer to Key Issues).
The car parking surplus will result in non-compliant FSR.	1.5 parking spaces are required per 3 bedroom unit. Council's Development Engineer has assessed parking demand, and advises that 5 car parking spaces are required as rounded up from 4.5 spaces, and 5 spaces are provided. It is noted that the recommended condition to delete the habitable roof space and therefore the proposed fourth bedroom for unit 3 will not result in a surplus of car parking.
The basement storage to Unit 1 is exclusively accessed from Unit 1 and could be used as a habitable room, thus increasing GFA.	Basement storage is excluded from the definition of GFA. Notwithstanding, it is noted that exclusive access to the basement storage from unit 1 in conjunction with the fully enclosed nature of the room permits easy occupation for habitable purposes. This would result in additional GFA and poor residential amenity, and therefore a condition is recommended to delete the stair from the basement storage to Unit 1 and secured access provided at the basement level.
Concerns that the development breaches building height and wall height standards.	The development complies with the height of building standard pursuant to the RLEP and wall height standard pursuant to the RDCP.
The lift results in a non-compliant side boundary setback.	Noted, however the minor non-compliance is supported as the objectives of the development control are satisfied (refer to Key Issues section).
Concerns with passive street surveillance, with all living areas orientated towards the rear.	Front-facing bedrooms and balconies are provided. Although these are not living rooms (which are orientated to the north to maximise solar access) the bedrooms and balconies in conjunction with surrounding development will provides good street surveillance.

Issue	Comment
The rear-facing balconies do not comply with the rear setback standard.	Clause 3.4.3 of Part C2 of the RDCP requires the minimum rear setback to be 15% of the allotment depth (4.7m). The proposed rear setback is 5.7m increasing to 6.1m, which exceeds the minimum required setback.
A reasonable level of views is not retained for surrounding properties, in particular 38 Melrose Parade.	The development complies with key planning controls related to building height and FSR, therefore a reasonable level of views will be retained. 38 Melrose Parade was approved with privacy screening to the rear-facing balcony and frosted glazing to the eastern façade (refer to Key Issues section).
The development is not consistent with the objectives of the R3 Medium Density Residential zone.	The development is consistent with the objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability, subject to conditions.
A fire separation statement is not provided as is required by the RDCP where external walls are within 3m of a common boundary.	A standard condition requiring compliance with the BCA will ensure appropriate fire treatment is provided.
Excessive bulk and scale.	The development complies with key planning controls related to building height and FSR and therefore excessive bulk and scale will not occur. Notwithstanding, the habitable roof space is not supported, which will reduce bulk and scale.
The basement excavation could damage neighbouring properties.	Standard conditions will ensure neighbouring land is supported at all times.
Building materials and dust may impact neighbouring properties during construction.	Standard conditions will ensure hording is installed and materials kept on site, with a plan of management also required to ensure disruption to surrounding properties is managed.
Request for waste bins, lifts, air conditioners pool equipment, ventilation pipes / fans be provided on eastern side of the site.	Waste bins will be stored in the basement, and will be temporarily place curbside for collection, which is likely to be on the western side of the driveway. The lift is provided on the western side of the site. A pool is not proposed. A standard condition will ensure any plant and air conditioners do not result in offensive noise.
Overshadowing.	The development does not result in increased adverse overshadowing of adjoining properties.
A design verification statement has not been provided, as required via the EP & A Regulation.	Noted. The Applicant has since submitted a statement from a qualified designer.
The development does not comply with SEPP 65.	SEPP 65 does not apply to the development as it contains less than 4 dwellings.
Inadequate waste storage facilities in the basement.	Council's Development Engineer has assessed the proposed waste storage area and advises it is suitable (refer to Appendix 1).
Object to the removal of the established palm trees at the rear of the site.	No tree removal is proposed.

Issue	Comment
Requests works to be carried out between 8:00am and 6:00pm, with no works Sat / Sun.	<p>A standard condition is provide restricting works to within the following hours. These hours are to permit a timely built in order to minimise disruption.</p> <p><u>All building, demolition and site work, including site deliveries</u></p> <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 <p><u>Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like</u></p> <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 <p><u>Additional requirements for all development</u></p> <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

D45/19

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ("Vegetation SEPP")

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

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

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

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Consent for the removal of vegetation within the site is being sought under this DA.

Assessing officer's comment: There are no significant trees or vegetation on the site pursuant to Part B5 of the RDCP 2013. Additional landscaping can be accommodated throughout the site noting that deep soil landscaping exceeds minimum requirements that will protect biodiversity values. Council's Landscape Officer has assessed the proposal and notes a tree covered by the RDCP is required to be removed from the verge to accommodate the access, however a replacement tree can be provided and conditions have been recommended (refer to Appendix 1).

6.2. State Environmental Planning Policy (Coastal Management) 2018 (“Costal Management SEPP”)

The Coastal Management SEPP came into effect in NSW on 3 April 2018. 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: The site is mapped as part of the coastal use area pursuant to Clause 6 of the SEPP. In response to Division 5 – General, the proposal will not increase coastal hazards. 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 subject to a condition to delete the habitable roof space (refer to Key Issues and assessment against Clause 6.7 of the RLEP in Section 6.3 of this report).

6.3. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX SEPP”)

A satisfactory BASIX certificate has been submitted in accordance with the requirements of the BASIX SEPP. A condition is provided to ensure compliance with the BASIX certificate.

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 provide for the housing needs of the community, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability, 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)	12m	12m measured from the eastern ridge (RL 38.9) above existing ground level (RL 26.9) reducing to 11.6m measured from the western ridge (RL39.3) above existing ground level (RL 27.7).	Complies
Cl 4.4: Floor space ratio (max)	0.9:1 (375.5m ²)	0.87:1 (364.1m ²). The GFA calculation does not include any of the basement, the uppermost “voids” to internal non-common stairs, or the lobby areas, which are substantially open on one side (including as a result of the recommended condition for privacy screening). It is noted that a condition is recommended to delete the habitable roof space. As a result the FSR will be 0.79:1 (332.1m ²).	Complies
Cl 6.7: Foreshore scenic protection area	Development to minimise impact on public areas of the coast and contribute to the scenic quality.	Refer to assessment below.	Complies

6.4.1. 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.

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: Due to the steep topography, the proposed development will be visible as part of views to the coast from public areas along Melrose Parade to the west. Although the proposal will reduce some views to the coast, the development complies with building height and FSR controls and therefore, the loss of public views to the coast is not unreasonable. Therefore, the key consideration is whether the development contributes to the scenic qualities of the coastal foreshore.

As discussed in the Key Issues section, the uppermost roof and habitable roof space does not comply with the RDCP in that it does not integrate well with the design and massing of the building. It will therefore be an unharmonious element in the streetscape that will not contribute to scenic qualities. Subject to a condition to delete the habitable roof space, the resulting building is will contribute to the scenic qualities of the coastal foreshore.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

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

8.1. Discussion of key issues

Side Boundary Setback

Clause 3.4.2 of Part C2 of the RDCP requires a minimum 2m side boundary setback for sites with a lot width between 12m and 14m. The lift on the western side is setback 1.2m from the western side boundary, and a portion of the lobby setback 1.6m.

The relevant objectives of the controls are as follows:

- *To ensure adequate separation between buildings for visual and acoustic privacy, solar access, air circulation and views.*
- *To reserve contiguous areas for the retention or creation of open space and deep soil planting.*

A variation to the control is supported for the following reasons:

- The non-compliant setback relates to a 2.5m length of the building, with the majority of the building setback greater than 2m, increasing to 2.6m. Adequate building separation is therefore provided to the western neighbouring property.
- The lift will not result in privacy or acoustic impacts given the shaft is enclosed.
- The majority of the lobby is setback 2.1m and will not result in adverse acoustic impacts as it serves 3 dwellings. A condition will require privacy screening to the western side of the lobby to mitigate privacy impacts.
- The non-compliant section does not result in adverse overshadowing.
- The non-compliant section does not result in view loss.
- The proposal exceeds minimum landscaped open space and deep soil area requirements.

Roof Design / Habitable Roof / Rooftop Terrace

The following RDCP controns are relevant to the proposed habitable roof:

Clause 4.2 Roof Design

- (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.*
- (ii) *Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.*
- (iii) *Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.*
- (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.*
- (vii) *Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:*
 - *There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.*
 - *The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.*
 - *Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.*
 - *Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.*

Clause 4.3 Habitable roof space

Habitable roof space may be considered, provided it meets the following:

- *Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.*
- *Has a maximum floor space of 65% of the storey immediately below.*
- *Wholly contain habitable areas within the roof space.*
- *When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement.*
- *Design windows to habitable roof space as an integrated element of the roof.*
- *Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.*

The uppermost roof is a mansard-style roof and is also a habitable roof space that is set back approximately 12m from the street. Although it will not be directly visible at the frontage the roof will be visible from the east, and from surrounding dwellings due to the topography.



Figure 2. Properties further west of the site.

The roof does not relate well to the three dimensional form and façade composition of the building. The building is linear with strong horizontal lines whereas the habitable roof space is slanted and angular, which does not integrated well with the rest of the building and contrasts with the flat roof surrounding it and in this regard, appears a foreign element. 3D perspective drawings were not submitted to assess the overall relationship of the habitable roof to the rest of the building, however based on the side elevations the roof reads as a fourth storey utilising contrasting materials and will result in visual amenity impacts upon neighbouring properties and the streetscape as a result.

The habitable roof space contains a rumpus, fourth bedroom and a bathroom. Although the development is not subject to SEPP 65, the associated Apartment Design Guide ("ADG") is considered pursuant to Section 1 of Part C2 of the RDCP to determine whether good residential amenity will be achieved. The ADG requires bedrooms to have a minimum width of 3m and area of 9m². The bedroom has a minimum width of 2.5m and area of 6.4m², which will therefore result in poor residential amenity. The terrace serves a living area, which is expected to be frequently used. The terrace is 16m² and is capable of holding a large number of people and will therefore result in acoustic impacts on neighbouring properties. Privacy screening is not proposed, and therefore privacy impacts will occur to neighbouring properties. Privacy screening to the sides of the terrace is not supported given its size, which will exacerbate visual amenity impacts associated with the habitable roof.

Noting the development complies with FSR and building height controls as proposed, a habitable roof space might be appropriate for this site. However it is considered that a more sympathetic design is required under a future application. The proposed fourth storey including the terrace is therefore not supported and a condition is recommended to delete it. The resulting flat roof will be consistent with other flat roofs in the street, namely the adjoining property to the west at 38 Melrose Parade, and numerous others properties within the vicinity including 11-15, 17, 22, 30-32, and 44-46 Melrose Parade.

View Sharing

Clause 5.6 of Part C1 of the RDCP 2013 requires existing view corridors to be reasonably maintained. The key affected property is the neighbouring two storey semi-detached dwelling to the west at 38 Melrose Parade, from which a submission was also received raising view loss as a concern. The submission included a photo of the affected view from the rear-facing first floor balcony.

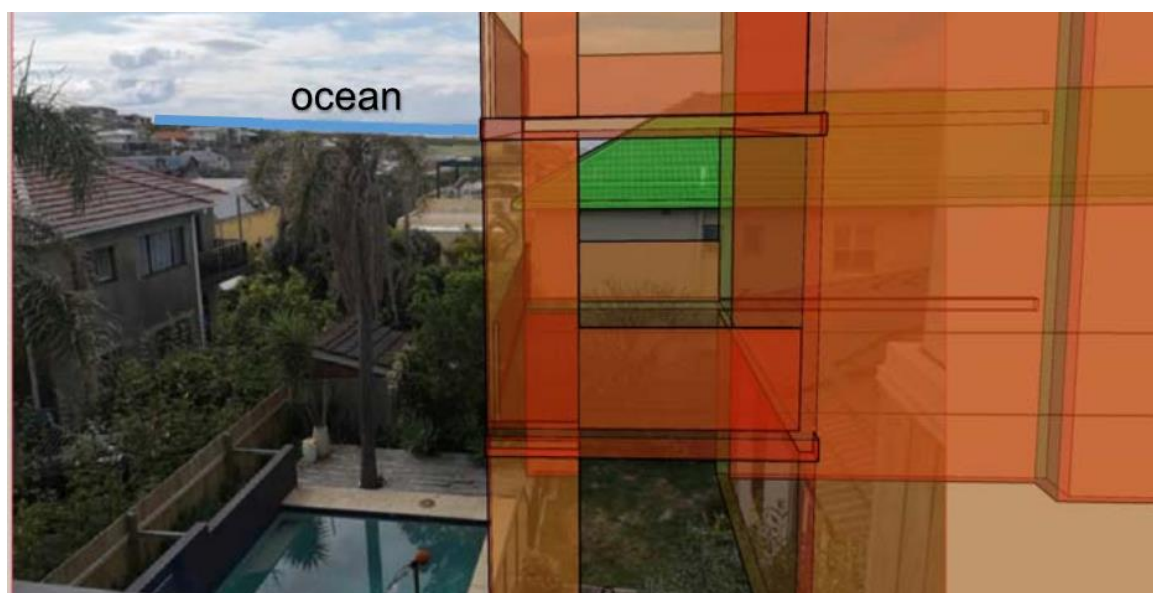


Figure 3. Insert from Applicant's View Loss Analysis showing view from rear balcony of 38 Melrose Parade with superimposed image of proposal.

DA/476/2012 approved alterations and additions to the existing dwelling including a new balcony at the rear and new first floor at 38 Melrose Parade. A modification application DA/476/2012/A approved a reduction to the ground and first floor levels by 150mm, changes to window openings on the east elevation and increase in height of the existing western boundary wall to 1.8m. The approved drawings for both the DA and modification application show 1.8m high privacy screening to the sides of the rear balcony as well as frosted glazing to east-facing bedroom windows. Conditions were also included enforcing the privacy treatment.

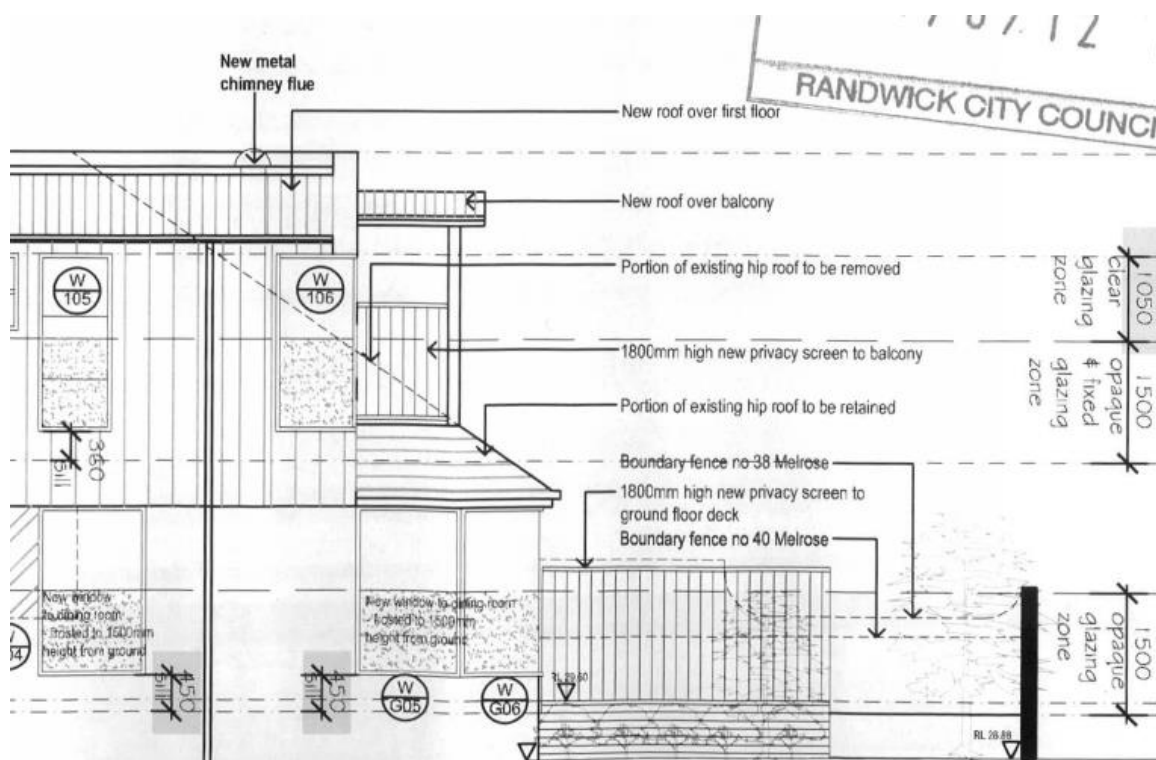


Figure 4. Insert from approved eastern elevation of 38 Melrose Parade.

It is evident that the privacy screening has not been installed as approved. Notwithstanding, based upon existing approvals the proposed rear-facing balconies will not impact water views from 38 Melrose Parade.

Safety and Security / Casual Surveillance

Casual surveillance to common areas and the street will not be provided from living areas, which are orientated to the north to maximize solar access. Given the narrow width of the site, it is desirable to provide living areas to the north. As the south-facing bedrooms on the first and second floors are provided with balconies, casual surveillance of the street will be achieved.

The communal areas are limited to the pedestrian entries on the eastern and western sides. Casual surveillance to the eastern pedestrian entry to the basement is achieved from the east and south-facing windows from bedrooms 1 and 2 on all floors, and from the POS of the ground floor unit. The common entrance on the western side however will not be overlooked by any windows. To improve casual surveillance, a condition is recommended so the solid wall to the western side of the south-facing balconies off bedroom 1 on the first and second floors is deleted, and the balcony permitted to occupy the full width of the front façade with no privacy screening required to the western side (this balcony will not directly overlook windows of the western property). The balcony, in conjunction with conditions requiring appropriate lighting and a secure entrance will ensure good security for the building entry, which will be frequented by residents.

4. Conclusion

That the application for demolition of existing structures and the construction of a residential flat building containing 3 units with a basement carpark 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 activity and built form will provide for the housing needs of the community, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability.
- The development enhances the visual quality of the public domain/streetscape.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer and Landscape Officer

Amended plans have been received reconfiguring the lift and stair access, reduce size of rear balconies, deletion of ground level planter, and reconfigure basement and locate waste bin area in basement.

Original proposal: Demolition of existing structures and the construction of a residential flat building containing 3 units with a basement carpark.

This report is based on the following plans and documentation:

- Amended Architectural Plans by MJH Design, rev 02, dated Jan 19;
- Statement of Environmental Effects by MJH Design stamped by Council 17/09/2018;
- Detail & Level Survey by CC Surveying dated 26/07/2017;
- Geotechnical Report by GCA Consultants dated 15th August 2018.

General Comments

The engineering issues raised in email and sent to applicant 18th December 2018 have been satisfactorily addressed with the amended plans. There are no further objections to the proposal subject to the comments and conditions provided in this report.

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 Melrose Parade; 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 will be assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- 1.5 spaces per 3 bedroom unit
- 1 visitor space per 4 units (but none where development is less than 4 dwellings)
- Motorbike parking at 5% of vehicle parking requirement

*Parking required under DCP = (3 x 1.5) visitor parking not required
 = 4.5
 = say 5 spaces*

Parking proposed = 5 spaces (complies)

The vehicle parking provision is satisfactory

Motorbike Parking

Due to the low number of units and spaces, motorbike parking is not required in this instance.

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 $= 3/2 + 3/10 = 1.8 = \text{about } 2 \text{ spaces}$

Bicycle Parking has not been explicitly shown on the amended plans however there are extra-large storage areas in the basement that are proposed to be dedicated to each unit. These will be satisfactory to accommodate a bicycle for each of the 3 units.

Access Driveway

The submitted plans indicate the c=internal driveway intersecting the front property boundary at less than 90 degrees to the street alignment. This is not supported and it is considered this can be addressed by condition.

The driveway grades are not clear however it has been determined a driveway is able to be provided in accordance with Council requirements. Detailed conditions have been provided in this report to ensure compliance with the above requirements. This is also advisable due to the steep grade in Melrose Parade requiring the internal driveway to be carefully designed to avoid scraping.

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 = 2 garbage + 2 recycling (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 $= 2 \text{ (normal)} + 2 \text{ (recycling)} + 2 \text{ (green waste)}$
 $= 6 \times 240L \text{ BINS}$

Total Number of BINS proposed $= 6 \times 240L \text{ bins}$

The waste storage area is satisfactory

Geotechnical Comments

The geotechnical investigation undertaken by GCA consultants notes that excavation for the development will generally be in sand. Minor seepage ground water flows were also detected but at depths considerably deeper than the expected excavation for the basement carpark although seasonal fluctuations can occur.

Seepage flows are therefore not expected to be a major issue with this development and a fully tanked basement is not necessary unless significant additional flows are discovered during excavation. Suitable conditions have been provided in this report

Tree Management Comments

The inspection of 8 April 2019 revealed two mature *Hibiscus tileaceus* (Cottonwoods) on the public verge, being one in front of the subject site, to the west of the existing vehicle crossing and power pole, and one just past the eastern site boundary, in front of the neighbouring site at no.42, and while only in fair condition due to heavy clearance lopping, both are covered by the DCP and are also part of an avenue planting of this species, which as a group, provide a contribution to the streetscape.

The rev 02 Basement & Ground Floor plans, dwg's A01-02, dated Jan 19, show the new driveway and basement entry ramp being constructed further to the west of its current position, so that its eastern edge will be offset about 1200mm from the eastern site boundary, with Council's Development Engineer also requiring that a minimum setback of 300mm be provided between the western edge of the crossing and the power pole.

This will result in the vehicle entry/exit now being much closer to the western street tree, with excavations to be performed on the eastern side of its root plate, which given its existing lean to the west, is the area that is critical for keeping the tree stable in the ground, and would also likely lead to future line of sight issues of approaching vehicles from the west, uphill, especially given the high demand for on-street parking which also inhibits a clear line of sight.

On this basis, and given their already compromised form, it is deemed a more favourable outcome, long-term, to allow removal of this tree, which will then allow a replacement to be installed in a more suitable location further to the west, at an increased setback from the new driveway, which ensures there is no net loss from the street and environment, with relevant conditions to this effect provided.

While the other Cottonwood street tree is sited completely past the eastern site boundary, its western aspect does overhang the full width of the existing crossing, and as access for trucks, machinery, deliveries and similar will be needed in this same area throughout construction, this means its entire western aspect would need to be lopped off, which given the amount involved, is not something that the tree could sustain, so conditions also require its removal and replacement elsewhere in the street, also at the applicant's cost.

Beyond the eastern site boundary, wholly in the front setback of the adjoining private property at 42 Melrose Parade, close to the common boundary, there is a row of three mature, co-joined, 8m tall *Banksia integrifolia* (Coastal Banksia's), which are a desirable native coastal species that are covered by the DCP, appeared in good health and condition, and also perform a screening and privacy function between the two sites, which would be even more important for the neighbours/tree owners upon completion of this development, with both Council and the applicant having a common law responsibility to ensure these trees are not affected in anyway by the works.

They are growing in a raised masonry planter, which would have prevented root development to their east, limiting root growth to their north and south, within the planter, as well as to their west, under the existing internal driveway of the subject site, with their western aspects already overhanging the driveway of no.40 due to their bias to the west, and while just beyond the footprint of the existing dwelling, would slightly encroach above the new footprint.

The existing concrete driveway to be demolished is at a slightly higher level than where the trees are growing, with the rev 02 plans showing that a strip of deep soil about 1200mm wide will be

provided between the eastern wall of the basement and ground floor levels and eastern site boundary, with the basement access stairs to be sited just north of the most northern tree in this group.

While the provision of deep soil is technically a more favourable outcome for the trees compared to the existing impervious surface, a high level of care is still required given the close proximity of these works, with the surfaces and structures discussed above likely to have modified normal root growth, so any impacts are anticipated to be less than what would normally occur on a level, open site, especially since all works will be performed on the less critical, compression side of their root plates.

Conditions in this report require that:

- *Council conduct an inspection during demolition of the internal driveway so as to avoid the unnecessary disturbance of any roots that may be present;*
- *A construction technique such as contiguous piling be used for the eastern wall of the basement, rather than more invasive bulk earthworks;*
- *The basement access stairs be relocated further to the north so as to avoid damage to the most northern tree; and;*
- *Finished ground levels in the future deep soil along the eastern boundary be similar to those within no.42, with the type of boundary fencing and surface treatment also to be restricted in this same area.*

All vegetation within the subject site is insignificant, and could already be removed, irrespective of these works, including those in the rear setback, being a Cocos Palm towards the northwest site corner, the row of Bamboo's across the width of the rear boundary, and those small screening shrubs on the eastern site boundary, between the existing pool and house, including the Frangipani, so as to accommodate the major earthworks that are shown for these same areas.

Landscaping

No landscape plan has been submitted, which is a standard inclusion for a development of this size and type. Conditions specifying the required outcomes have been included.

Assessing Officer's Comment: The recommended conditions have been included.

Appendix 2: DCP Compliance Table

C2	Medium Density Residential		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (208.6m ²) is to be landscaped open space.	54% (220m ²)	Complies
2.2.2	Deep soil area		
	<p>(i) A minimum of 25% of the site area (104.3m²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.</p> <p>(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.</p> <p>(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.</p> <p>(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.</p> <p>(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.</p>	38% (160m ²). It is noted that a landscape plan was not submitted. Council's Landscape Officer has assessed the proposal, and has recommended conditions requiring a suitable landscape plan to be submitted.	Complies
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <p>(i) Directly accessible from the living area of the dwelling.</p> <p>(ii) Open to a northerly aspect where possible so as to maximise solar access.</p> <p>(iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.</p>	<p>POS is directly accessible from living areas, will receive solar access, and will provide adequate privacy subject to conditions for privacy screening to the sides of the first and second floor balconies.</p> <p>The ground floor POS also permits views past the lift to the common access contributing to passive surveillance.</p>	Complies
	<p>For residential flat buildings:</p> <p>(vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof</p>	All units are provided with compliant POS that exceeds RDCP requirements.	Complies

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	garden, accessible from with the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.		
2.3.2	Communal open space		
	Communal open space for residential flat building 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.	Communal open space is not provided. Notwithstanding, communal open space is not considered necessary for this development given only 3 units are proposed and each are afforded excellent POS.	Does not comply, however minor variation supported.
3	Building Envelope		
3.1	Floor space ratio		
	0.9:1	0.87:1	Complies
3.2	Building height		
	12m	12m	Complies
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	The maximum building depth is 16m. However, as each floor is occupied by a single unit, all units are provided with multiple aspects and are therefore provided with good internal amenity.	Does not comply, however minor variation supported.
3.4	Setbacks		
3.4.1	Front setback (i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.	The front setback is 4.4m and is consistent with the prevailing setback and comprises deep soil landscaping.	Complies.

	(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.		
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 12m ≤ Width < 14m = 2m <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>	<p>The majority of the building is setback at or greater than 2m. The lift is setback 1.2m to the western side boundary and does not comply.</p> <p>Additional side setbacks are provided to parts of the building.</p> <p>Some windows are within 3m of common boundaries. A fire protection statement was not provided, however it is considered that as the development is a new RFB, compliance with the BCA can be achieved and demonstrated at CC stage. A standard condition required compliance with the BCA.</p>	<p>Refer to Key Issues section.</p> <p>Complies.</p> <p>Complies subject to condition.</p>
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% (4.7m) of allotment depth or 5m, whichever is the greater.	5.7m increasing to 6.1m.	Complies
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 elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p>	The front façade is parallel with the street and has been designed to address the street, with recessed and projecting architectural elements and a change in building materials and colours. All walls are relieved with various sections / bays.	Complies.
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>	The uppermost roof is a mansard-style roof and is also a habitable roof space. It is not considered to relate well to the three dimensional form and façade composition of the building.	Does not comply. Refer to Key Issues section.
	<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>	As all units are provided with multiple aspects, clerestory windows and skylights are not necessary. However, skylights are provided on the uppermost roof.	Complies.
	<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>	Services and equipment are not shown on the drawings. A condition is recommended to ensure that services and equipment are not visible from the public domain.	Complies subject to condition.
	<p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to 	The trafficable roof terrace will result in adverse privacy and acoustic impacts on	Does not comply. Refer to Key Issues section.

	<p>the habitable room windows and private and communal open space of the adjoining residences.</p> <ul style="list-style-type: none"> - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. 	neighbouring properties given its size and that it serves a living area.	
	(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.	Landscaping is not proposed.	N/A
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	Computer generated perspectives were not submitted to assess the 3D relationship of the proposed habitable roof space to the building.	Does not comply. Refer to Key Issues section.
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.	Measured to the underside of the habitable roof, the external wall height is 10m.	Complies
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m proposed to ground, first and second. Compliance	Complies.

		with the BCA for the habitable roof space is achieved, notwithstanding the habitable roof is not supported (refer to Key Issues).	
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Separate and clearly defined pedestrian and vehicular entries are provided.	Complies.
	(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 than along the front boundary). 	The pedestrian entry is on the high side of the site and will relate well to the public footpath. As shown on the southern elevation, the entry is defined by landscaping and a secured access. Mailboxes are not shown, however can be easily accommodated in accordance with this part. A condition is recommended to ensure that details of the secured entry and mailboxes are submitted to Council for approval prior to CC.	Complies, subject to condition.
	(iii) Provide weather protection for building entries.	The lobby is provided with weather protection. Protection to the pedestrian pathway is not necessary noting it serves only 3 dwellings and a roof would add to unnecessary bulk and scale.	Complies
	Postal services and mailboxes <ul style="list-style-type: none"> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the 	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.

	appearance of the development from the street.		
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <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. 	The proposed lobby / stair / lift is appropriately scaled to the number of dwellings proposed and will provide good circulation.	Complies
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	A single access core is provided, which is suitable considering only 3 dwellings are proposed.	Complies
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	Apartments are not provided off a double-loaded corridor.	N/A
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette/loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	All apartments have multiple aspects and are naturally cross ventilated and provided with adequate natural light.	Complies
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.		

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	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	All apartments are provided with compliant POS.	Complies
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Kitchens are provided as part of the open plan living area.	Complies
4.8	Balconies		
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p> <p>(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m². All ground floor apartments are to have direct access to a terrace.</p>	<p>All apartments are provided with POS that exceeds minimum requirements. Notwithstanding, noting the view loss concern (refer to Key Issues section), a condition is recommended to reduce the width of the western sides of the balconies from 3m to 2m.</p>	Complies
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 light-weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p>	<p>A colours, materials and finishes schedule was not submitted with the DA. A condition is recommended ensuring details are submitted to Council for approval prior to issue of a CC.</p> <p>Notwithstanding, the elevations do indicate material and texture changes, and expanses of glazing or masonry.</p>	Complies, subject to condition.

	(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.		
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	Aside from the basement, excavation and filling does not exceed 1m.	Complies
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	A retaining wall is proposed along the western side boundary. The retaining wall is necessary given 0.7m excavation is proposed along this side, and the wall does not exceed 2200mm above the existing natural ground level.	Complies
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p> <p>(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.</p>	All north-facing living areas and POS will receive direct and compliant solar access.	Complies
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the	No single aspect apartments are proposed.	Complies

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	total units within a residential flat building.		
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	N/A	N/A
	Solar access for surrounding development		
	<p>(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.</p> <p>(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.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	<p>It is noted that revised shadow diagrams were not submitted with the revised drawings. However, as the revision resulted in reduced overall massing, the original shadow diagrams can be relied upon.</p> <p>Some additional overshadowing will occur to the west-facing windows towards the northern end of the neighbouring building to the east from approximately 2:00pm until 4:00pm. However, this building will continue to receive compliant solar access.</p> <p>Notwithstanding, the habitable roof is not supported and therefore additional overshadowing will be lessened.</p>	Complies
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.	All habitable rooms are provided with natural daylight via windows.	Complies
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Appropriate sun shading devices have been provided to north-facing living room windows.	Complies
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	All habitable rooms are provided with window openings to outdoor areas.	Complies

	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	All habitable rooms are capable of natural ventilation.	Complies
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	All apartments (100%) are cross-ventilated.	Complies
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	All kitchens (100%) have access to natural ventilation.	Complies.
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	N/A	N/A
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	<p>Adverse privacy impacts will not occur subject to conditions requiring privacy screening and raised window sill heights.</p> <p><i>POS</i> Fixed privacy screening to a maximum height of 1.6m (to reduce visual bulk) is required to the sides of the ground floor terrace (eye level will be approximately 0.2m above the fence) and sides of the rear-facing balconies. Privacy screening to the northern sides of the north-facing terrace and balconies is not necessary given the rear setback exceeds the minimum standard.</p> <p>The wrap-around balconies to bedroom 1 on the first and second floors is not supported and a condition is recommended to delete the east-facing</p>	Complies, subject to conditions.

		<p>sections of the balconies, and to provide 1.6m high privacy screening to the eastern side of the reduced balconies.</p> <p><i>Windows</i> Raised window sills are required to the eastern windows of the living areas on all levels. Privacy treatment to bedrooms 1 and 3 is not necessary given these rooms exceed the minimum side setback and are low use rooms. The southern privacy screen to ground floor bedroom 1 must also be fixed and installed in accordance with Council's standard condition.</p> <p><i>Lobby / Stair</i> Fixed, full height privacy screening is required to the western side of the stair and lobby.</p>	
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate "quiet areas" such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	Acoustic privacy will be achieved as each unit is contained on a separate level (and subject to a condition to delete the exclusive access stair to the basement storage of unit 1).	Complies
5.5	View sharing		
	<p>(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.</p> <p>(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views</p>	View sharing will be reasonably maintained (refer to Key Issues section above).	Complies

	<p>from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.</p> <p>(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.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(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.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Entry points to the building can be appropriately secured and will have clear lines of site. A condition is recommended to ensure the secure entries are shown on relevant drawings.	Complies, subject to conditions.
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Direct, secure access is provided.	Complies
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	All apartments are provided with secured POS areas and openable habitable room windows that cannot be easily accessed from common areas.	Complies
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No obstruction to lines of sight is proposed.	Complies
	(vi) Resident car parking areas must be equipped with security grilles or doors.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	A condition is recommended to	Complies, subject to condition.

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		ensure compliance with this part.	
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(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.	Communal open space is not proposed with communal areas limited to the pedestrian entries on the eastern and western sides. Casual surveillance will not be provided from living areas, which are orientated to the north.	Refer to Key Issues section.
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	A condition is recommended to ensure compliance with this part.	Complies
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	A condition is recommended to ensure compliance with this part.	Complies
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	N/A	N/A
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The driveway length is minimised. Sufficient permeable surfaces are proposed throughout the site.	Complies
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	The driveway is setback 1.2m from the eastern side boundary.	Complies
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be	Parking is proposed within the basement.	Complies

	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.	Vehicles will be able to enter and exit the site in a forward direction.	Complies
	(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.	The maximum driveway width is 3m.	Complies
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	The basement is relatively small and will be naturally ventilated via the access. The basement is contained underground. Safe and secure access can be provided, subject to conditions.	Complies, subject to conditions.
7	Fencing and Ancillary Development		
7.1	Fencing		
	(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.	No fencing is proposed. A condition is recommended to ensure that all fencing details are submitted to and approved by	Complies, subject to condition.

	<p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(ii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	Council in accordance with this part.	
7.2	Front Fencing		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</p> <p>(iii) Construct the non-solid portion of the fence with light-weight materials that are at least 30% open and evenly distributed along the full length of the fence.</p> <p>(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios:</p> <ul style="list-style-type: none"> - 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. <p>Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p> <p>(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.</p> <p>(vi) The preferred materials for front fences are natural stone, face bricks and timber.</p> <p>(vii) Gates must not open over public land.</p> <p>(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.</p>	No fencing is proposed. A condition is recommended to ensure that all fencing details are submitted to and approved by Council in accordance with this part.	Complies, subject to condition.

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>	<p>No fencing is proposed. A condition is recommended to ensure that all fencing details are submitted to and approved by Council in accordance with this part.</p>	<p>Complies, subject to condition.</p>
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 – 10m³</p>	<p>Compliant storage spaces are provided for each apartment.</p>	<p>Complies</p>
7.7	Laundry facilities		
	<p>(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.</p>	<p>Sufficient area is available as part of the compliant POS for clothes drying facilities.</p>	<p>Complies</p>
	<p>(ii) Provide internal laundry for each dwelling unit.</p>	<p>Each apartment is provided with an internal laundry.</p>	<p>Complies</p>
	<p>(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for</p>	<p>Sufficient area is available as part of the compliant POS for clothes drying</p>	<p>Complies</p>

	clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	facilities, which are required to be provided with privacy screens.	
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. 	Air conditioning units are not shown on the drawings.	Complies, subject to condition.

Attachment/s:

1. Dev Consent Conditions (med density res) - DA/587/2018 - 40 Melrose Parade, Clovelly

Development Consent Conditions (Medium density residential)



D45/19

Folder /DA No:	DA/587/2018
Property:	40 Melrose Parade, CLOVELLY NSW 2031
Proposal:	Demolition of existing structures and the construction of a four storey residential flat building containing 3 units with a basement carpark.
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
DWG A01 Amendment 02	MJH Design	January 2019
DWG A02 Amendment 02		
DWG A03 Amendment 02		
DWG A04 Amendment 02		
DWG A06 Amendment 02		
DWG A07 Amendment 02		
DWG A08 Amendment 02		
DWG A09 Amendment 02		
DWG A10		

Amendment 02		
DWG A11		
Amendment 02		
DWG A12		
Amendment 02		

<i>BASIX Certificate No.</i>	<i>Dated</i>
936877M	28 June 2018

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements with details to be submitted to and approved by Randwick City Council prior to the issue of a Construction Certificate:

- a) The entire fourth storey (habitable roof space) including the roof terrace shall be deleted and the finished roof level shall not exceed RL 36.4.
- b) The internal stair from the basement storage to Unit 1 shall be deleted. Secured access shall be provided to the basement storage to Unit 1 at the basement level.
- c) The solid walls to the western side of the south-facing balconies off bedroom 1 on the first and second floors shall be deleted. The balconies shall be extended to occupy the full width of the front façade.
- d) A privacy screen having a height of 1.6m (measured above the rear-facing ground floor terrace, and rear-facing first and second floor balconies) shall be provided to both the eastern and western sides of the ground floor terrace and rear-facing balconies.

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.
- e) The full height privacy screen shown on the southern elevation to bedroom 1 on the ground floor must be constructed with either:
 - 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.
 - f) Full height privacy screening shall be provided to the western side of the common stair and lobby. The privacy screen/s must be constructed with either:
 - 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.

- g) The east-facing sections of the front-facing, wrap-around balconies to bedroom 1 on the first and second floors shall be deleted. A privacy screen having a height of 1.6m (measured above the first and second floor balconies) shall be provided to the eastern sides of the balconies.

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.
- h) The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
- The east-facing lounge windows for all levels.
- i) Services and equipment shall not be visible from the public domain.
- j) A secured pedestrian entry to the western pathway with integrated mailboxes shall be provided in accordance with Part C2 of the Randwick DCP.
- k) The basement car parking area must be equipped with security grilles or doors.
- l) Visitor entry to all units and internal common areas shall be controlled by intercom and remote locking systems.
- m) Lighting shall be provided for all building entries, pedestrian paths and communal stairs / lobbies for personal safety.

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 \$1,531,068 the following applicable monetary levy must be paid to Council: \$15,310.70.

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 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 \$1,531.05 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*:

- \$8000 - 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 lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and;
- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

Street Tree Management

11. The applicant must submit a payment of **\$2,141.28** (GST inclusive) to cover the following costs:
- For Council to remove, stump-grind and dispose of the two *Hibiscus tileaceus* (Cottonwoods) from the Melrose Parade verge, being one in front of the subject site to the west of the power pole so as to allow for the new, relocated crossing further to the west, closer to this tree as is shown, as well as to provide a suitable line of sight of approaching vehicles from the west, upon completion; along with the other tree just past the eastern site boundary, in front of no.42, so as to facilitate machinery access, deliveries and similar throughout construction, with clearance pruning not being an option given the amount involved;
 - For Council to supply, plant and maintain 2 x 25 litre Cupaniopsis anacardioides (Tuckeroo's) back on the Melrose Parade verge, being one an equal distance between the western edge of the new vehicle crossing and western site boundary, and one more elsewhere within the street or surrounding area, at Council's discretion, at the completion of all works;
 - A loss of amenity fee in recognition that the only reason these established native trees are being removed from public property is to accommodate the development of private property, and will be specifically directed towards additional public plantings in the street and surrounding area.

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 trees 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 tree works are to be directed to Council's Tree Preservation & Maintenance Coordinator on 9093-6858.

Protection of neighbours trees

12. In order to ensure retention of the row of three mature *Banksia integrifolia* (Coastal Banksia's) that are located wholly in the front setback of the adjoining private property to the east, no.42, close to the common boundary in good health, the following measures are to be undertaken:
- All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of both their trunks and canopies to be clearly and accurately shown on all plans in relation to the works.
 - The Construction Certificate plans must show (by the inclusion of measurements) that the closest part of the eastern wall of the basement level (entry/exit ramp), will be offset a minimum distance of **1300mm** from

the eastern site boundary, as is shown on the rev 02 plans, dwg A01, whilst also complying with the requirements of Council's 'Access Driveway' condition. This setback must be constructed on-site.

- c) The Basement Plan, dwg A01, must also be amended to show that the basement access stairs, along the eastern site boundary, will be relocated further to the north of their current position, so that a minimum distance of **2 metres** will be provided from the trunk of the most northern tree in this group to **any excavations associated with their construction**, with relevant details confirming compliance to be provided. This setback must be constructed on-site.
- d) The area between the eastern wall of the basement/building and eastern site boundary, from the front boundary to the relocated basement access stairs, must be provided as undisturbed deep soil, at similar ground levels to where the neighbours trees are growing, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area. Compliance is to be demonstrated on all plans by the inclusion of relevant details, spot levels and similar.
- e) So as to avoid the indiscriminate damage of roots, Council's Landscape Development Officer must be contacted on 9093-6613 (giving at least 2 working days-notice), to be present on-site during demolition/removal of the existing internal concrete driveway, and depending on what is encountered, this structure may need to be removed by hand, not machinery, as directed by Council's Officer.
- f) A construction technique such as contiguous bored piers or a similar alternative approved by the PCA, which will not require bulk earthworks/excavations, must then be used for that part of the eastern wall of the basement, between the front boundary and relocated access stairs, with relevant details confirming compliance to be shown on all plans, as well as being used on-site.
- g) Where roots are encountered which are in direct conflict with the approved works, and Council's Officer gives permission for their pruning, 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 so that cut ends are not left exposed to the atmosphere.
- h) Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the eastern side setback, in the area between the eastern wall of the basement/building and eastern site boundary, from the front boundary to the basement access stairs, can only be located hard up against the new footprint, with all services plans to demonstrate compliance with this requirement, and must also be installed on-site as part of works.
- i) Following demolition of the existing driveway, ground protection comprising strapped together rumble boards, plywood or similar, must then be provided in the area between the eastern wall of the basement/building and eastern site boundary, from the front boundary to the basement access stairs, and must remain in place for the duration of works, until such time as the approved landscaping is being installed in this area.

- j) In order to prevent soil/sediment being washed over their roots, erosion control measures must also be provided at ground level along the common boundary.
- k) If trunk or branch protection is required so as to avoid damage to the trees, this can be provided by way of wrapping layers of geo-textile, carpet/underfelt, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall be placed around their circumference, and are then to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- l) Any new common boundary fencing, within a radius of **3 metres** of their trunks, can only be a system which is supported on localised pad footings, not strip footings, with details confirming compliance to be shown on all Construction Certificate plans.
- m) If roots are encountered during installation of footings for fencing, then they must be re-positioned to allow their preservation, so a flexible system will need to be used.
- n) 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 in the eastern side setback near these trees, with all Site Management Plans needing to acknowledge these requirements.
- o) 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 any 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 & Relevant Standards

- 13. 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).
- 14. 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

- 15. 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

16. 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:-
- a) 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.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) 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.
 - d) 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*.
 - e) 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*.

Access Driveway

17. Plans & sections submitted for the construction certificate must demonstrate compliance with the following amendments and requirements to ensure the internal driveway meets Council requirements.
- The internal driveway and vehicle crossing must be amended so that they cross the verge and front property alignment at right angles to the street alignment while also ensuring a clearance of 0.3m is obtained to the face of the power pole located in front of the property.
 - 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
 - The internal access driveway must be designed and constructed to match the alignment levels at the front property boundary (as specified by Council).

- The first 2m of the internal driveway into the property must not exceed a maximum grade of 1 in 20 (5%) with the exception of the westernmost extremity which may be designed up to a maximum grade of 1 in 10 (10%)
- The next 3m of driveway into the property (i.e. between 2 & 5m into the property) must not exceed a grade of 1 in 8 (12.5%).
- The driveway may then steepen to 1 in 4 after this point (25%) (i.e. at 5m into the property)
- Suitable 2m long transitions must be provided where grade changes exceed 12.5%

A longitudinal section of the driveway must be provided with the construction certificate plans, at a scale of 1:25 or 1:50 along the extremities of the driveway. The sections shall demonstrate compliance with the Council issued alignment level at the property boundary, together with satisfactory ramp grades (and transitions) in accordance with the above requirements. A copy of the long-sections shall be forwarded to Council's Development Engineer.

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

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:

- **RL 25.66 AHD (Western extremity of driveway)**
- **RL 25.34 AHD (Eastern extremity of driveway)**

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 **\$711** 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 Melrose Parade 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),

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.

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

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

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

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

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

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

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

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

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

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

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

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

- g) Generally all internal pipelines must be capable of discharging a 5% AEP (1 in 20 year) storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must

be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.

- h) 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.

- i) 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).

- j) 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.

- k) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- l) 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.
- m) Mulch or bark is not to be used in on-site detention areas.
- n) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

Site seepage & Dewatering

22. If any dry weather site seepage/groundwater flows are 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 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

25. 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

26. Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in front of the site on Melrose Parade. 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.

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.

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Certification and Building Inspection Requirements

27. 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

28. 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

29. 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

30. 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

31. 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

32. 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

- 33. 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

- 34. 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 Melrose Parade 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.

- 35. 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.

36. 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

37. 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.

Landscape Plan

38. A landscape plan prepared by a qualified professional in the Landscape/Horticultural industry (must be eligible for membership with AILDM, AILA or equivalent) must be submitted to, and be approved by, the Certifying Authority/PCA, prior to the commencement of site works, and must detail the following:
- a) A Planting Plan & Plant Schedule which includes proposed species, botanic and common names, pot size at the time of planting, quantity, location, dimensions at maturity and any other relevant details;
 - b) A predominance of species that can withstand salt laden winds and which are not reliant on high quantities of moisture and fertilizer for survival;

- c) A high quality selection and arrangement of decorative species throughout the front setback so as to assist with presentation of the development to the streetscape;
 - d) Dedicated garden areas around the perimeter of the site, in both private and communal landscaped areas, in deep soil and on-podium, to which, evergreen screen planting and decorative lower growing species shall be provided so as to soften the appearance of dividing/boundary fences as well as to improve amenity for both future occupants and neighbours;
 - e) A minimum of 3 x 25 litre (pot size at the time of planting) evergreen canopy trees, throughout areas of deep soil in both the front and rear setbacks, selecting native coastal species which will attain a minimum height of 6 metres at maturity, and must be planted at least 2.5 metres from any part of the building.
39. 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 Plan complies with the conditions listed above, with both this statement and plan to be submitted to, and be approved by, the PCA/Certifying 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

40. 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

41. 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

42. 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

43. 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

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.

Sediment & Erosion Control

45. 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

46. 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

47. 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

48. 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

49. 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

50. 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

51. 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

52. 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

53. 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) 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.
 - b) 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

54. 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.
55. 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.
56. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

57. 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.

Ground Water

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

Vegetation

59. Due to either their small size and/or insignificance, no objections are raised to removing all vegetation throughout the subject site where necessary so as to accommodate the approved works, including a Cocos Palm at the rear, towards the northwest site corner, the row of Bamboo's across the width of the rear boundary, as well as those small screening shrubs on the eastern site boundary, between the existing pool and house, including the Frangipani, so as to accommodate the major earthworks that are shown for these same areas, and is subject to full implementation of the approved landscaping.

Pruning of neighbours trees

60. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the western aspects of the row of three mature Banksia integrifolia (Coastal Banksia's) that are located wholly in the front setback of the adjoining private property to the east, no.42, only where they overhang above the development site and need to be pruned in order to avoid damage to the trees; or; interference with the approved works.
61. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, their ongoing health, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
62. Pruning can only be undertaken by a Practicing Arborist who holds a minimum of AQF Level III in Arboriculture, to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

63. Pruning may be performed prior to the commencement of site works so as to minimize the chance of damage being caused to the trees by machinery and similar, with the site Arborist to contact Council's Landscape Development Officer on 9093-6613 (giving at least 2 working days-notice) to arrange a joint site meeting, prior to pruning, to determine the exact location and extent that is permissible, with any instructions issued by Council to be complied with.

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

64. 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

65. 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

66. 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

67. 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

68. 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

69. 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.

70. 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.

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

72. 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) Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
 - c) Re-construct kerb and gutter for the full site frontage except opposite the vehicular entrance and exit points including any road reknit as required, to Council's specifications and requirements.
 - d) Re/construct a concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specifications and requirements.
73. 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.
74. 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

75. 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 issuing an Occupation Certificate.

Undergrounding of Power

76. The PCA shall ensure that all power supply to the development site has been provided as an underground (UGOH) connection from the nearest main pole in front of the site on Melrose Parade, with all work completed to the requirements and satisfaction of Ausgrid and at no cost to Council. All private poles must be removed prior to the issuing of an occupation certificate, unless otherwise approved in writing by Council's Development Engineering Coordinator.

Stormwater Drainage

77. If an onsite detention. Infiltration or pump-out system has been provided 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/pump-out system is maintained and that no works which could affect the design function of the detention/infiltration/pump-out 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.
78. 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 orifice size/s (if applicable);
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
79. 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.
80. If site seepage/groundwater flows are 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

81. 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 approved Landscape Plan, and any relevant conditions of consent.
82. 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.
83. 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.

Tree Protection & Pruning Certification

84. Prior to any Occupation Certificate, written certification must firstly be obtained from Council's Landscape Development Officer (9093-6613) confirming that the requirement for joint site inspections of works associated with demolishing the existing driveway, as well as those relating to clearance pruning of the neighbours trees were complied with, along with any other instructions issued on-site by Council during the course of works.

Waste Management

85. 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.
86. The waste storage areas shall be clearly signposted.

OPERATIONAL CONDITIONS

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

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

Use of parking spaces

87. 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.

Management if parking on-site

88. A *Strata Parking Management Plan* must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.

Strategies and measures may include:

- Adoption of parking by-laws;
- Installation of suitable barriers, bollards, low-height fencing and gates;
- Installation of signage and notices;
- Intercom or key card systems;
- Security systems and security personnel;
- Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management

Fire Safety Statements

89. 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

90. 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.

Stormwater Detention/Infiltration System

91. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

Residential Parking Permits

92. 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.
93. 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.

- 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 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.

- A11 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.

- A12 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.

- A13 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.

- A14 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. D46/19

Subject: 2A Alexander Street, Coogee (DA/555/2017)

****THIS DEVELOPMENT APPLICATION WAS WITHDRAWN BY THE APPLICANT ON 6 SEPTEMBER 2019****

Proposal:	Alterations and upper level addition to the existing residential flat building to accommodate 2 x 1 bedroom dwellings.
Ward:	East Ward
Applicant:	Jiun Der Chung
Owner:	Forence Fermanis
Cost of works:	\$282,150.00
Reason for referral:	SEPP 65

Recommendation

A. That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended to Development Application No. DA/555/2017 for alterations and upper level addition to the existing residential flat building to accommodate 2 x 1 bedroom dwellings. At No. 2A Alexander Street, Coogee NSW 2034 for the following reasons:

1) The proposed development fails to satisfy Part 4, Clause 30 (2) of the SEPP 65, in that the development does not demonstrate the adequate regard has been given to :

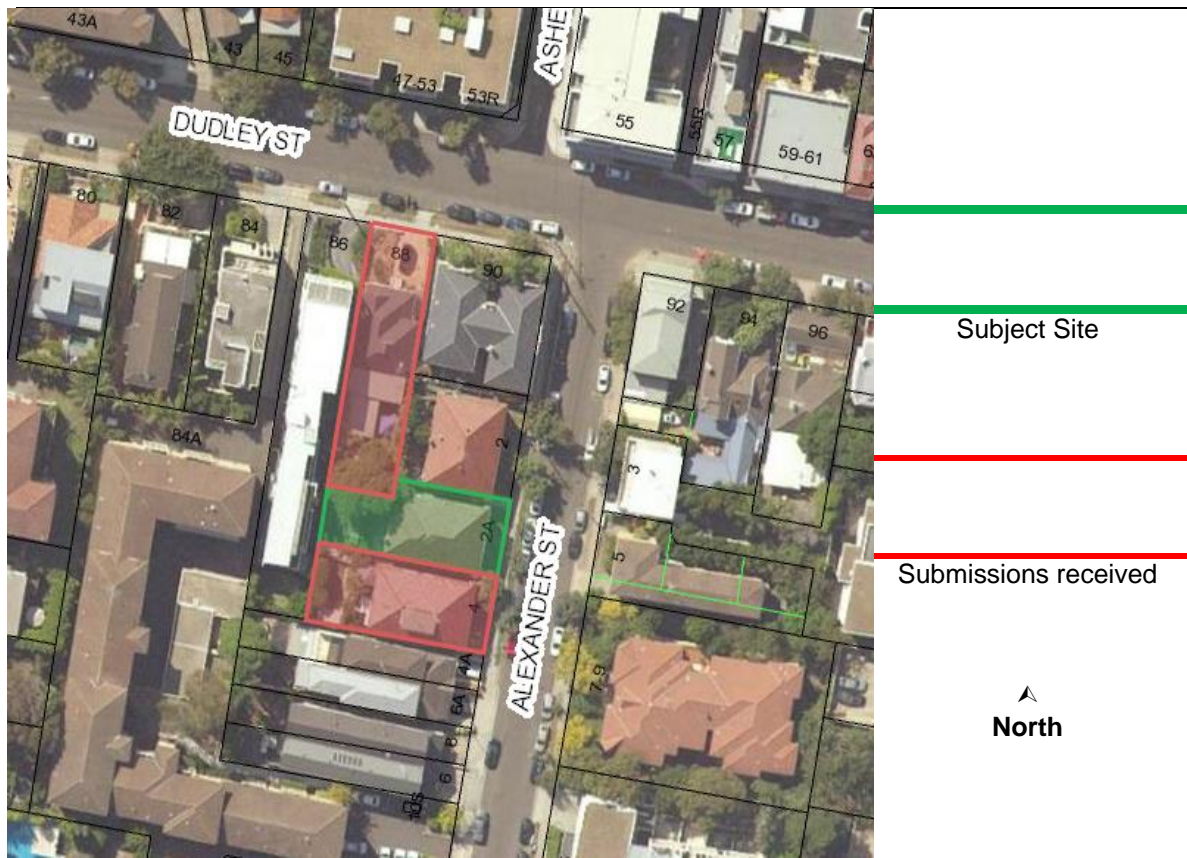
- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria

Specifically the proposed development does not comply with:

- Principle 2 Built Form and Scale,
 - Principle 9 Aesthetics,
 - Part 3F-1 Building Separation for both north and south side setbacks,
 - Part 4D-1 Minimum apartment size having 1 bedroom apartments less than 50sqm in area,
 - Part 4D-3 Apartment layout having combined living/dining rooms less than 3.6m in width,
- 2) The proposed development fails to provide crucial supporting information in relation to Part 3 of the ARHSEPP thereby inhibiting Council's ability to carry out an assessment against Part 3, Clause 50 (2) of the ARHSEPP.
- 3) The proposed development fails to satisfy the relevant objectives of the R3 Medium Density Zone in that the development fails to recognise the desirable elements of the existing streetscape and built form that contribute to the desired future character of the area by failing to address the DEP recommendations relating to external colours, materials, finishes and façade details.
- 4) The proposed development fails to satisfy the relevant objectives of the RDCP 2013 in relation to car parking and access, building design and amenity.
- 5) The proposed development fails to demonstrate total or partial conformity with the Building Code of Australia, pursuant to Part 6, Division 8, Clause 94 of the EP&A Regulation (2000).

D46/19

D46/19



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is subject to SEPP 65, involving alterations and additions to an existing residential flat building. Specifically, the application details the addition of two one bedroom units (units 5 and 6) above the existing 4 unit building. The resulting building will consist of 6 units (2 on each floor) comprising of the following number of bedrooms:

Existing Ground:

Unit 1: 2 bedrooms
Unit 2: 2 bedrooms

Existing First:

Unit 3: 2 bedrooms
Unit 4: 2 bedrooms

Proposed Second:

Unit 5: 1 bedroom
Unit 6: 1 bedroom

The application was referred to the Joint Randwick/Waverley Design Excellence Panel (DEP) and as a result, the following issues were identified:

Apartment Design Guide

- 1) The proposed second floor bedrooms fail to comply with the minimum dimensions in the ADG. The DEP indicated that the bedrooms must comply with these controls, however amended plans indicate that this has not been achieved. The proposed bedroom dimensions fall short of the required 50sqm for 1 bedroom apartments by 6.8sqm (at 43.2sqm each) or 13.6% shortfall, this is a significant non-compliance and one that is not supported by Council or the DEP.

Built Form

- 2) Due to the age of the building and the constrained layout of the proposed addition, the DEP requested that strategies for dealing with services including drainage and any bulkheads to should be shown on the drawings and include 1:50 scale drawings. Specific detail in this regard has not been provided and as such it is impossible to determine how Plumbing penetrations, acoustic and fire separation will incorporated into the design.

Density

- 3) Increased density was supported by the DEP.

Sustainability

- 4) The DEP requested specific design details for windows which were to demonstrate how each window achieved BCA compliance and facilitated cross ventilation. Whilst a cross-ventilation diagram has been provided, it lacks specific detail, i.e. what percentage of windows/doors need to be fully open to achieve good air flow. It was also requested that outdoor clothes drying facilities be detailed on the plans.

Landscape

- 5) Upgrading of landscaping in the rear was recommended, however the proposed scheme pays little attention to the rear COS and it is the opinion of the Assessing Officer that more could be done to improve/upgrade the existing landscaping situation across the site.

Amenity

- 6) The addition of privacy screens to balconies and details of acoustic insulation between floor and ceiling voids was outlined as necessary by the DEP. These measures have not been noted on the plans.

Safety

- 7) Detail of fire safety in relation to facades, windows and egress paths were to be shown on the plans, which the Applicant has failed to comply with.

Housing Diversity

- 8) No comment.

Aesthetics

- 9) The DEP were highly critical of the need to provide detailed colours/materials and finishes of the addition. Specifically, the DEP requested that the eaves, soffits, guttering and downpipes need to be designed and detailed in the DA. Further, the junction between the existing building and the new level on the east and west facades should be detailed. The DEP asked the applicant to investigate taking brickwork up to the soffit on these elevations. It is pertinent to note that none of these recommendations were complied with.

Whilst the proposed built form complies with the relevant development standards for maximum building height and FSR it is the opinion of the Assessing Officer that the proposed development, including the supporting documentation fail to adequately address the recommendations made by the DEP. In this regard, it is considered that the proposed development will not result in a reasonable level of amenity, is not in keeping with the prevailing pattern of residential flat building development within the vicinity and is not sympathetic to the art-deco character of the original building. Moreover, the proposed development is not considered to result in a good planning outcome and is recommended for refusal as detailed in the assessment below.

2. Site Description and Locality

Having a total site area of 343.6sqm, the site has a 12.19m frontage to Alexander Street and has a distinctive fall from the street to the rear. A two (2) storey red brick walk up residential flat currently occupies the site. The site is adjoined (to the north and south) by two Art Deco walk-up residential flat buildings of the same height. The site is located in an area predominately comprising a mix of residential developments with varied architectural styles. Residential development in the area typically consists of landscaped front yards with car parking/garages located at the street frontage. Many of the contemporary buildings are located above car parking.

The site is particularly unique in that it forms the middle of three identically styled art deco buildings that present a distinctive and valuable character to the street. The proposal to develop an additional storey on top of the subject site is not in keeping with the style and character of the three art deco buildings and as is demonstrated below, is unable to comply with key built form controls specified in both the ADG and RDCP 2013.

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Figure. 1 Street elevation of subject building

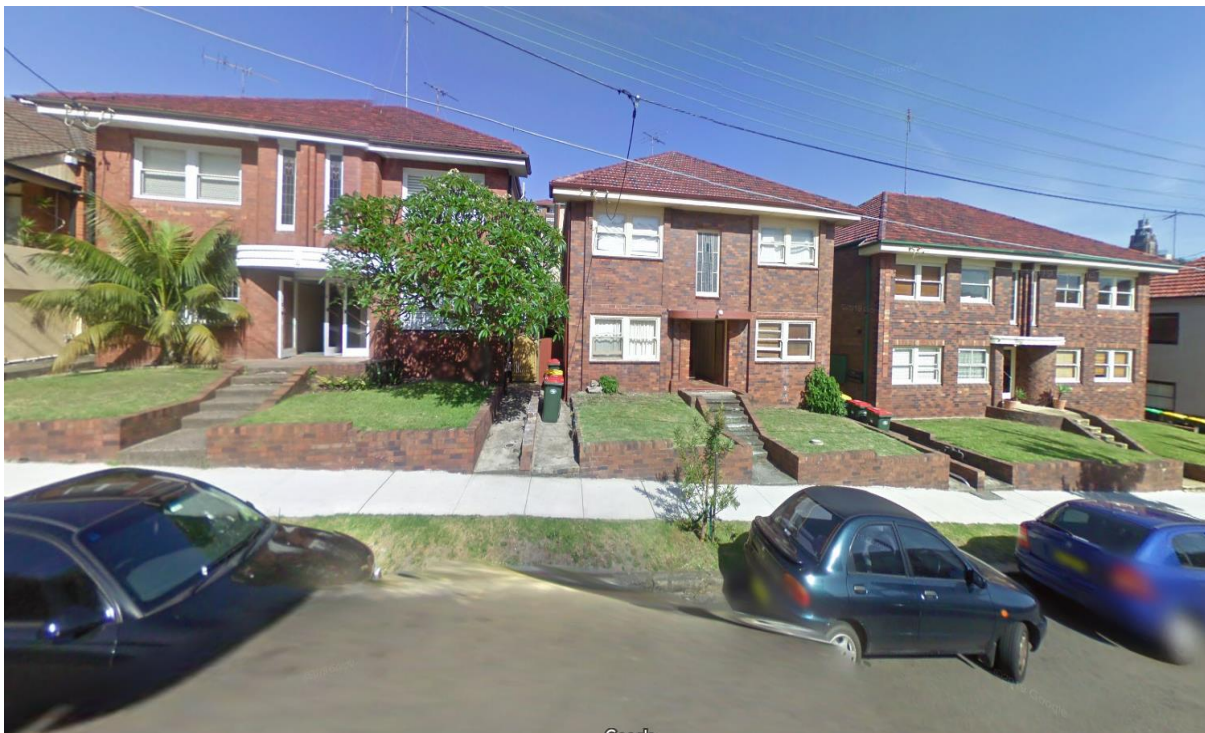


Figure. 2 Broad street elevation of subject building (centre).



Figure. 3 Rear elevation of subject building

3. Relevant history

A previous DA (DA/907/2016) for alterations and additions to the existing residential flat building was withdrawn on 22 March 2017 as the following issues raised by Council and the DEP were unable to be resolved:

- Addition did not integrate into the fabric and art-deco aesthetic of the existing building,
- Apartment sizes including ceiling height were inadequate
- Off street car parking options did not conform to AS2890
- Contemporary nature of the addition was incompatible with the building and was not designed to complement and enhance the character of the streetscape.

4. Proposal

Despite improvements being made to the first DA, certain aspects of the proposed development remain inconsistent with both RDCP and SEPP65. The subject DA details alterations and addition to the existing residential flat building including:

- Partial demolition of the existing roof (with a portion of the front roof to be retained);
- Construction of an additional level on top of the existing residential flat building which will be setback from the front building line. The additional level will create 2 x 1 bedroom units on top of the existing 4 units. There are no changes to existing units.
- Addition of balconies to the front and rear of the top floor units.

4.1 Amendments

Following recommendations made by Randwick Design Excellence Panel, the following amendments were made to the proposal:

- The layout of the units have been revised to remove the wet areas over living rooms below and the bathroom opening into the living room. The amended unit layouts will enable a more efficient floor plate and will create a larger living/kitchen area for future residents;
- Ceiling fans have been incorporated to the bedrooms and living rooms on the plans;
- Further information has been provided on the following items:
- Head heights increased to the stairwell;
- Furniture has been indicatively shown on the plans;
- A blade wall has been shown on the plans in between the Juliette balconies;
- Junction between the existing building and proposed works; and
- The type of cladding to be used.

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:

- 88 Dudley Street, Coogee

Issue	Comment
The setbacks of the proposed development are unreasonable.	See discussion under ADG Table below.
The proposed balconies will result in overlooking to our rear POS.	
The proposed development includes inadequate carparking.	See discussion under RDCP Table below.

- 39 Malabar Road, Coogee

Issue	Comment
The development proposes inadequate building separation from neighbouring development and does not comply with the ADG requirements.	See discussion under ADG Table below.
The proposed apartment dimensions do not comply with the ADG requirements.	
The proposed development will further exacerbate the existing parking deficiencies and does not comply with RDCP parking rates.	See discussion under RDCP Table below.

- 14 Vicar Street, Coogee

Issue	Comment
The development will exceed the maximum building height of 12m.	The relevant development standards are complied with.
The development will exceed the maximum FSR for the site.	
The side and rear setbacks are non-compliant.	See discussion in Key Issues
The development will increase parking demand upon the site.	See discussion in Key Issues

- 2/4/ Alexander Street

Issue	Comment
The development does not match the art deco character of the existing building and nearby development.	See discussion in key issues.
There will be adverse overshadowing impacts.	

6. Relevant Environment Planning Instruments

6.1. 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.

6.2. SEPP 65 Design Quality of Residential Apartment Development

SEPP 65 aims to promote quality design of Residential Flat Buildings (RFB's). The proposal is subject to the policy as it involves the alterations and additions to a residential flat building being 3 storeys or more in height containing four or more dwellings. Council's Design Excellence Panel (DEP) commented on one occasion and identified a number of issues with the design (see Appendix 1). In this respect, the key issues raised by the DEP relate to ensuring high levels of internal amenity are achieved via compliance with the ADG controls as well as some design considerations for the external colours, materials and finishes. The amended scheme has failed to these recommendations.

As required by SEPP 65, the Apartment Design Guide (ADG) is considered by way of an assessment below. The ADG is used in conjunction with SEPP 65 and is a guide containing objectives, design criteria and design guidance to improve the planning and design of residential apartment development in NSW.

Having regard to the ADG, an assessment is carried out against the key design criteria requirements in Part 3: Siting the Development and Part 4: Designing the Building. The ADG provides guidance about how development proposals can achieve the nine design quality principles identified in SEPP 65. Any non-compliance to the design criteria includes a merits based assessment as per the design guidance of the Apartment Design Guide.

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Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A-1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed	Site analysis plan is adequate.	Complies
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)	The proposed addition is inconsistent with the bulk and scale of nearby development. The proposed development is higher and presents more vertical massing to the street when compared to existing development within the vicinity by failing to integrate the new development with the existing. A more sympathetic approach taken at No. 4 Alexander St includes a top floor addition contained within the roof form, would be considered a more appropriate option for the subject building.	No
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	No rear buildings.	N/A
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	Shadow Diagrams and View from the Sun modelling (including breakdown of north facing windows of No. 4 Alexander St) indicates that the required levels of solar access have been preserved to neighbouring properties.	Complies
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	Living rooms accessible from terraces will receive adequate solar access due to	Acceptable

Clause	Requirement	Proposal	Compliance
		their location upon east facing elevation.	
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	North facing windows to No. 4 Alexander Street will be impacted. Likewise, there are no balconies upon neighbouring properties that will be adversely impacted.	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	Proposed development has side setbacks of 1m that do not comply with the ADG or RDCP.	No
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks	N/A	N/A
	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	N/A	N/A
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	N/A	N/A
3C-1	Public Domain Interface		
	The proposed development is not considered to result in a built form that responds to the existing development upon the site and fails to take to develop a character that is consistent with neighbouring medium density development along Alexander Street. In this regard, the addition has been poorly integrated into the existing fabric of the building and will not enhance the streetscape and neighbourhood character of Alexander Street.		See discussion in key issues.
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site 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)	Existing COS is to remain as is, in this regard the site affords three areas of COS (2 at the front and 1 at the rear). The existing COS is considered to be of sufficient quality to afford the additional residents a reasonable level of amenity and liveability within the site.	Acceptable given the low number of units and the proximity of other high quality open space areas in the vicinity of the site such as Coogee Beach and parklands that provide passive and active

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Clause	Requirement	Proposal	Compliance												
			recreational use. Further, each new unit is provided with compliant POS.												
3E-1	Deep Soil Zones														
	<div>Deep soil zones are to meet the following minimum requirements:</div> <table><tr><th>Site area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td><650m2</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650-1500m2</td><td>3m</td></tr><tr><td>>1500m2</td><td>6m</td></tr><tr><td>>1500m2 with sig. existing tree cover</td><td>6m</td></tr></table>	Site area	Minimum Dimensions	Deep Soil Zone (% of site area)	<650m2	-	7%	650-1500m2	3m	>1500m2	6m	>1500m2 with sig. existing tree cover	6m	Deep soil is present in substantial portions across the site. There is no proposed reduction in permeability as a result of this proposal.	Acceptable.
Site area	Minimum Dimensions	Deep Soil Zone (% of site area)													
<650m2	-	7%													
650-1500m2	3m														
>1500m2	6m														
>1500m2 with sig. existing tree cover	6m														
3F-1	Building Separation														
	<div>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:</div> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>Alexander Street has a tight urban form and the existing side setbacks are 1m for the subject site.</p> <p>In this regard it is considered that the ADG side setback distances are not appropriate for new infill development upon site, given its local context. Moreover, the adjoining properties 2 and 4 Alexander Street are 2 and 2/3 storeys (respectively) and the proposed additional level will look onto the roof areas of the adjoining properties. Notwithstanding, the setback requirements in RDCP are not satisfied and the</p>	No
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

Clause	Requirement	Proposal	Compliance												
		development fails at ensuring the new addition is sympathetic to the pattern of development nearby.													
3F-	Visual Privacy														
	<p>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> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>>25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2 showing separation of 6m plus 6m between habitable components.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	>25m (9+ storeys)	12m	6m	<p>The proposal has varying side setbacks that do not meet the minimum 6m control in the ADG. The inclusion of highlight windows to the side elevations of the new development ensures cross-viewing is not an issue. Regardless, the adjoining properties 2 and 4 Alexander Street are 2 and 2/3 storeys (respectively) and the proposed development will exceed these heights, imposing additional bulk and scale when viewed from neighbouring properties. It is considered that the proposed development will inhibit the future development potential of neighbouring properties, by introducing an incompatible built form that disregards the existing character of the area.</p>	No
Building height	Habitable rooms and balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
>25m (9+ storeys)	12m	6m													
3G-1	Pedestrian Access and Entries														
	Building Entry and access connects to and addresses the public domain. Access and entries are easy to identify	Consistent with existing building.	Complies												

Clause	Requirement	Proposal	Compliance										
3J-1/2	Car and bicycle parking												
	For development in the following locations: <ul style="list-style-type: none">• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or <ul style="list-style-type: none">• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less The car parking needs for a development must be provided off street	No parking specified	No, see discussion in key issues.										
Part 4: Designing the Building													
4A	Solar and Daylight Access												
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	Supporting solar access and cross ventilation diagrams indicate a reasonable level of compliance with this requirement	Acceptable.										
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	All apartments retain/receive sunlight.	Complies										
4C	Ceiling Heights												
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table border="1"><tr><td colspan="2">Minimum Ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table> <p>These minimums do not preclude higher ceilings if desired.</p>	Minimum Ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	Proposed = 2.7m	Complies.				
Minimum Ceiling height for apartment and mixed use buildings													
Habitable rooms	2.7m												
Non-habitable	2.4m												
4D	Apartment Size and Layout												
	Apartments are required to have the following minimum internal areas: <table border="1"><tr><td>Apartment Type</td><td>Minimum Internal Area</td></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3bedroom</td><td>90m2</td></tr></table> 5sqm for each additional bathroom	Apartment Type	Minimum Internal Area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3bedroom	90m2	Proposed = 43.2sqm. The significant non-compliance (i.e. 13.6% less than the minimum requirement) is not considered acceptable as the new development already falls short in other areas such as parking and building separation. These	No
Apartment Type	Minimum Internal Area												
Studio	35m2												
1 bedroom	50m2												
2 bedroom	70m2												
3bedroom	90m2												

Clause	Requirement	Proposal	Compliance															
		factors combined exacerbate the already constrained amenity of the site.																
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Yes, although the need to include a 1.6m high sill height on the side facing windows limits opportunities to provide the highest possible level of internal solar access and cross ventilation.	Acceptable.															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Complies.															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Only one side facing window within kitchen/living areas.	No															
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)		Complies.															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Complies.															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">4m for 3 bedroom apartments		Complies.															
4E	Private open space and balconies																	
	<div>All apartments are required to have primary balconies as follows:<table><tr><td>Dwelling Type</td><td>Minimum Area</td><td>Minimum Depth</td></tr><tr><td>Studio Apt.</td><td>4m2</td><td>-</td></tr><tr><td>1 bed Apt.</td><td>8m2</td><td>2m</td></tr><tr><td>2 bed Apt.</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bed Apt.</td><td>12m2</td><td>2.4m</td></tr></table><div>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</div></div>	Dwelling Type	Minimum Area	Minimum Depth	Studio Apt.	4m2	-	1 bed Apt.	8m2	2m	2 bed Apt.	10m2	2m	3+ bed Apt.	12m2	2.4m	<div>Ground floor terraces have the following dimensions: Unit 1 8m² Unit 2 8m² + Secondary balconies off bedrooms.</div>	<div>Complies.</div> <div>Complies.</div>
Dwelling Type	Minimum Area	Minimum Depth																
Studio Apt.	4m2	-																
1 bed Apt.	8m2	2m																
2 bed Apt.	10m2	2m																
3+ bed Apt.	12m2	2.4m																
4G	Storage																	
	<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><td>Dwelling Type</td><td>Storage Size Volume</td></tr><tr><td>Studio</td><td>4m3</td></tr><tr><td>1 bedroom</td><td>6m3</td></tr><tr><td>2 bedroom</td><td>8m3</td></tr></table></div>	Dwelling Type	Storage Size Volume	Studio	4m3	1 bedroom	6m3	2 bedroom	8m3	Minimal storage space illustrated on plans.	No							
Dwelling Type	Storage Size Volume																	
Studio	4m3																	
1 bedroom	6m3																	
2 bedroom	8m3																	

Clause	Requirement	Proposal	Compliance
	3bedroom 10m3 At least 50% of the required storage is to be located within the apartment		

6.3 Part 3 SEPP Affordable Rental Housing

The definition of a low-rental dwelling under the ARHSEPP is as follows:

low-rental dwelling means a dwelling that (at any time in the 24 month period prior to the lodgement of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

Part 3, Clause 50 (1) of the ARHSEPP provides for the retention of existing affordable rental housing stock. Development applications to demolish, alter or add, change the use of, or strata subdivide existing low cost rental dwellings may require a contribution towards the provision of alternative affordable housing. Part 3 Clause 50 (2) outlines what Council must take in account when deciding whether a development constitutes affordable housing and in determining whether the existing units upon the subject site constitute affordable rental housing, suitable evidence (usually in the form of rental ledgers) is to be provided to Council demonstrating the rental figures for each unit for the past 12 months.

Page 11 of the SEE makes references the following:

*The letter from NG Farah (refer to **Appendix 6**) outlines the rents for each existing unit for the past 2 years which is as follows:*

- Unit 1: \$600-\$650;
- Units 2 and 3: \$600-\$610; and
- Unit 4: \$590-\$610.

On this basis unit 1 is not considered as a low rental dwelling while units 2-4 come under the low rental dwelling threshold.

Crucially, the SEE submitted with the application omitted Appendix 6 and in the absence of this information, Council cannot be satisfied that the existing units do not constitute affordable housing. In this regard and assessment against the ARHSEPP cannot be completed and on this basis the application is recommended for refusal based on lack of information.

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 provide a variety of housing types within a medium density residential environment.

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	0.9:1	Yes
Cl 4.3: Building height (max)	12m	10.073m	Yes

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	SEPP 65 & RLEP 2012 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 fails to satisfy 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	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposal is not in keeping with the pattern of development nearby and will adversely impact the amenity of neighbouring properties.
Section 4.15(1)(c) – The suitability of the site for the development	The site is deficient in off-street parking and proposes to exacerbate this. The resulting development does not result in a good planning outcome in terms of built form, neighbourhood character and amenity.
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 fails to promote the objectives of the zone and will result in significant adverse environmental, social and potential economic impacts on the locality. Accordingly, the proposal is not considered to

Section 4.15 'Matters for Consideration'	Comments
	be in the public interest and does not respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

8.1. Discussion of key issues

- Visual Character

The subject site lies in the centre of three near identical art-deco styled buildings that present a unique and attractive visual character to the streetscape. Each building has matching front setbacks, incorporating soft landscaping and formal pedestrian entries. A particularly unique trait possessed by each building is the formal vestibule entrance that leads directly to the internal staircase, which is visible from the street via a framed lead-light window above the ground floor entry door. Each building is also characterised by top-hung timber framed windows on the front façade that compliment delicate timber pannelling contained within the eaves. As a result, any addition to the subject site should incorporate these finer details into its design to ensure the fabric of the new addition remains consistent with the original detailing. To this degree, the proposed development fails to provide sufficient detail relating to the finishing of eaves, downpipes and guttering as requested by the DEP. Likewise, the DEP also commented:

"The panel would like the applicant to investigate taking brickwork up to the soffit on these elevations. A detailed cross section is required to demonstrate this junction. This option should be explored as part of a larger strategy that ties the new to the old so that the upgraded building presents a cohesive appearance.

Cladding type colours and all finishes should be shown.

The aesthetics of the extension as submitted needs significant design development to meet the required standards".

Accordingly, in the absence of such details and despite these issues being raised with the Applicant, the proposal remains unsupportable due to lack of attention to details and finess, and does not show deliberate courtesy to the adjoining art deco buildings in so far as attempting to retain their joint similitities. As such, it is considered that the proposed addition will not result in a good planning outcome and that on this basis the objectives of the RDCP in relation to neighbourhood character and desired future character of the area have not been satisfied. The applicant should consider how the roof form is an integral part of the character and rhythm of the streetscape and should either a) justify why the current design is able to compliment this character and rhythm of the streetscape or b) provide a design that is more integrated into the existing roof form to avoid detrimental impacts to the streetscape and urban design and comply with General Controls (Principles of Good Design) and Medium Density Controls (Building Design RDCP2013).

- Setbacks

The development proposes to match the setbacks of the existing building which are as follows:

- Front = 8.9m (**Required = no less than 3m and consistent with adjoining**)
- Sides = 1m (**Required = 2m RDCP 2013**)
- Rear = 10.4m and 1m (**Required = 15% or 5m**)

The side setbacks are substantially inconsistent with both the ADG and RDCP (2013) and whilst the required setbacks in RDP have more relevance to context of the area than those proposed under the SEPP, the objectives of RDCP are also not considered satisfied. Further, when considering the other non-compliant elements to the proposed development such as the inordinate bulk and scale when compared with the scale of existing medium density development within the vicinity, the proposed development cannot be considered to result in a good planning outcome for the broader streetscape and more importantly, adjoining art deco buildings.

Whilst it is recognised that the site experiences significant development constraints when the required side setbacks are strictly imposed, it is the opinion of the Assessing Officer that the value of the building lies in its symmetry with neighboring art deco buildings. Accordingly, any well designed addition to the subject site involves identifying the desirable elements of an area's existing or future character and maintaining consistency and/or improving this where relevant. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. In this regard the proposed development fails to blend into the existing building and sufficient detail as to the final colours/materials and finishes has not been specified. As a result, the addition risks contaminating the art-deco character of the site and adjoining development and cannot be considered to complement and enhance streetscape character.

- Amenity

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 3 below.

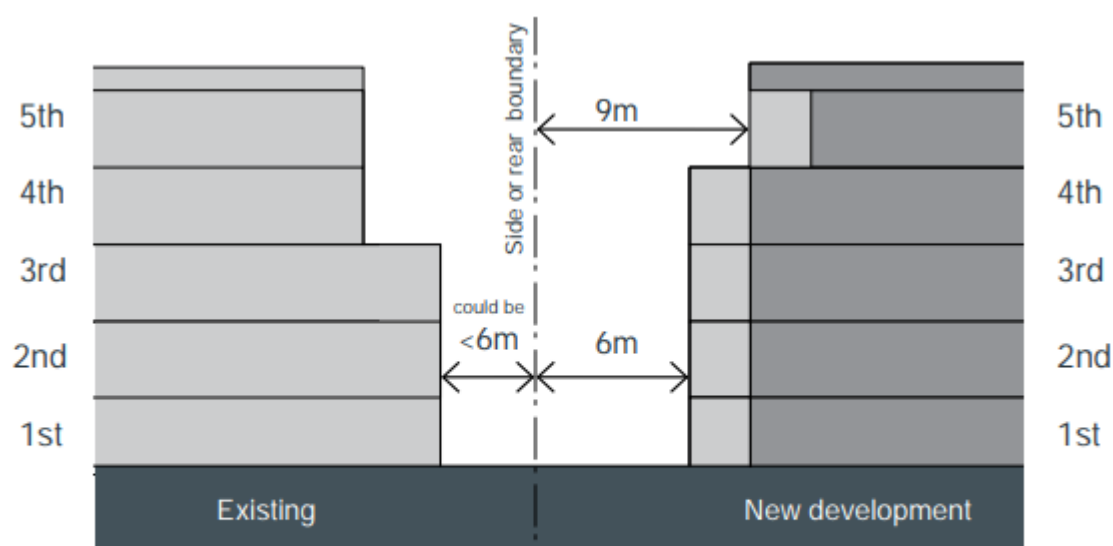


Figure 3F.3 New development adjacent to existing buildings should provide adequate separation distances to the boundary in accordance with the design criteria

Figure. 4 Visual privacy controls ADG

The proposal fails to comply with both the ADG and RDCP in relation to setbacks. The ADG also acknowledges existing patterns of development which in this instance contain buildings with narrow pathways at side boundaries which are well below the 6m control in the ADG. As such, it is considered more reasonable to place a greater emphasis on ensuring the new development is designed so that occupants and neighbours enjoy a reasonable visual and acoustic privacy relationship, which may be addressed through physical measures.

An assessment of the visual and acoustic relationship between the proposed development and the neighbouring properties is carried out for windows and balconies. In this regard, the absence of any privacy screens (as recommended by the DEP) would likely reduce the existing levels of privacy enjoyed by neighbouring properties by allowing overlooking to neighbouring POS. Similarly, the proximity of the rear balconies to the windows of neighbouring properties is not acceptable and would certainly result in adverse acoustic impacts. With regards to existing units within the subject building, the development of terraces partially within the roof cavity at the front of the building is likely to result in unreasonable, adverse acoustic impacts to the units below. The absence of specific details as to the type of acoustic insulation on plan DA.06 is concerning and Council cannot be

satisfied that suitable measures will be implemented to prevent noise from traveling through the roof space and be heard from within the unit below (see Figure. 6 below).

Consequently, the proposed development cannot demonstrate that the layout will preserve the existing levels of agoutis and visual privacy within the site itself and between neighbouring properties and is therefore inconsistent with the required visual and acoustic privacy objectives of the SEPP 65 and RDCP 2013.

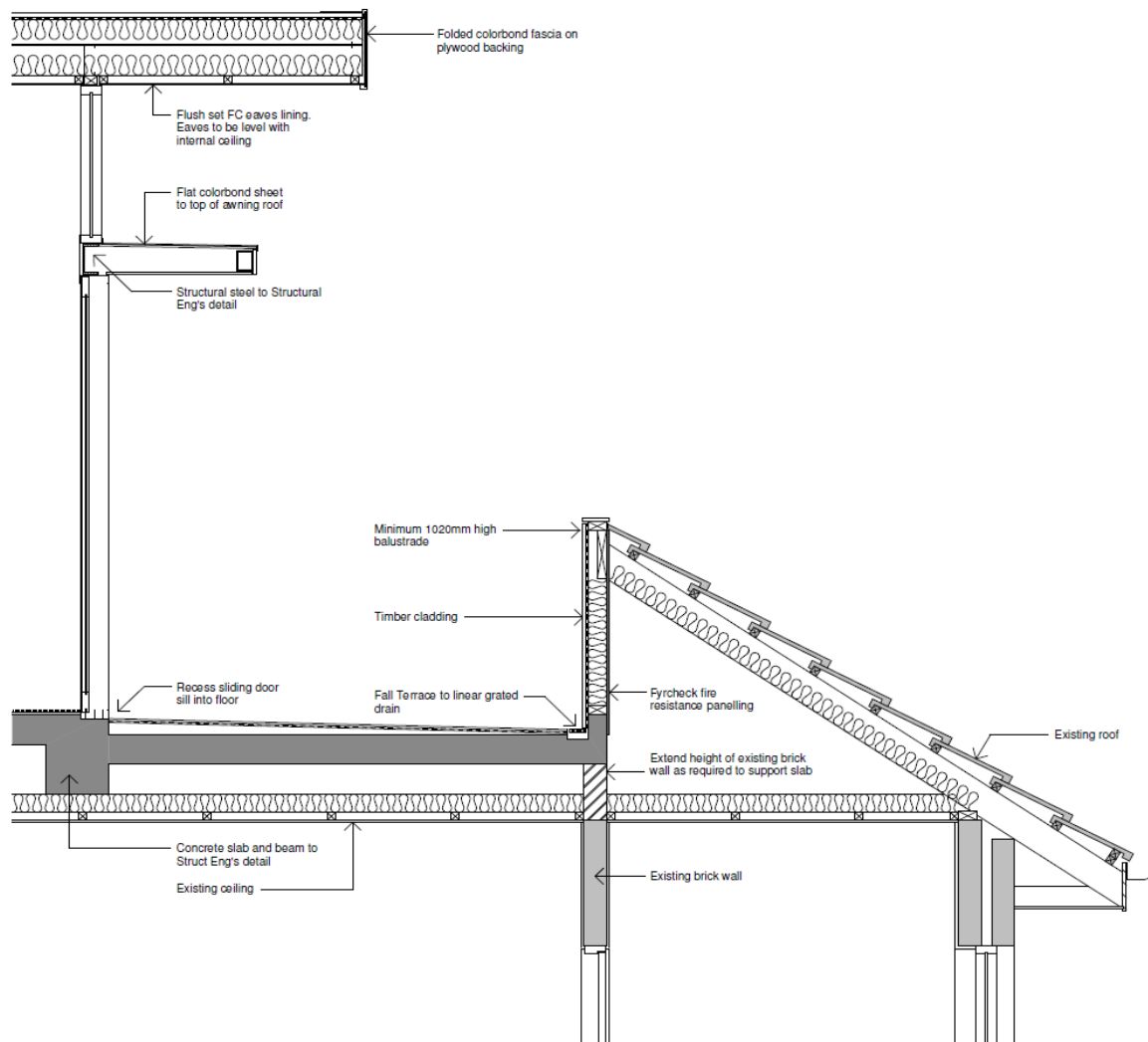


Figure. 5 Section of front terrace over existing unit below.

- Apartment configuration and size

The proposed apartment dimensions fall short of the required 50sqm for 1 bedroom apartments by 6.8sqm (at 43.2sqm each) or 13.6% shortfall, this is a significant non-compliance that should not be supported. Further, the proposed layout clearly demonstrates that a reasonable level of internal amenity cannot be achieved. In particular, unsatisfactory cross ventilation, sunlight and inadequate combined living/kitchen areas are shown to be poorly serviced by a single window on each side elevation. This factor, combined with the small bedrooms is likely to result in a development that does not afford acceptable levels of internal amenity throughout the day. This is demonstrated in Figure 7 below whereby it is clear that adequate cross ventilation is only achieved when the full height doors to the rear balcony and front terrace remain open. Moreover, that solar access to internal areas is only achieved early in the morning and late in the afternoon (at the shortest periods of the day). Accordingly, it is the opinion of the Assessing Officer that the smaller than required bedrooms are an issue that cannot be ignored in the context of the overall development that falls short in several areas.

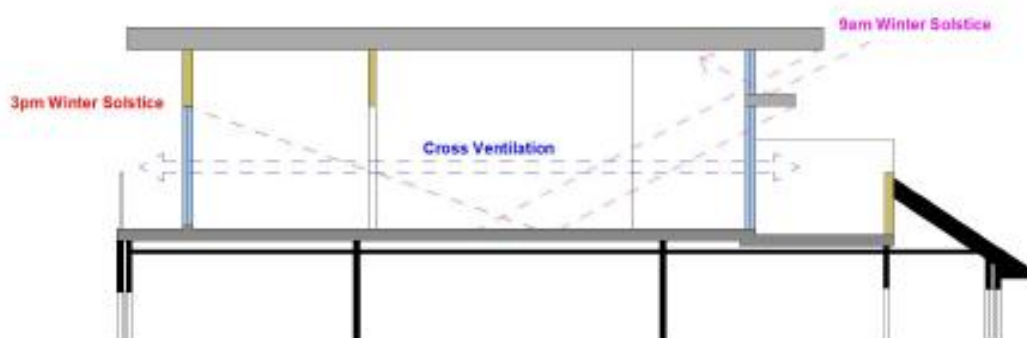


Figure. 6 Solar Access and Cross Ventilation Diagram

- Parking

The applicant should address parking (or alternative solutions to parking such as identify car share spaces or provide opportunities for active transport like cycling) in more detail in their Statement of Environmental Effects so that parking and transport needs can be considered in more detail when assessing this current DA. Further to the comments made below by Council's Development Engineer, the application does not propose any parking. This approach was supported in the first DA for two reasons:

- The landscaped area at the front of the site is considered valuable and contributes to the overall symmetry of the three art deco buildings.
- The resulting off-street carspaces could not conform to the relevant Australian Standards and were therefore an unacceptable outcome in the context of removing two on street spaces.

Notwithstanding, the imposition of additional residents to the site will increase parking demand and given the street already faces significant parking deficiencies, this is not considered to be an acceptable outcome for the desired future character of the area.

- Upgrades to existing building Fire Safety/BCA

Pursuant to Part 6, Division 8, Clause 94 of the EP&A Regulation (2000), in determining a development application involving the rebuilding, alteration, enlargement or extension of an existing building where:

(b) the measures contained in the building are inadequate:

- to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
- to restrict the spread of fire from the building to other buildings nearby.

The consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the *Building Code of Australia*. When taking into account the age of the current building and the fact that the DEP included the following comment in their report:

"BCA advice should be sought regarding alternative solutions for windows and distances from the boundaries"... "BCA advice should be sought in relation to openings close to the boundaries, and changes required to the existing and extended egress stair. Detail of fire

safety in relation to facades should be included in the DA submission. Egress paths needs to be clearly shown on the drawings.”

The absence of this detail including evidence of a BCA compliance assessment of the existing building in the amended documentation suggests that the ADG principles of amenity and safety have not been fully considered by the Applicant. In this regard, the proposed development cannot be considered satisfactory.

- Summary of Key Issues

Much of the above comments are also reiterated in Randwick / Waverley's Design Review Panel's Endorsed Recommendations. Given that the Applicant was provided an opportunity to submit amended plans for consideration and has failed to address many of these issues on the second occasion, it is the opinion of the Assessing Officer that the application is unsupportable.

9. Conclusion

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended to Development Application No. DA/555/2017 for alterations and upper level addition to the existing residential flat building to accommodate 2 x 1 bedroom dwellings. At No. 2A Alexander Street, Coogee NSW 2034 for the following reasons:

- 1) The proposed development fails to satisfy Part 4, Clause 30 (2) of the SEPP 65, in that the development does not demonstrate the adequate regard has been given to :

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria

Specifically the proposed development does not comply with:

- Principle 2 Built Form and Scale,
- Principle 9 Aesthetics,
- Part 3F-1 Building Separation for both north and south side setbacks,
- Part 4D-1 Minimum apartment size having 1 bedroom apartments less than 50sqm in area,
- Part 4D-3 Apartment layout having combined living/dining rooms less than 3.6m in width,

- 2) The proposed development fails to provide crucial supporting information in relation to Part 3 of the ARHSEPP thereby inhibiting Council's ability to carry out an assessment against Part 3, Clause 50 (2) of the ARHSEPP.
- 3) The proposed development fails to satisfy the relevant objectives of the R3 Medium Density Zone in that the development fails to recognise the desirable elements of the existing streetscape and built form that contribute to the desired future character of the area by failing to address the DEP recommendations relating to external colours, materials, finishes and façade details.
- 4) The proposed development fails to satisfy the relevant objectives of the RDCP 2013 in relation to car parking and access, building design and amenity.
- 5) The proposed development fails to demonstrate total or partial conformity with the Building Code of Australia, pursuant to Part 6, Division 8, Clause 94 of the EP&A Regulation (2000).

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for alterations and upper level addition to the existing residential flat building to accommodate 2 x 1 bedroom dwellings at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Artiva Architects dated 22nd August 2017;
- Statement of Environmental Effects by Mecone sated September 2017;
- Detail & Level Survey by Hill & Blume Surveyors dated 14th August 2018.

General Comments

The application is not supported on parking grounds, however should the assessing officer consider the landscaping and planning benefits of the development outweigh the need for off-street parking and consider approving the application, suitable conditions have been provided in this report.

Parking Issues

Current Situation

The site does not currently provide any off-street parking and is already experiencing a significant parking deficiency of 6 carspaces (including visitor parking) for the existing 4 x 2 bedroom units when assessed against the parking rates in part B7 of Council's DCP.

Proposed Development

The proposed additional 2 x 1 bedroom units will increase the parking demand generated by the site further by an additional 2 carspaces. As no additional off-street parking is proposed, the development will be relying on the availability of on-street parking to accommodate this additional demand. The parking shortfall has been acknowledged in the Statement of Environmental effects but has not been satisfactorily addressed.

The site is located in area that is currently experiencing a high demand for on-street parking & Development Engineering is reluctant to support increasing parking pressures without an attempt to provide alternative forms of transport. It is noted the site does not provide any bicycle or motorbike parking.

It is acknowledged that the site is situate close to public transport and Coogee town centre however the shortfall represents 100% of the requirements for the development and is considered excessive.

It is acknowledged that the installation of parking with two new vehicle crossings would remove kerbside parking equivalent to two spaces hence if the development did comply with its off-street parking it would not result in any net benefit of parking in the street as a whole.

The neighbouring developments at No.2 & 4 Alexander Street are similar in layout and there is concern that approval of this application would set an undesirable precedent and result in a significant increase in parking pressures within an area that is already experiencing a high demand for on-street parking.

Should the application be approved Development Engineering have included conditions that requires bicycle parking be provided for the proposed 2 additional units as well as requiring that all prospective owners and tenants of the building be notified that Council will not issue any additional residential parking permits to occupants/tenants of this development. This will assist in minimising any additional parking demand.

Drainage Comments

The site's drainage system will likely need to be upgraded/amended to accommodate the new roof. 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. Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

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** located within 15m of a mains power distribution pole on the same side of the street hence the above clause **is**/applicable. A suitable condition has been included in this report.

Street Tree Comments

There are two semi-mature, 5-6m tall *Banksia serrata* (Saw Toothed Banksia's) on the public verge, being one each to the north and south of the central pathway/entry, which are a native coastal species that are in good health and condition, are covered by Council's DCP due to their location on public property, and are also part of a formal strategy in this street.

Despite there being no external works proposed as part of this application, based on recent similar situations close-by (in both Stark Street & Waltham Street), their retention would still prove difficult as they would affect access, deliveries and similar.

If their retention was sought, it is this Officers experience that the applicant will end up approaching Council during construction to request their removal, with this exact scenario discussed via phone with the applicant on 3/4/18, whereupon it was jointly agreed that; so as to avoid such future issues, and the need for S4.55 conditions requiring their removal and replacement, wholly at the applicant's cost would be imposed, so have been included in this report.

The Frangipani in the front setback of the adjoining private property to the south, no.4, overhangs slightly into the subject site, so conditions allow minor clearance pruning where needed, with the same also applying to the eastern aspects of the large *Cinnamomum camphora* (Camphor Laurel) and *Persea amerciana* (Avocado) that are both growing at the rear of 86 Dudley Street, but overhang near the roof of the subject building, so as to allow for scaffolding or similar.

1.2. Design Excellence Panel**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 Excellence 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 an amended development application for alterations and additions to an existing residential flat building, including an additional level. The amendments are the result of the comments made by the panel on 6th February 2016. The Panel is familiar with the wider area and has recently revisited the site.

The proposal will create two new single bedroom apartments on top of the existing four apartments which will not be changed. No new external communal spaces are indicated.

The architect is Artiva Architects.

Principle 1: Context and Neighbourhood Context

The site is located approximately 300 m from Coogee Beach, and in close proximity to shops, schools, services, large open space, recreation, cultural and other facilities. It is well served by a number of bus routes in the vicinity. The building sits in the middle of a group of 3, 2 storey Art Deco walk-up residential flat buildings of similar style.

Principle 2: Scale and Built Form

The existing building is well under the 12 metre height limit.

The proposed flats sitting on top of the existing building, maintains the form and detailing of the front façade, and sets two new single storey one bedroom apartments within the roof. The hipped tile roof is maintained for 2.5m west of the eastern fascia. The rear elevation of the new level extends as far as the north section of the western face of the wall facing the rear garden.

The panel does not support the plan of the apartments with wet areas over living rooms below and the bathroom opening into the living room of the proposal.

A simpler plan should be explored with, from west to east, bedroom with bathroom/laundry as ensuite over the existing kitchen below, then kitchen, dining, living, and east facing balcony. (see sketch)

The Juliette balconies to the west should be symmetrical to the new plan

The extension of the stair to this new is shown offset to remain below the existing pitch of the tiled roof. Smaller balconies off the living rooms facing east sit within the line of the retained roof. A section through the stair should be submitted to ensure head height clearance. A detailed cross section is required in the DA.

The bedroom dimensions should comply with ADG controls.

Structural advice should be sought to transfer the loads of the new level. Plumbing penetrations, acoustic and fire separation and balcony set downs will determine the design and depth of the new floor on the second level. The strategies of dealing with services including drainage and any bulkheads should be shown on the drawings and include 1:50 scale drawings.

Principle 3: Density

The Panel supports increased density on this well serviced site.

Principle 4: Sustainability

The recycling and extension of this building is supported. Sun-shading and the operation and fire protection strategies should be shown for all window openings. Consideration of a solar hot water heater and on site water retention is required. Each apartment should have good ventilation and each habitable room open-able windows for natural ventilation. Window operation should be shown on the elevations and cross ventilation demonstrated.

BCA advice should be sought regarding alternative solutions for windows and distances from the boundaries. Eg; Crimsafe screens in lieu of drenches. Outdoor clothes drying areas should be supplied.

Since no A/C plant is shown on the plans the panel assumes there is no air-conditioning. Ceiling fans should therefore be provided in all new habitable rooms.

Principle 5: Landscape

The retention of landscaping between the eastern boundary and the building is supported. The retention of street trees is supported.

A landscape plan should be provided. The landscape, particularly in the rear yard should be upgraded and create appropriate amenity for all occupants including the additional two dwellings.

Principle 6: Amenity

The details of the floor construction and attention to acoustic separation to the new apartments will determine the ongoing amenity for the existing apartments and should be detailed as noted above.

The effect on the solar amenity of the apartments and garden of no 4 Alexander Street should be shown with shadow diagrams.

Furniture should be shown on the plans to demonstrate the usability of the spaces.

Privacy screens should be shown between balconies.

Principle 7: Safety

BCA advice should be sought in relation to openings close to the boundaries, and changes required to the existing and extended egress stair. Detail of fire safety in relation to facades should be included in the DA submission. Egress paths needs to be clearly shown on the drawings.

Principle 8: Housing Diversity and Social Interaction

The mix of unit types and sizes, and the generous common open spaces to the east and west is supported. This will encourage interaction.

Principle 9: Aesthetics

The existing building is a good example of an art deco building and sits with a family of similar buildings. The success of this development relies on the new extension being finely and beautifully detailed. The eaves, soffits, guttering and downpipes need to be designed and detailed in the DA.

The junction between the existing building and the new level on the east and west facades should be detailed. The panel would like the applicant to investigate taking brickwork up to the soffit on these elevations. A detailed cross section is required to demonstrate this junction. This option should be explored as part of a larger strategy that ties the new to the old so that the upgraded building presents a cohesive appearance.

Cladding type colours and all finishes should be shown.

The aesthetics of the extension as submitted needs significant design development to meet the required standards.

SUMMARY AND RECOMMENDATIONS

The Panel supports increased accommodation on this site, however, the approach that's been taken is supported but needs design amendment as suggested. The Panel does not need to review this project again.

Appendix 2: DCP Compliance Table

2.1 Section C2

B6 Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance
	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.	As per existing.	Complies.
	(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.		
B7	Transport, Traffic, Parking and Access		
3.	Parking & Service Delivery Requirements		
	Car parking requirements: 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	Existing noncompliance is exacerbated. No additional parking proposed.	Unreasonable given the lack of parking is considered to adversely impact the amenity of residents both within the

D46/19

DCP Clause	Control	Proposal	Compliance
			subject site and broader neighbourhood
C2	Medium Density Residential		
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	As existing	Complies.
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.	Balconies located at either end of the new addition. Satisfy greater than 8sqm requirement. However, the lack of privacy screens and minimal building separation is not considered to be a good outcome.	No
	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 with the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.		
2.3.2	Communal open space		
	Communal open space for residential flat building is to be: 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.	Existing COS retained, however minimal information has been supplied in relation to how the existing COS will be improved to accommodate additional residents.	No
3	Building Envelope		
3.1	Floor space ratio		

	0.9:1	0.9	Complies
3.2	Building height		
	12m	10.073m	Complies
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.	As existing	N/A
3.4	Setbacks		
3.4.1	Front setback (i) The front setback on the primary frontage must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	Proposed = 8.9m	Complies, greater than existing and in keeping with adjoining development above ground floor.
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: - 12m ≤ site frontage width < 14m: 2m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development	Proposed = 1m	See discussion in Key Issues.

	<p>and the adjoining residences.</p> <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>		
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% (between 6.4m) of allotment depth or 5m, whichever is the greater.	Proposed = 10.4m and 1m.	See discussion in Key Issues.
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 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 slab.</p>	The aesthetic and visual presentation of the addition to the streetscape is not considered to respect and enhance the character of the existing development. The applicant has failed to address key recommendations made by the DEP and has not provided enough detail in relation the final finish of the external facades.	See discussion in Key Issues.
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</p>	<p>A flat roof form is not appropriate under the circumstances given that any such development relies upon the construction of a true second floor which as demonstrated, cannot satisfy the relevant ADG requirements.</p> <p>The existing roof form is significant given the buildings streetscape context and relationship to neighbouring art-deco buildings.</p> <p>Contemporary examples</p>	No

	<p>the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. 	of additions to No. 4 Alexander St are indicative of successful development whereby the addition is contained within the existing roof form.	
4.4	External wall height and ceiling height		
	(iii) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	Does not exceed 10.5m.	Complies
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Proposed = 2.7m	Complies.
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	As existing	Complies.
	(ii) Present new development to the street in the following manner:	As existing	Complies
	- Locate building entries so that they relate to the pedestrian access network and desired		

	<p>lines.</p> <ul style="list-style-type: none"> - 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. - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <ul style="list-style-type: none"> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iv) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street. 		
4.6	Internal circulation		
	<ul style="list-style-type: none"> (i) Enhance the amenity and safety of circulation spaces by: <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 corridors. 	<p>Natural light and circulation will be compromised due to the reliance on full height doors and windows being open in order receive adequate cross ventilation.</p>	<p>See discussion in key issues.</p>

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> <p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p> <p>(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment in a development.</p> <p>(v) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.</p>	<p>Southern unit unlikely to receive adequate sunlight throughout the day.</p> <p>Furniture included on floor plans indicates that internal layout and access to POS will not be compromised.</p>	<p>Complies.</p> <p>Complies.</p>
4.8	Balconies		
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p> <p>(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m². All ground floor apartments are to have direct access to a terrace.</p>	<p>Privacy treatment is absent from POS balconies and terraces i.e. screens.</p>	<p>See discussion in key issues.</p>
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 	<p>Supporting colour schedule lacks specificity and does not include required details as recommended by the DEP.</p>	<p>See discussion in key issues.</p>

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	<ul style="list-style-type: none"> - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vi) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p> <p>(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.</p> <p>(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.</p> <p>(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.</p>	ADG Provisions supersede the RDCP requirements.	See ADG table.
	Solar access for surrounding development		
	<p>(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.</p> <p>(ii) At least 50% of the landscaped</p>		<p>See ADG table.</p> <p>Complies.</p>

	<p>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.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	ADG provisions limit the impact to no more than 20% reduction.	Complies
5.2	Natural ventilation and energy efficiency		
	<p>(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, and fanlights above doorways and highlight windows in internal partition walls.</p> <p>(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.</p>	All habitable rooms have a window.	Complies.
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the</p>	<p>Windows are generally suitably located and dimensioned.</p> <p>Balconies are oriented to the front and rear frontage, main balcony overlooks streetscape.</p>	<p>See discussion in key issues.</p> <p>Privacy screens required.</p>

	<p>side elevations of the adjoining residences.</p> <p>(iv) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(v) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p>	<p>Details as to how the development will achieve reasonable levels of internal acoustic amenity have not been provided. The lack of internal acoustic insulation between ceiling and floor is a concern.</p>	No
5.5	View sharing		
	<p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>The only key views impacted by the proposed development would be sideways views and given the high level of compliance with the relevant site coverage provisions in the RDCP and suitability of the development it is considered that views lost as a result of the development will not be inordinate to that which would be expected of development in the medium density zone.</p>	Complies.

	(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.		
	(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.		
	(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		

Attachment/s:

1.  Dev Consent Conditions (med density res) - DA/555/2017 - 2A Alexander Street, COOGEE

Responsible officer: Brenton Pearce, Development Assessment Officer

File Reference: DA/555/2017

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Development Consent Conditions (Medium density residential)



Folder /DA No:	DA/555/2017
Property:	2A Alexander Street, COOGEE NSW 2034
Proposal:	Alterations and upper level addition to the existing residential flat building to accommodate 2 x 1 bedroom dwellings.
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
A.01 (Rev.B)	ARTIVA Architects	9.4.2018
DA.05 (Rev.A)		9.4.2018
DA.06 (Rev.A)		4.9.2019
Landscape Plan		Received by Council 9/4/2019
External Finishes Schedule		22.8.2017

BASIX Certificate No.	Dated
844659M	21/8/2017

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 FFL of the east facing terraces) shall be provided to the northern and southern elevations (respectively) of the east facing terraces.

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.

- b. The eaves, soffits, guttering and downpipes must match the existing building as closely as possible. Details must be submitted to and approved by Council's Director City Planning prior to obtaining a Construction Certificate for the development.

- c. The submitted colours, materials and finishes documentation is not clear and does not provide a coherent breakdown of finishes to external surfaces. 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 Director of 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 relevant building works.

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 \$282,150.00 the following applicable monetary levy must be paid to Council: \$2,821.50.

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

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

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

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 \$282.15 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.

Stormwater Drainage

7. 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.

8. Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

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.

Bicycle Parking

10. Bicycle parking large enough to provide a minimum of two bicycle spaces shall be provided at a suitable location within the site in accordance with Australian Standard 2890.3. Plans submitted for the construction certificate shall demonstrate compliance with this requirement.

Street Tree Management

11. The applicant must submit a payment of **\$836.36 (including GST)** to cover the following costs:
 - a. For Council to remove, stump-grind and dispose of the two existing *Banksia serrata* (Saw Toothed Banksia's) from the Alexander Street verge, as despite not being directly impacted by these works, will still cause an issue during construction by restricting access, deliveries and similar, with their removal to improve efficiency of the project overall;
 - b. For Council to supply, plant and maintain 2 x 25 litre replacement trees of the same species back on the verge in the same location 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 trees prior to the commencement of works, as well as upon completion, to arrange for planting of the replacements.

After this, any further enquiries regarding scheduling/timing or completion of tree 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).

BASIX Requirements

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

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

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

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

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

- b) a *Principal 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

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

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

Public Utilities

- 16. 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.
- 17. 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.

Construction Traffic Management

- 18. 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 Alexander 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 two 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.

19. 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.

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

20. 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

21. 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

22. 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.

Temporary Site Fencing

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

Notes:

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

Public Safety & Site Management

24. 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

25. 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

26. 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

	<ul style="list-style-type: none"> • 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.

Road / Asset Opening Permit

27. 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.

Pruning

28. Permission is granted for the minimal and selective pruning of the following branches, only where they overhang the respective common boundaries, into the subject site, and need to be pruned in order to avoid damage to the trees; or; interference with the approved works:
- a) The northern aspect of the Frangipani that is located in the front setback of the adjoining private property to the south, 4 Alexander Street;
 - b) Those lower order branches in the upper eastern aspects of the two trees that are growing in the rear setback of the other private property at 86 Dudley Street, close to the common boundary, being from east to west, a *Persea americana* (Avocado) and a *Cinnamomum camphora* (Camphor Laurel).
 - c) This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of the trees, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
 - d) All pruning must be undertaken by a Practising Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

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

29. 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

30. 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.

BASIX Requirements & Certification

31. 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

32. 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, street trees 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.
33. 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

- 34. 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.

Sydney Water

- 35. 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 issuing an Occupation Certificate.

Bicycle Parking

- 36. Bicycle parking large enough to provide a minimum of two bicycle spaces shall be provided at a suitable location within the site in accordance with Australian Standard 2890.3. Plans submitted for the construction certificate shall demonstrate compliance with this requirement.

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.

Residential Parking Permits

37. All prospective owners and tenants of the building must be notified that Council will not issue any additional residential parking permits to occupants/tenants of this development.

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

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

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

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road

- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

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

- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

- A11 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.

- A12 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.

- A13 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.

D46/19

Development Application Report No. D47/19

Subject: 20 Dundas Street, Coogee (DA/665/2018)

Proposal:	Application to legitimise use of existing garage as dwelling with new building works including new window, landscaping, screening and associated works (variation to floor space ratio control).
Ward:	East Ward
Applicant:	Mr N A Murray
Owner:	Mr N Murray
Cost of works:	\$32,000
Reason for referral:	The development contravenes the development standard for floor space ratio by more than 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 FSR development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of the Department of Planning, Industry & 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. 665/2018 for legitimising the use of an existing garage as a dwelling, at No. 20 Dundas Street, Coogee, subject to the development consent conditions attached to this report.

D47/19

D47/19



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 to legitimise the use of an approved garage as a dwelling.

The key issues associated with the proposal relate to:

1. Previous refusal of DA/150/2017, a similar application seeking to legitimise the use of the unauthorised dwelling at 20 Dundas Street, Coogee;
2. Characterisation of the development as a dwelling house;
3. Permissibility of the establishment of a dwelling house on the same lot of land as a residential flat building;
4. Exceedance of the floor space ratio development standard;
5. Site coverage, landscaped area and private open space provision; and
6. Setbacks.

The proposal is recommended for approval subject to non-standard conditions.

2. Site Description and Locality

The site has a rectangular shape with east-west orientation. It has a total area of 520.4sqm with an approximate 12m frontage and 44m depth. The site is currently occupied by:

- A three storey residential flat building located centrally within the site comprising three units (2-bedroom unit at ground floor, 3-bedroom unit at first floor and a second three-bedroom unit at the second floor), each accessible via a stairway from Rainbow Street at the first floor level;

- A block of garages accessible from Rainbow Street in the western portion of the site. It includes two single car garages and one two car tandem garage, as well as common laundry and storage; and
- An approved detached single storey garage under DA/983/2003, located in the eastern portion of the site. The garage has since been converted without approval into a self-contained unit including living room, kitchen, single bedroom, bathroom, wardrobe and external laundry.

The site exhibits a significant fall from its western edge (66.76m) to its eastern edge (59.63m), resulting in:

- The three storey building in the centre of the site appearing as three storeys when viewed from the east and two storeys when viewed from the west; and
- The roof level of the garage in the eastern portion of the site being at the height of the ground floor level of the three storey building (refer Figures 1 and 2).

The site enjoys expansive views to the Pacific Ocean to the east. Blenheim Park is located to the west. Low density residential dwellings surround the site to the north, east and west. The Coogee Bay Road retail strip is located 800 metres to the north. The locally heritage listed Garnet Street sandstone retaining wall, embankment and street trees (RLEP 2012 Item No. L461) are located 30m to the south-east (refer Figure 3).



Figure 1 – View north-west to site from corner of Dundas and Rainbow Streets

D47/19

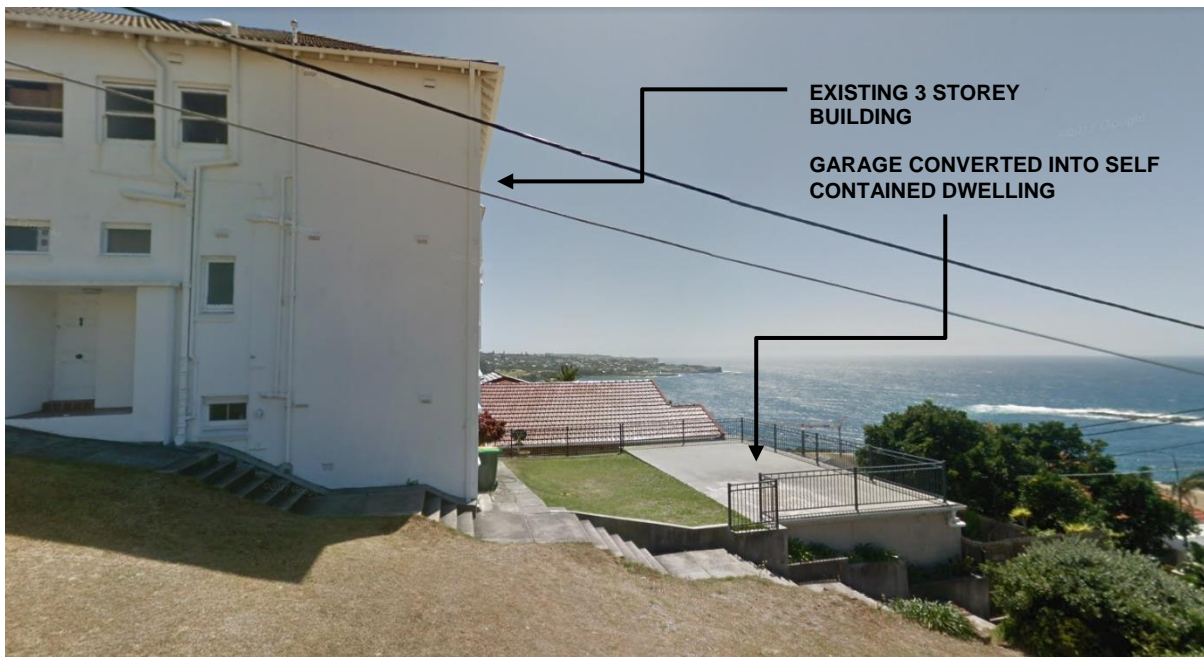


Figure 2 – View north across site from Rainbow Street



Figure 3 – View west to site from Dundas Street

3. Relevant history

On 11 June 2004, Council approved DA/983/2003, enabling the construction of a garage on the Dundas Street boundary.

On 16 March 2017, Council received DA/150/2017 seeking to legitimise the use of the approved garage as a one-bedroom dwelling. The application was refused on 13 February 2018. The following reasons for refusal were provided in the Notice of Determination, dated 16 February 2018:

1. *The proposed development is inconsistent with the relevant objectives of the R2 Low Density Residential zone under RLEP 2012 in that it will provide poor amenity for residents of the dwelling.*

2. *The proposal does not comply with Clause 4.4 Floor Space Ratio standard under Randwick Local Environmental Plan 2012 in that the poor residential amenity outcomes would make the floor space ratio non-compliance inconsistent with the relevant objectives of the RLEP 2012 and unsupportable. Therefore, the Clause 4.6 variation to the development standard is not well founded.*
3. *The proposed development fails to satisfy the relevant objectives and controls of the Randwick Comprehensive Development Control Plan 2013, in relation to the following:*
 - Part B7 – Transport, traffic, parking and access*
 - *3.2 Vehicle parking rates*
 - Part C1 – Low Density Housing*
 - *2.5 Private Open Space*
 - *3.1 Floor Space Ratio*
 - *3.3 Setbacks*
 - *5.2 Energy Efficiency and Natural Ventilation.*
4. *The proposal is unacceptable pursuant to the provisions of Section 79C(e) to the Environmental Planning and Assessment Act, 1979 in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instrument and a development control plan together with the public submissions received are not in the public interest.*

It should be noted that the unauthorised use of the subject premises as a residential dwelling was previously investigated by Council's Compliance team in 2017. As a result, a Penalty Notice for the offence of 'Development without development consent – any other case – Individual' and two Notices of Intention to serve an Order were issued under the EP&A Act.

The subject premises have been assessed by Council's Building Surveyor and the building was considered to be generally built in accordance with the BCA. The existing laundry wall sited onto the northern boundary was identified as non-compliance but is to be removed as part of the proposed development.

4. Proposal

The proposal seeks consent to legitimise the use of the approved garage as a dwelling with new building works including:

- A new north-facing window;
- Landscaping and screening treatments; and
- Internal reconfiguration works to change storage to a laundry and demolition of the existing external laundry.

The proposal also include the removal of the existing laundry on the northern side of the subject building.

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:

- 17 Dundas Street, Coogee

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Issue	Comment
Undesirable precedent	<p>The proposed legitimisation of the use of the structure as a dwelling house will not set an undesirable precedent as:</p> <ol style="list-style-type: none"> 1. The use is permitted with consent in the R2 Low Density Residential zone; 2. The proposal is consistent with the objectives of the R2 Low Density Residential zone; 3. The proposal is either compliant or marginally non-compliant with the controls set out in the Randwick DCP 2013; and 4. The proposal is to occur entirely within the existing structure and therefore will have minimal impacts to neighbouring properties in terms of visual bulk, loss of privacy, overshadowing or views.
Illegal development	The prior illegal use of the structure as a dwelling house is not a matter for consideration as part of this assessment report.

- 16 Dundas Street, Coogee

Issue	Comment
Incorrect characterisation of development – the objection submits that the development should be defined as a secondary dwelling, prohibited in the R2 Low Density Residential zone under the Randwick LEP 2012 and in the Affordable Rental Housing SEPP by way of being established in conjunction with a residential flat building.	<p>The structure subject of this application cannot be defined as a <i>secondary dwelling</i> as it is not established in conjunction with a 'principal dwelling', as required by the secondary dwelling definition under RLEP 2012. It is a building containing only one dwelling and is therefore best characterised as a <i>dwelling house</i>.</p> <p>It is established on the same lot of land as a building best described as a residential flat building given it contains a single residential apartment on each level (total of three apartments), each accessible via a common stairway. There is nothing in the RLEP 2012 that prevents a dwelling house being construction on the same lot of land as a residential flat building.</p>
Inadequate justification for the variation of the development standard	On the basis of the assessment conducted in Section 7 of this report, the requirements of Clause 4.6(4) have been satisfied.
Inconsistent with the objectives of the R2 Low Density Residential zone	On the basis of the assessment conducted in Section 6.2 of this report, it is considered that the proposed development is consistent with the objectives of the R2 Low Density Residential zone.
Secondary dwellings prohibited in the R2 Low Density Residential zone	Refer to earlier response.

Issue	Comment
Overdevelopment of the site	<p>The proposed legitimisation of the use of the existing structure for the purposes of a dwelling house is considered appropriate on the following grounds:</p> <ol style="list-style-type: none"> 1. It does not result in any additional built form and therefore maintains the existing low density residential character of the locality (consistent with the objectives of the R2 Low Density Residential zone); 2. The proposal is to occur entirely within the existing structure and therefore will have minimal impact to neighbouring properties in terms of visual bulk, loss of privacy, overshadowing or views; and 3. Parking provision for both the existing residential flat building and the proposed dwelling house is provided in accordance with the RDCP 2013 requirements.
Non-compliance with Randwick DCP 2013 development controls	The proposal generally satisfies the objectives and controls of the RDCP 2013. See table in Appendix 3 and the discussion of key issues in Section 9.1 of this report.
Inconsistent with the public interest	The development is in the public interest as it is consistent with the objectives of the R2 Low Density Residential zone and the FSR development standard (refer to discussion under Question 3 in Section 7.1 of this report).
Undesirable precedent	Refer to earlier response.
Illegal development	Refer to earlier response.
Insufficient parking	A single open parking space is retained between the existing structure and the eastern boundary of the site.

5.1. Renotification

Renotification is not required.

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

Additionally, there is nothing under the LEP that prohibits the establishment of a new dwelling on the same lot of land as an existing residential flat building.

The objectives of the 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.

The proposed development will provide for the housing needs of the community and encourage housing affordability. The existing low density residential environment and streetscape character is to remain unchanged.

The proposed legitimisation of the use of the approved garage as a dwelling house will have no measurable impact to the established bulk and scale of development on the site. The proposal will also have negligible impacts on privacy, overshadowing or views due to the use being contained entirely within the existing structure (refer to discussion under Question 1 in Section 7.1 of this report).

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.65:1	0.8:1	No
CI 4.3: Building height (max)	9.5m	No change	-
CI 4.1: Lot Size (min)	400sqm	No change	-

6.2.1. Clause 4.6 - Exceptions to development standards

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

6.2.2. Clause 5.10 - Heritage conservation

The locally heritage listed Garnet Street sandstone retaining wall, embankment and street trees (RLEP 2012 Item No. L461) are located approximately 30m south-east. The proposal only involves cosmetic minor works to the existing structure to improve residential amenity and ensure privacy impacts are mitigated to neighbouring properties. Accordingly, the development will have no impact to the heritage significance of the nearby items.

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 (%)
CI 4.4: Floor space ratio (max)	0.65:1	0.8:1	78.21 m ²	23%

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 justifies the contravention of the FSR development standard by demonstrating that compliance is unreasonable and 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 proposed development will maintain the existing FSR exceedance and even if Council was minded that there was an increase in FSR, such an increase would be of a technical nature as opposed to an increase that would give rise to any material impacts or changes to the existing approved form.*

Accordingly, as there will be no material changes to the approved garage in terms of its height, setbacks and general appearance within the street, it cannot be said that any technical increase in floor space is contrary to objective (a)."

- (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 proposal will maintain the approved gross floor area and will not alter the approved building form or its relationship to Rainbow Street or Dundas Street."*

The building remains a modest structure that is located at the lower level of the site and is integrated into the slope in the land.

Accordingly, the proposal to maintain the existing approved FSR at the site is not antipathetic to objective (b)."

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. The locally heritage listed Garnet Street sandstone retaining wall, embankment and street trees (RLEP 2012 Item No. L461) are located approximately 30m south-east. The proposal only involves cosmetic minor works to the existing structure to improve residential amenity and ensure privacy impacts are mitigated to neighbouring properties. Accordingly, the development will have no impact to the heritage significance of the nearby items.

- (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 *"the proposal seeks to occupy an approved garage building as a residential dwelling. The proposal will not result in any external changes that will alter the height or bulk for the building."*

In addition, there is no connection between the altering use of the approved building and impacts on visual bulk, loss of privacy, overshadowing or view loss.

Accordingly, the proposal is entirely consistent with objective (d)".

Assessing officer's comment: It is accepted that the development is to occur entirely within the building footprint of the approved garage under DA/983/2013. Accordingly, there is not to be any change in the size and scale of the existing structure or its relationship with the desired future character of the site and surrounding area, satisfying objective (a).

The BASIX certificate shows that the development meets the relevant water and energy saving targets and therefore satisfies objective (b).

The site is not located within a heritage conservation area, nor will the proposed development result in any change in the relationship between the site and the locally heritage listed retaining wall on Garnet Street (Item No. L461), satisfying objective (c).

The proposed development will not adversely impact the amenity of adjoining and neighbouring properties in terms of (satisfying objective (d)):

1. Visual bulk: The structure has minimal visual bulk due to being constructed partially underground. The proposed legitimisation of the use of the structure as a dwelling house does not involve any additional built form which the effect of would have increasing the visual bulk of development on the site.
2. Loss of privacy: The proposed development includes the provision of a north-facing window to be provided to the bedroom. It is to be designed as a high-sill window, ensuring that privacy impacts to the dwelling house to the north (18 Dundas Street) are entirely

minimised. Additionally, a 1.8 metre high fence is provided along the northern edge of the courtyard to preclude views to the neighbouring dwelling.

3. Overshadowing: As the proposed legitimisation of the use of the structure as a dwelling house does not involve any additional built form, there is no increase in overshadowing impacts to neighbouring dwellings. As the structure is set partially underground overshadowing impacts are limited to and concentrated within the Rainbow Street road reserve.
4. Views. The residents of the proposed dwelling house will benefit from expansive ocean views to the east. The proposal does not involve any additional bulk form to the structure and therefore there is no loss of views from neighbouring dwellings.

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 demonstrates that there is sufficient environmental planning grounds to justify contravening the FSR development standard as follows:

1. Existing FSR exceedance: As indicated in the accompanying Gross Floor Area calculation plans, the site contains a total approved gross floor area of 417.1m² and an FSR of 0.80:1. As the proposal relates to the conversion of existing surplus parking space to residential floor area, this will maintain the same FSR exceedance as has been approved at the site.

In the event that Council was to deem these parking spaces as being required under the DCP (and thus do not currently constitute FSR), any FSR increase at the site would be of a technical nature and could not be attributed to any impacts or departure from the intention of the FSR control.

Accordingly as the subject site contains an existing FSR exceedance, this provides a site specific and compelling ground to suggest that there are good environmental planning grounds to support to FSR non-compliance;

2. Better Outcome for and from the Development: As found in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 for a variation request to satisfy the objectives of Clause 4.6 the environmental planning grounds would need to establish that such a variation would result in a better outcome for and from the development. In our view maintaining the existing FSR exceedance and purposing the approved space for residential use will result in outcomes that benefit future residents and provide wider benefits from the development.

In particular, the proposal will formalise a compact and affordable dwelling in an area that is otherwise challenged by the provision of affordable rental accommodation.

Fundamentally, an improved outcome is secured by converting the existing surplus parking spaces into functional residential accommodation. The existing parking spaces are not only surplus to requirements, they are removed from the residential flat building and fail to comply with AS2891.1 in relation to access and maneuvering of vehicles at the site. To require that this area is reinstated as parking would encourage an awkward access arrangement and the provision of parking that exceeds the DCP requirement.

The objectives under Part B7 of the DCP seek to ensure that an appropriate parking allocation is provided and that sustainable transport modes are encouraged as follows:

- *To promote sustainable transport options for development, particularly along transport corridors, in commercial centres and strategic/key sites.*
- *To manage the provision of car parking within the broader transport network.*
- *To support integrated transport and land use options which can demonstrate shared and effective car parking provision with car share facilities, motorbikes/scooters, bikes and links to public transport.*

- *To ensure car parking facilities, service and delivery areas and access are designed to enhance streetscape character and protect pedestrian amenity and safety.*

The subject site is located within immediate walking distance to public transport, local shops, parks and local services. The provision of surplus parking at the site is not consistent with the intention to promote sustainable transport options.

It is accordingly our view, that the conversion of the surplus parking spaces into residential accommodation will have a net benefit to the wider community both in terms of providing affordable residential accommodation and encouraging sustainable transport options for development.

Assessing officer's comment: The applicant provides that the garage, approved under DA/983/2003, provides parking spaces additional to the requirements of the consent authority and therefore counts as gross floor area in accordance with the gross floor area definition set out in the RLEP 2012. If it is accepted that the garage is additional to the requirements of the consent authority, then it follows that the garage already contributes to the existing FSR of development on site. The applicant argues that this would have been considered as part of DA/983/2003 and therefore, the proposed works do not result in any increase in the FSR applicable to the site.

As the development application for the garage was submitted in 2003, prior to the gazettal of the RLEP 2012 and the Randwick DCP 2013, it cannot be confirmed if the garage provided parking in excess of that required by the consent authority.

The argument that that there will be a better outcome for and from the development is supported on the grounds that it will provide for the housing needs of the community, particularly in the form of affordable rental accommodation. The proposal will have no additional impacts in terms of visual bulk, loss of privacy, overshadowing and view loss from adjoining properties (refer to discussion under Question 1 in Section 7.1 of this report).

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 low density 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 desired future character of the locality is established by:

1. The objectives of the R2 Low Density Residential zone: An assessment of the proposal against the objectives of the zone is conducted below. The proposal is consistent with the objectives of the zone.
2. The permitted uses under the R2 Low Density Residential zone: The permitted uses in the R2 Low Density Residential zone enable limited opportunities for built form transition to higher density residential uses including dual occupancies (attached) and semi-detached dwellings, subject to compliance with the dual occupancy minimum lot size requirements under the RLEP 2012 and planning controls set out in Part C1 of the Randwick DCP 2013.
3. Desirable elements of the existing streetscape and built form: Notwithstanding that the RLEP 2012 enables built form transition to higher density residential uses, dual occupancy and semi-detached dwelling development remains limited within the locality.

Based on the above, it is established that the desired future character of the locality is for maintenance of the existing built form character. The size and scale of the proposed development is compatible with the 'desired future character of the locality' as it does not result in any change to the established built form on site, nor the existing streetscape character. The development contributes to the housing needs of the community, with limited additional impacts in terms of visual bulk, loss of privacy, overshadowing or views (refer to discussion under Question 1 in Section 7.1 of this report).

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

Assessing officer's comment: No additional articulation is provided along the frontages to Dundas or Rainbow Streets. This is deemed an acceptable outcome due to:

1. The structure cannot be directly viewed from Dundas Street due to the significant level difference between the site and street (refer to Figure 3); and
2. Requiring that additional articulation is provided along Rainbow Street is deemed unnecessary due to the limited portion of the existing structure which protrudes above the natural ground at this location.

The use of the structure as a dwelling house will achieve environmental and energy needs. Openable sliding doors are provided along the length of the eastern elevation, enabling good solar access and natural ventilation into the dwelling. The BASIX certificate shows that the development meets the relevant water and energy saving targets.

4. *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 site is not located within a heritage conservation area. The proposed development does not include any additional built form and therefore will not impact on the locally heritage listed retaining wall on Garnet Street (Item No. L461),

5. *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.*

As discussed under Question 1 in Section 7.1 of this report, it is considered that the proposed legitimisation of the use of the approved garage as a dwelling house will have negligible impacts to visual bulk, privacy, overshadowing and views due to being contained entirely within the existing structure. The structure is only partially viewable from Rainbow Street due to being set partially underground (refer to Figure 2) and unlikely to be seen from Dundas Street due to being set significantly higher than street-level (refer to Figure 3).

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring properties 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 Low Density Residential zone

The objectives of the 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 and encourage housing affordability without introducing any additional built form or significant changes to the existing building. The surrounding low-density residential environment and streetscape character is to remain unchanged. As discussed under Question 1 in Section 7.1 of this report, it is considered that the proposed legitimisation of the use of the approved garage as a dwelling house will have negligible impacts to visual bulk, privacy, overshadowing and views.

The development is consistent with the objectives of the floor space ratio 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 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 3.

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	<p>The proposed use of the existing garage for the purposes of a dwelling house has been assessed against the RLEP 2012 in Section 6.2 of this report. The proposal:</p> <ol style="list-style-type: none"> 1. Is consistent with the objectives of the R2 Low Density Residential zone; 2. Is permitted with consent in the R2 Low Density Residential zone;

Section 4.15 'Matters for Consideration'	Comments
	<p>3. Does not result in any change in the maximum height of existing structures on site;</p> <p>4. Results in the total FSR of existing structures across the site exceeding the maximum permitted under Clause 4.4. Adequate justification is provided in the Clause 4.6 application (assessed in Section 7 of this report, attached in Appendix 2) to vary the development standard.</p> <p>A BASIX Certificate has been provided in accordance with the requirements of SEPP (Building Sustainability Index: BASIX) 2004. No other environmental planning instruments are relevant to the site or proposed development.</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 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)(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 proposed legitimisation of the use of the approved garage for the purposes of a dwelling house involves limited works. No additional built form is proposed. As a consequence, there will be limited environmental impacts on the natural and built environment:</p> <ol style="list-style-type: none"> 1. The existing low density streetscape character is maintained; and 2. Impacts to neighbouring properties in terms of visual bulk, privacy, overshadowing and views are negligible and capable of being successfully mitigated (refer to discussion under Question 3 in Section 7.1 of this report). <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	<p>The structure is considered to be suitable for use as a dwelling house on the following grounds:</p> <ol style="list-style-type: none"> 1. It is either compliant or marginally non-compliant with RDCP 2013 in terms of internal amenity, private open space and parking provision; 2. It is capable of achieving energy efficiency requirements under SEPP (Building Sustainability Index: BASIX) 2004; 3. It will have negligible impacts on neighbouring properties in terms of visual bulk, overshadowing, loss of privacy and views (refer to discussion under Question 3 in Section 7.1 of this report); and 4. The site is located approximately 300 metres from public transport services including bus routes 353 (East Gardens to Bondi Junction), 376 (Maroubra Beach to Central) and 377 (Maroubra Beach to Circular Quay).

Section 4.15 'Matters for Consideration'	Comments
	The site has sufficient area to accommodate the proposed land use and associated private open space and car parking. 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 during public notification 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

Previous refusal – DA/150/2017

DA/150/2017 relating to the legitimisation of the use of the existing garage as a one-bedroom dwelling was refused on 13 February 2018. A comment on how each of the reasons for refusal have been addressed in the revised application is provided in the table below.

DA/150/2017 – Reasons for Refusal	Comment:
1. <i>The proposed development is inconsistent with the relevant objectives of the R2 Low Density Residential zone under RLEP 2012 in that it will provide poor amenity for residents of the dwelling.</i>	The proposed development is consistent with the objectives of the R2 Low Density Residential zone (refer to Section 6.2 of this report). The proposed dwelling will offer a high degree of internal amenity to residents derived from substantial east-facing glazing, enabling good solar penetration and natural ventilation, as well as expansive ocean views to the east. The introduction of a new north-facing window to the bedroom will also further improve natural ventilation and solar penetration.
2. <i>The proposal does not comply with Clause 4.4 Floor Space Ratio standard under Randwick Local Environmental Plan 2012 in that the poor residential amenity outcomes would make the floor space ratio non-compliance inconsistent with the relevant objectives of the RLEP 2012 and unsupportable. Therefore, the Clause 4.6 variation to the development standard is not well founded.</i>	Adequate justification for the proposed variation to the maximum FSR development standard has been provided in the Clause 4.6 application (refer to Section 7 of this report).
3. <i>The proposed development fails to satisfy the relevant objectives and controls of the Randwick Comprehensive Development Control Plan 2013, in relation to the following:</i> <i>Part B7 – Transport, traffic, parking and access</i> <i>- 3.2 Vehicle parking rates</i>	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. Where non-compliances have been identified, adequate justification has been provided in this assessment.

DA/150/2017 – Reasons for Refusal	Comment:
<p><i>Part C1 – Low Density Housing</i></p> <ul style="list-style-type: none"> - 2.5 Private Open Space - 3.1 Floor Space Ratio - 3.3 Setbacks - 5.2 Energy Efficiency and Natural Ventilation 	
<p>4. <i>The proposal is unacceptable pursuant to the provisions of Section 79C(e) to the Environmental Planning and Assessment Act, 1979 in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instrument and a development control plan together with the public submissions received are not in the public interest.</i></p>	<p>The proposal is in the public interest on the following grounds:</p> <ol style="list-style-type: none"> 1. The proposal is consistent with the objectives of the R2 Low Density Residential zone; 2. The proposal will create additional housing opportunities within the locality, without: <ol style="list-style-type: none"> a. Significant impact to neighbouring development in terms of visual bulk, overshadowing, loss of privacy and views (refer to discussion under Question 3 in Section 7.1 of this report); or b. Requiring the construction or expansion of built form, ensuring that the existing low density residential streetscape character is maintained. 3. All of the issues raised during public notification of the proposal have been addressed (refer to Section 5 of this report).

Floor space ratio

The use of the approved garage for the purposes of a dwelling results in all development across the site having a total FSR of 0.8:1, exceeding the maximum permitted under Clause 4.4 of RLEP 2012 (0.65:1) by 23%. The variation to the development standard is considered an acceptable outcome as no additional built form is proposed beyond what has been previously established on site. The development relates to an existing structure, having minimal visual impact due to being located well above street level when viewed from Dundas Street and partially underground when viewed from Rainbow Street. Notwithstanding that the FSR exceeds the maximum permitted, the proposal will have negligible impacts to neighbouring dwellings in terms of visual bulk, overshadowing, loss of privacy or views. A detailed assessment of the application under Clause 4.6 of RLEP 2012 is provided in Section 7 of this report.

Site coverage, landscaped area and private open space

The site has an area of 520.4m², requiring that:

1. Site coverage of development across the site does not exceed 50%;
2. A minimum of 30% of the site is provided as landscaped, permeable area; and
3. A 7 x 7 metre private open space is provided for the benefit of residents.

The proposed development does not result in any change in the existing site coverage (56.2%) or landscaped area (12.2%). A 4.8 x 4.3 metre private open space is provided in conjunction with the proposed dwelling. This private open space area is positioned behind the proposed at-grade car space.

The proposed site coverage and landscaped area is existing and has been previously deemed acceptable by Council in their assessment of DA/983/2003. The proposed private open space is

deemed acceptable. It is deemed adequate in association with a single bedroom dwelling on the basis that it will only be used by one or two residents and their visitors. The private open space has a high level of amenity derived from expansive ocean views to the east and unobscured access to sunlight.

Setbacks

The front setback of the structure is consistent with the neighbouring dwelling house to the north. The 0.695 metre setback to Rainbow Street is maintained, non-compliant with the 1.5 metres required. This is deemed an acceptable outcome given it is an existing structure. It is located partially underground when viewed from Rainbow Street and therefore has minimal overshadowing impacts.

10. Conclusion

That the application to legitimise the use of the approved garage for the purposes of a dwelling be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community without any additional built form, resulting in:
 - No changes to the streetscape character; and
 - No additional impacts to neighbouring development in terms of visual bulk, loss of privacy, overshadowing or loss of views.
- Privacy impacts to the neighbouring development to the north as a consequence of the proposed north-facing bedroom window are mitigated through the implementation of a non-standard condition requiring that the window be constructed a minimum sill height of 1.6 metres. Landscaped screening has been proposed within the site to manage privacy impacts to the proposed private open space area from the existing communal open space and a combination of fencing and planter boxes are proposed to minimise overlooking opportunities to adjoining front yards.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received to legitimise the use of the DA approved garages (DA/983/2003) as a 1 bedroom unit at the above site.

A similar application was lodged in 2017 (DA/150/2017) and was refused.

This report is based on the following plans and documentation:

- Architectural Plans dated 27.7.18;
- Statement of Environmental Effects by Adam Culbert dated 25.9.18

Development Engineering provided the following comments to the previous DA and believe it is still applicable to this application:

It is noted that 1 off-street parking can be provided on the internal driveway.

There are no Development Engineering conditions/requirements in relation to this application.

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

Clause 4.6 Variation Request – Floor Space Ratio

The proposed development seeks to vary Clause 4.4 of Randwick LEP 2012 which requires a maximum floor space ratio of 0.65:1 in relation to a dwelling house at the site.

The subject application is accompanied by Gross Floor Area calculation drawings that detail the existing approved gross floor area and the proposed FSR at the site. The calculations have been undertaken in accordance with the relevant LEP definition as follows:

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

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

Of importance is the required parking associated with the existing residential flat building and the proposed dwelling. With the apartment mix of 2 x 3 bedroom and 1 x 2 bedroom dwellings, the residential flat building warrants the requirement for 4.2 parking spaces. We note that a visitor parking space is not required as there are only 3 dwellings within the residential flat building and a dwelling house does not require visitor parking.

In the submitted gross floor area calculation diagrams, all surplus parking has been included as FSR which includes the full extent of the garage that was approved in 2003 and is the subject of this application.

Accordingly, this variation request pursuant to Clause 4.6 of Randwick LEP 2012 relates to an existing approved FSR exceedance and the proposal to convert the surplus parking spaces contained within the eastern garages will maintain the existing gross floor area at the site 417.1m², resulting in a FSR of 0.80:1.

Even if Council was to disagree with the calculation of parking at the site and the proposal was simply converting approved garage space to the residential dwelling the FSR exceedance would be of a technical nature and has no relationship with any impacts arising from the development in terms of building bulk, overshadowing, view loss or impacts on the character of development in the area.

Statutory tests of Clause 4.6

Clause 4.6 sets out a statutory test to demonstrate to a consent authority where an appropriate degree of flexibility should be applied in relation to the variation of a development standard. The test firstly ensures that a clause is not expressly excluded from operation of Clause 4.6 and secondly establishes an assessment criteria under Clauses 4.6(3) & 4.6(4) of the LEP. Consideration of these provisions is provided below.

Expressly Excluded

Clause 4.6(2) states as follows:

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Clause 4.4 is not expressly excluded from the application of Clause 4.6 under Clause 4.6(6) or any other provisions of the LEP.

Is application of the clause unreasonable or unnecessary in the circumstances of the case?

In accordance with Clause 4.6(3)(a) an applicant must demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case. In doing so, the five-part test established by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827 is relied upon as below.

1. **The development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard;**
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
5. The zoning of particular land was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land.

In particular, the first test is relied upon to demonstrate that in the circumstances of the case the application of the clause is unreasonable or unnecessary. The objectives of Clause 4.4 and the proposal's performance is considered at Table 2 below.

Table 2 Objectives of the standard and the proposal

<i>Objectives of clause 4.4</i>	<i>Proposal</i>
<p>1) The objectives of this clause are as follows:</p> <p>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,</p>	<p>The proposed development will maintain the existing FSR exceedance and even if Council was minded that there was an increase in FSR, such an increase would be of a technical nature as opposed to an increase that would give rise to any material impacts or changes to the existing approved form.</p> <p>Accordingly, as there will be no material changes to the approved garage in terms of its height, setbacks and general appearance within the street, it cannot be said that any technical increase in floor space is contrary to objective (a).</p>
<p>(b) to ensure that buildings are well articulated and respond to environmental and energy needs,</p>	<p>As indicated above, the proposal will maintain the approved gross floor area and will not alter the approved building form or its relationship to Rainbow Street or Dundas Street.</p> <p>The building remains a modest structure that is located at the lower level of the site and integrated into the slope in the land.</p> <p>Accordingly, the proposal to maintain the existing approved FSR at the site is not antipathetic to objective (b).</p>
<p>(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</p>	<p>N/A – the site is not located in a heritage conservation area, nor are there any heritage buildings that are located in the vicinity of the site.</p>
<p>(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.</p>	<p>The proposal seeks to occupy an approved garage building as a residential dwelling. The proposal will not result in any external changes that will alter the height or bulk for the building.</p> <p>In addition, there is no connection between the altering use of the approved building and impacts on visual bulk, loss of privacy, overshadowing or view loss.</p> <p>Accordingly, the proposal is entirely consistent with objective (d).</p>

Therefore, despite the numerical non-compliance arising from an existing approved building and the proposal not resulting in any further increase in FSR at the site, the proposal is consistent with the objectives of the FSR control. Should Council be minded that there is a numerical increase in FSR, this would be of a technical nature and will not give rise to any changes in the appearance of the building from within the street or impacts as previously discussed. Strict application of the FSR

control in this instance would be both unreasonable and unnecessary as the proposal complies with the objectives of Clause 4.4 of Randwick LEP 2012.

Sufficient Environmental planning grounds?

In accordance with Clause 4.6(3)(b), an applicant must demonstrate that there are sufficient environmental planning grounds to justify contravention of the development standard. As established in the decision of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 the scope of "environmental planning grounds" has a wide interpretation and is not expressly limited. It was also maintained that the environmental planning grounds relied on for a variation request be specific to the circumstances of the site and result in an outcome that is better for and from the development in accordance with the objectives of Clause 4.6.

In our view, there are sufficient environmental planning grounds that relate to the circumstances of the site and the proposed development to justify contravention of the Standard as detailed below:

1. **Existing Use Rights:** The subject site enjoys existing use rights pursuant to Division 4.11 of the EP&A Act and therefore contains circumstances that are unique to the site and distinguished from the surrounding properties.

Having the benefit of existing use rights, Council granted consent for the construction of the garages under DA-983/2003 which resulted in further FSR at the site as this provided parking that was surplus to the requirements of the residential flat building.

The application of existing use rights to the subject site also presents a strong argument that, should this application be made under Regulation 41(1)(d) of the EP&A Reg, the FSR provision of RLEP 2012 would not apply to the proposal to the extent that it derogates from the incorporated provisions.

2. **Existing FSR Exceedance:** As indicated in the accompanying Gross Floor Area calculation plans, the site contains a total approved gross floor area of 417.1m² and an FSR of 0.80:1. As the proposal relates to the conversion of existing surplus parking space to residential floor area, this will maintain the same FSR exceedance as has been approved at the site.

In the event that Council was to deem these parking spaces as being required under the DCP (and thus do not currently constitute FSR), any FSR increase at the site would be of a technical nature and could not be attributed to any impacts or departure from the intention of the FSR control.

Accordingly as the subject site contains an existing FSR exceedance, this provides a site specific and compelling ground to suggest that there are there are good environmental planning grounds to support to FSR non-compliance;

3. **Better Outcome for and from the Development:** As found in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 for a variation request to satisfy the objectives of Clause 4.6 the environmental planning grounds would need to establish that such a variation would result in a better outcome for and from the development. In or view maintaining the existing FSR exceedance and purposing the approved space for residential use will result in outcomes that benefit future residents and provide wider benefits from the development.

In particular, the proposal will formalise a compact and affordable dwelling that in an area that is otherwise challenged by the provision of affordable rental accommodation.

The amenity for future residents has been discussed in this Statement and is identified to perform well, providing adequate accommodation that contributes to housing diversity in the surrounding area and at the site.

Fundamentally, an improved outcome is secured by converting the existing surplus parking spaces into functional residential accommodation. The existing parking spaces are not only surplus to requirements, they are removed from the residential flat building and fail to comply with AS2891.1 in relation to access and manoeuvring of vehicles at the site. To require that this area is reinstated as parking would encourage an awkward access arrangement and the provision of parking that exceeds the DCP requirement.

The objectives under Part B7 of the DCP seek to ensure that an appropriate parking allocation is provided and that sustainable transport modes are encouraged as follows:

- *To promote sustainable transport options for development, particularly along transport corridors, in commercial centres and strategic/key sites.*
- *To manage the provision of car parking within the broader transport network.*
- *To support integrated transport and land use options which can demonstrate shared and effective car parking provision with car share facilities, motorbikes/scooters, bikes and links to public transport.*
- *To ensure car parking facilities, service and delivery areas and access are designed to enhance streetscape character and protect pedestrian amenity and safety.*

The subject site is located within immediate walking distance to public transport, local shops, parks and local services. The provision of surplus parking at the site is not consistent with the intention to promote sustainable transport options.

It is accordingly our view, that the conversion of the surplus parking spaces into residential accommodation will have a net benefit to the wider community both in terms of providing affordable residential accommodation and encouraging sustainable transport options for development.

The above establishes that there are circumstances that are specific to the site that warrant support for flexibility to the application of the maximum floor space ratio development standard. The application of flexibility in this instance is consistent with the objectives of Clause 4.6 and will result in an improved outcome for and from the development.

Public interest

In accordance with Clause 4.6(4)(a)(ii) the consent authority must be satisfied that 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.

As detailed above, the proposal is consistent with the objectives of the R2 Zone as it will provide additional low density residential accommodation at the site that offers high amenity and affordable accommodation without any material impacts on the surrounding properties and streetscape.

In addition, the proposed non-compliance does not exacerbate the existing approved FSR exceedance at the site and will not give rise to any material impacts or change in presentation of the site to the street. As detailed at Table 1, the proposal is consistent with the objectives of the FSR development standard.

In light of the above, the proposed FSR non-compliance is in the public interest.

Conclusion to Clause 4.6 Variation Request

The proposed FSR exceedance has been demonstrated to satisfy the statutory tests set out in Clause 4.6 of Randwick LEP 2012. Approval of the proposal is consistent with the objectives of Clause 4.6 as it represents the exercising of an appropriate degree of flexibility to achieve a better outcome for and from the development.

Attachment/s:

1.   Dev Consent Conditions - DA/665/2018 - 20 Dundas St, COOGEE

Responsible officer

APP Corporation, Josh Owen

File Reference: DA/665/2018

Development Consent Conditions (dwellings and dual occupancies)



D47/19

Folder /DA No:	DA/665/2018
Property:	20 Dundas Street, COOGEE NSW 2034
Proposal:	Application to legitimise use of existing garage as dwelling with new building works including new window, landscaping, screening and associated works (variation to floor space ratio control).
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
DA01.01C	N/A	08 JULY 2019
DA02.1C		08 JULY 2019
DA02.2C		08 JULY 2019
DA02.3C		08 JULY 2019

BASIX Certificate No.	Dated	Received by Council
858051S_02	24 July 2019	24 July 2019

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:
 - The window on the northern elevation of the bedroom must have a minimum sill height of 1.6 metres (measured above the finished floor level).

- b. The height of the privacy fence on the northern side of the courtyard shall be increased to 1.8 metres.

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.

Compliance Fee

5. A development compliance and enforcement fee of \$75.00 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™** 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, 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

11. 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.

Public Utilities

12. 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.

Documentary evidence from the relevant public utility authorities confirming 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 works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other 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

13. 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.

Site Signage

14. 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

15. 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

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.

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

16. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any habitable occupation of the building, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

BASIX Requirements & Certification

17. 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.

Street and/or Sub-Address Numbering

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

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

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

OPERATIONAL CONDITIONS

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

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

Fire Safety Statements

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

The Fire Safety Statement must be provided on an annual basis, each year following the issue of the Fire Safety Certificate and other period if any of the fire safety measures are identified as a critical fire safety measure in the Fire Safety Schedule.

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

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

External Lighting

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

Waste Management

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

Use of parking spaces

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

GENERAL ADVISORY NOTES

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

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

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

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

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal 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) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works
- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-
- Install or erect any site fencing, hoardings or site structures
 - Operate a crane or hoist goods or materials over a footpath or road
 - Placement of a waste skip or any other container or article.
- For further information please contact Council on 9093 6971.
- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.
- Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 An application must be submitted to 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.

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Development Application Report No. D48/19

Subject: 46 Dutruc Street, Randwick (DA/948/2018)

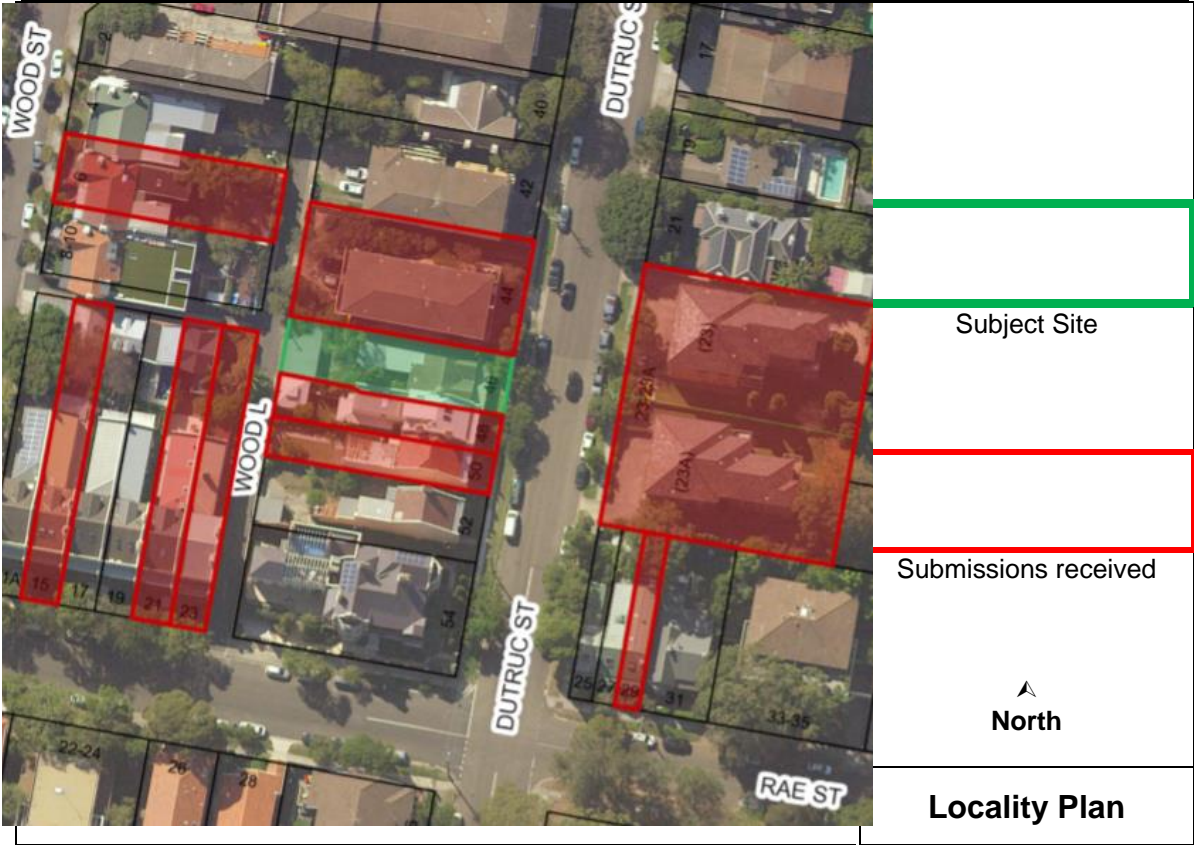
Proposal:	Demolition of existing structures, construction of a 4 storey residential flat building with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works (heritage conservation area).
Ward:	North Ward
Applicant:	Brook Street Holdings Pty Ltd
Owner:	Brook Street Holdings Pty Ltd
Cost of works:	\$2,776,052
Reason for referral:	More than 10 unique submissions by way of objection were received and the development is subject to SEPP 65.

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. 948/2018 for demolition of existing structures, construction of a 4 storey residential flat building with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works, at No. 46 Dutruc Street, Randwick subject to the development consent conditions attached to this report.

D48/19

D48/19



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 16 unique submissions by way of objection were received and the development as submitted is subject to SEPP 65.

The proposal seeks development consent for demolition of existing structures, construction of 4 storey residential flat building (“RFB”) with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works.

The key issues associated with the proposal relate to compatibility with the character of the area, heritage conservation, and wall height. The overarching concern is related to the bulk and scale of the development within the heritage conservation area, in particular the bulk and scale associated with the uppermost level that wholly contains proposed Unit 4. This level results in an unacceptable impact upon the heritage conservation area and also results in a variation to the wall height control. As advised by Council’s Heritage Planner (refer to Appendix 1), the proposed development is acceptable subject to a condition to delete the uppermost level, and conditions to reduce the bulk and scale of the resulting eastern awning to the level below and to delete the redundant columns. Subject to these conditions, the development will comply with the wall height standard and will provide an appropriate transition from the 4 storey RFB to the north of the site (that is located outside of the heritage conservation area) to the 2 storey dwellings to the south that will be in accordance with the character of the area. The resulting FSR will also be more consistent with the development envisaged under the LEP and DCP. Notwithstanding, it is considered that a habitable roof space might be proposed under a future DA that provides an interesting roof form rather than a full third floor that is more sympathetic with the character of the heritage conservation area.

The proposal is recommended for approval subject to the following non-standard conditions that will improve amenity to neighbouring properties and lessen bulk and scale as part of the heritage conservation area (amended drawings to be submitted to Council for approval prior to the issue of a Construction Certificate):

- The entire upper floor level shall be deleted to reduce the visual bulk and scale. The resulting flat roof shall be designed to conceal any lift / stair overrun or services and shall be non-trafficable and accessed only for maintenance purposes.
- The roof/awning structure including the supporting posts to the eastern balcony at Level 2 shall be deleted and an awning having a maximum depth of 500mm (measured from the eastern façade) shall be provided.
- A brief archival recording of the property shall be prepared.
- The west-facing awning at Level 1 and the wall provided along the southern side of the balcony shall be deleted, and the balcony shall be made non-trafficable. Subsequently, the south-facing living room window to the secondary living room shall be a highlight window.
- The west-facing balconies at Level 2 to unit 3 shall be made non-trafficable. The wall provided along the southern side of this balcony and the garden bed shall be deleted.

2. Site Description and Locality

The subject site is known as 46 Dutruc Street, Randwick and is legally described as Lot 29 in DP 542043. The site is 416.8m² and is irregular in shape having a 10.8m frontage to Dutruc Street to the east and a 9.8m frontage to Wood Lane to the west. The site is relatively flat and contains a single storey semi-detached dwelling with a garage at the rear accessed from Wood Lane that is part of a heritage conservation area.

The neighbouring property to the south comprises an adjoining two storey semi-detached dwelling (part of a trio of semi-detached dwellings including the existing building on the subject site), which forms part of the heritage conservation area. The neighbouring property to the north comprises a four storey RFB that does not form part of the heritage conservation area. The surrounding area comprises dwelling houses, semi-detached dwellings and residential flat buildings as part of the R3 Medium Density Residential zone.



Figure 1. Subject site looking north-west.

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Figure 2. Subject site looking south-west.



Figure 3. Insert from heritage conservation area map overlay (red) showing nearby heritage items (brown).

3. Relevant history

A request for additional information was provided to the Applicant on 6 March 2019 requiring compliant FSR, reconfigured POS and living rooms to improve solar access, increased northern side setback, improved building articulation, provision of communal open space, and clearer drawings. Following a referral response from Council's Heritage Planner, Heritage concerns were also provided to the Applicant requiring an increased front setback to the second and third floors to reduce visual amenity impacts and improve views to the heritage conservation area.

Revised drawings and supporting documentation were received on 18 April 2019. The revised drawings made the following changes:

- Reduced FSR to comply.
- Reconfigured basement waste storage.

- Reconfigured pedestrian entrance, increased front and side setbacks.
- Reconfigured front and rear-facing balconies.
- Reconfigured internal layout including provision of 1 additional bedroom for unit 3.
- Changes to windows.
- Provision of communal open space at the rear.

The revised drawings were referred to Council's Heritage Planner, Development Engineer, and Landscape Officer and were publically re-notified. The referral officers have assessed the revised drawings and recommend approval subject to conditions (refer to Appendix 1).

4. Proposal

The proposal seeks development consent for demolition of existing structures, construction of a 4 storey RFB with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works.

Basement (accessed from Wood Lane to the west)

- 8 car parking spaces (4 stacked).
- 1 motorcycle and 2 bicycle parking spaces.
- Lift and pedestrian access stair to Dutruc Street frontage.
- Waste bin and residential storage.

Ground Floor (Unit 1)

- 4 bedrooms and 3 bathrooms.
- Rear-facing open plan living and kitchen.
- Front and rear-facing private open space.
- Communal open space at the rear.

First Floor (Unit 2 – Affordable Rental Housing)

- 3 bedrooms and 3 bathrooms.
- Front-facing open plan living and kitchen with balcony.
- Secondary rear-facing living area with balcony.

Second Floor (Unit 3 – Affordable Rental Housing)

- 4 bedrooms and 3 bathrooms.
- Front-facing open plan living and kitchen with balcony.

Third Floor (Unit 4)

- 4 bedrooms and 2 bathrooms.
- Front-facing open plan living and kitchen with balcony.

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. 5 submissions were received following initial notification and 11 submissions received following re-notification (16 submissions in total). The following submissions were received as a result of the notification process:

- 8/23A Dutruc Street, Randwick
- 44 Dutruc Street, Randwick
- 48 Dutruc Street, Randwick
- 50 Dutruc Street, Randwick
- 15 Rae Street, Randwick
- 21 Rae Street, Randwick
- 23 Rae Street, Randwick
- 29 Rae Street, Randwick
- 6 Wood Street, Randwick
- 2 submissions from an unspecified addresses

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Issue	Comment
48 Dutruc Street has been architecturally designed to maximize light utilising strategically placed skylights to capture direct reflected light. Overshadowing of living areas and POS.	48 Dutruc Street will continue to receive compliant solar access to living room windows in accordance with the RDCP (refer to Key Issues).
Loss of natural light to surrounding properties.	Surrounding properties will continue to receive compliant solar access in accordance with the RDCP. The proposal complies with building height and FSR development standards, and therefore will not unreasonably reduce natural light. Notwithstanding, due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level.
A RFB should not be permitted within a heritage conservation area.	A RFB is permitted with development consent in the R3 Medium Density Residential zone. Heritage impacts have been assessed by Council's Heritage Planner and the proposal is not considered to have an adverse impact on the heritage significance of the area subject to conditions (refer to Appendix 1).
The size of the site is too small to accommodate a RFB.	The proposal complies with building height and FSR development standards and appropriate setbacks and landscaping are provided. Notwithstanding due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level (refer to Key Issues), which will further reduce bulk and scale.
The balconies are excessive and contribute to bulk and scale.	Noted. Conditions are recommended to delete rear-facing balconies, to reduce the solid portions of the wall alongside the rear-facing balconies, to delete the uppermost level and to subsequently reduce the size of the eastern awning to the level 2 balcony / delete the redundant support columns.
The FSR provided in the RLEP is more appropriate for this site rather than the bonus FSR afforded by the ARH SEPP.	The bonus FSR applies pursuant to the ARH SEPP given affordable rental housing is proposed. The proposal complies with the maximum permitted FSR, notwithstanding due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level.
Concerns that the bonus FSR should not be applied to the entire development, but should only apply to the 52% of the GFA used for affordable housing (i.e. 1.26:1 and not 1.4:1).	Clause 13 of the ARH SEPP applies to the entire development noting Clause 10 of the ARH SEPP states Division 1 applies to development for the purposes of a RFB.
Concerns that the proposed affordable housing will not be rented for this purpose.	Conditions are recommended to ensure the 2 affordable rental housing units are provided as such for at least 10 years from issue of an occupation certificate with evidence to be submitted to Council that a section 88E covenant pursuant to the Conveyancing Act 1919 has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered Community Housing Provider.

Issue	Comment
The building height is excessive and does not comply. The court-approved development at 194-196 Carrington Road resulted in a reduction in number of storeys from 4 to 3.	194-196 Carrington Road is subject to a 9.5m building height, whereas the subject site is subject to a 12m building height pursuant to the RLEP, which allows up to 4 storeys. Notwithstanding, due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level. It is considered that a habitable roof space could be proposed as part of a future DA that complies with wall height and building height standards.
Loss of district views from 44 Dutruc Street. The nil side setbacks will impact views to the ocean from western properties.	Loss of key iconic views or views with a clear land and water interface will not occur noting properties to the west are two storeys and properties to the north will maintain views to the east and south-east. The proposal complies with key development standards relating to building height and FSR and the side setbacks are assessed on merit and are supported, therefore view sharing will be reasonably maintained (refer to Key Issues).
The development will degrade the qualities of the heritage conservation area as it is not in keeping with the existing character.	Noted. Subject to conditions including deletion of the uppermost level, the proposal will be suitable within the heritage conservation area and is considered to comply with Clause 16A Character of local area, pursuant to the ARH SEPP (refer to Section 6 and Appendix 1).
The 3D perspectives are misleading as the street trees will be removed.	The street tree on Dutruc Street is not proposed to be removed.
Privacy and acoustic impacts. Concerns that the roof will be accessed.	Adverse privacy impacts will not occur subject to conditions for raised window sill heights and privacy screening, and deletion of rear-facing balconies (refer to Key Issues). Adverse acoustic impacts are not expected to occur given balconies are not excessively sized. A condition is recommended to enforce roof areas as non-trafficable.
The increased vehicles will result in safety concerns for pedestrians accessing Wood Lane noting that properties to the west must exit Wood Lane to the east, past the subject site. Vehicular access should be from Dutruc Street.	Council's Development Engineer has assessed car parking and access to car parking, and adverse safety impacts will not occur (refer to Appendix 1).
Waste bin collection on Wood Lane will restrict pedestrian access.	Council's Development Engineer has assessed waste storage / collection and advises waste collection from Wood Lane is not possible given the laneway is not large enough to allow maneuverability for waste collection vehicles. Therefore, waste collection must occur from Dutruc Street and conditions have been recommended (refer to Appendix 1).
Waste bins should not be transported to the street via the lift.	Council's Development Engineer has assessed waste storage / collection and advises waste bins can be transported via the lift (refer to Appendix 1).
The confined basement design will likely result in on street parking. Sufficient car parking is not provided on site and the ramp does not comply with Australian Standards.	Council's Development Engineer has assessed the car park configuration and advises it is suitable subject to conditions (refer to Appendix 1).

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Issue	Comment
Excavation may compromise the structural integrity of surrounding properties. The Geotechnical report identifies the site as a problem site, with a reasonable chance of damage occurring to 48 Dutruc Street. The developers and Council will be liable for any damages caused.	A condition is recommended to ensure that prior to the issue of a Construction Certificate a report is carried out by a professional engineer (with specialist knowledge and experience in heritage conservation) detailing geotechnical details and methods for construction including how properties on adjoining land will be adequately supported. Prior to works commencing, conditions are recommended to ensure public liability insurance is taken out, a dilapidation report is prepared by a professional engineer detailing current condition and status of all adjoining properties, preparation of a construction site management plan and demolition works plan. During work and construction, conditions are recommended to ensure works are carried out in accordance with relevant standards and construction requirements, and to ensure the support of adjoining land.
There is a lack of water permeability and concerns are raised with storm water management. The storm water plans reflect the previously refused proposal.	Deep soil landscaping exceeds minimum requirements set by the ARH SEPP, and the ADG, therefore sufficient permeable surfaces are provided. Council's Development Engineer has assessed storm water requirements and recommends approval subject to conditions (refer to Appendix 1).
Removal of the palm tree at the rear of the site will reduce bird habitat.	This tree is proposed to be removed, however is not a significant tree pursuant to the RDCP. The proposed tree removal and additional landscaping has been assessed by Council's Landscape Officer, who recommends approval subject to conditions (refer to Appendix 1).
The side and rear setbacks are insufficient.	The RDCP required the minimum rear setback to be 15% of the allotment depth (5.9m). 9.3m is proposed that exceeds the minimum requirement. Side setbacks are assessed on merit given the lot width is <12m. The side setbacks are assessed as acceptable given adverse amenity impacts upon neighbouring properties and the street will not occur, subject to conditions.
Concerns that the accessible pebbled roof will result in safety concerns.	A condition is recommended to ensure the roof areas are non-trafficable.
There is no need for more apartments in the area.	The RFB is permitted with consent in the R3 Medium Density Residential zone.
Lack of landscaped area that is not in keeping with heritage characteristics.	Deep soil landscaping exceeds minimum requirements set by the ARH SEPP, and the ADG, therefore sufficient landscaped areas are provided. The proposed landscaping has been assessed by Council's Landscape Officer, who recommends approval subject to conditions (refer to Appendix 1).
Lack of sun shading to western façade.	Windows are recessed behind the façade, which will offer sufficient shading.

Issue	Comment
The development does not satisfy the objectives of the R3 Medium Density Residential zone.	Subject to conditions, 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, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability.
The attached chimney to 48 Dutruc Street must not be removed.	The chimney is not proposed for removal.
Noise impacts from basement.	Adverse noise impacts are not expected to occur from the basement given it is contained below existing ground level.

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6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policy (Affordable Rental Housing) 2009 (“ARH SEPP”)
Unit 2 (first floor) and unit 3 (second floor) are proposed as in-fill affordable housing, therefore the ARH SEPP applies. The relevant provisions of the ARH SEPP are addressed in Appendix 2.

In summary, the development as proposed complies with the maximum FSR with the bonus FSR (1.4:1 = 583.52m² maximum and 1.39:1 = 583m² proposed). Notwithstanding, due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level, which will result in an FSR of 1.08:1 (452.3m²). The proposal also complies with provisions relating to landscaped area, deep soil zones, solar access to the development, car parking and dwelling size.

Given the recommended changes above, a condition is also recommended to ensure that only one dwelling (either Unit 2 or 3) is to be used for the purposes of affordable housing and this will still ensure the affordable housing component of the development exceeds the minimum of 20% as required under Clause 13(1) of the ARH SEPP.

Of particular importance is Clause 16A, which states:

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.

A planning principal has been established via *Project Venture Developments v Pittwater Council [2005] NSW LEC 191* to test whether a proposal is compatible with the character of the area. Of particular relevance to the proposal is the following insert from the planning principal:

It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.

In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.

The planning principal states that the most important contributor to urban character is the relationship of built form to surrounding space, created by building height, setbacks and landscaping. The planning principal also states that in conservation areas, architectural style and materials also contribute to character. The proposal has been assessed by Council's Heritage

Planner (refer to Appendix 1), who advises that the uppermost level will result in an unacceptable impact upon the heritage conservation area due to excessive bulk and scale and a condition is recommended to delete the uppermost level. Subject to this condition, the development will provide an appropriate transition from the 4 storey RFB to the north of the site (that is located outside of the heritage conservation area) to the 2 storey dwellings to the south, with suitable setbacks and landscaping provided and therefore, the proposal is considered to be compatible with the character of the local area.

Clause 14 - Standards that cannot be used to refuse consent, notes a consent authority must not refuse consent to development to which this Division applies on the basis of site area if the site is at least 450m². The site area is 416.8m², and therefore the consent authority may refuse the development on this basis. However, subclause (3) of Clause 14 of the ARH SEPP notes that a consent authority may consent to development to which this Division applies whether or not the development complies with the site area standard.

It is considered that the proposal is worthy of being granted development consent given that the development will not result in adverse impacts upon the heritage conservation area or visual amenity impacts upon neighbouring properties subject to a condition to delete the upper level (unit 4). This will reduce the FSR to 1.08:1 and although a bonus is still sought (0.9:1 being the maximum pursuant to the RLEP), the site is suitably sized to accommodate the proposed bonus FSR as demonstrated by this report.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (“SEPP 65”)

The proposed development is for a residential flat building that is 4 storeys containing 4 dwellings, therefore SEPP 65 applies. Although a condition is recommended to delete Unit 4 resulting in there being 3 units, as lodged for assessment 4 units are proposed and therefore the entire development is assessed against the relevant provisions of SEPP 65.

In accordance with Clause 28 of SEPP 65, the development was referred to Council's Design Excellence Panel (“DEP”) who have assessed the development against the design quality principles of SEPP 65 (refer to Appendix 1). An assessment has also been carried out against the design criteria of the Apartment Design Guide (“ADG”) (refer to Appendix 3). In summary, the development complies with the majority of the design criteria with the exception of the size of the communal open space, floor to ceiling heights and building separation (in relation to visual privacy). The variations are assessed as part of the Key Issues section and are supported as the development achieves the objectives of the criteria and the design guidance subject to conditions.

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

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

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

Assessing officer's comment: Compliant car parking is provided in accordance with the ADG (6 spaces required and 8 spaces provided). Refer to Development Engineering comments as part of Appendix 1.

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

Assessing officer's comment:

- Units 1 and 3 contain 4 bedrooms and 3 bathrooms. Minimum required internal area is 112m² and 146m² and 154m² proposed.

- Unit 2 contains 3 bedrooms and 3 bathrooms. Minimum required internal area is 100m² and 153m² proposed.
- Unit 4 contains 4 bedrooms and 2 bathrooms. Minimum required internal area is 107m² and 130m² proposed. Notwithstanding, a condition is recommended to delete this unit / floor.

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

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

Assessing officer's comment: Minimum required ceiling height is 2.7m for habitable rooms and 2.4m for non-habitable rooms. Each unit is provided with 2.7m ceiling heights, however this is from the top of the lower slab to the bottom of the upper slab and therefore does not provide adequate room for a ceiling and services. It is considered that a minimum 3.1m between floors is required, which will allow a 300mm slab, and 100mm for ceiling and services. Therefore, a condition is recommended to raise each floor to achieve 3.1m from the top of the lower slab to the top of the upper slab. As a result, the finished roof level would be increased by 300mm and must not exceed RL77.68 (with the deletion of the third floor level).

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

Assessing officer's comment: Adequate regard has been given to the SEPP 65 design quality principles and the ADG design criteria as a design verification statement was submitted prepared by a registered architect stating that the design quality principles and ADG design criteria are generally achieved.

- (3) To remove doubt:*
- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
 - (b) the design criteria specified in subclause (1) are standards to which section 79C (2) of the Act applies.*

6.2. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ("Vegetation SEPP")

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

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

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

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Consent for the removal of vegetation within the site is being sought under this DA.

Assessing officer's comment: There are no significant trees or vegetation on the site pursuant to Part B5 of the RDCP 2013. Two significant trees in the Dutruc Street road reserve a proposed to be retained. Additional landscaping can be accommodated throughout the site noting that deep soil landscaping exceeds minimum requirements that will protect biodiversity values. Council's Landscape Officer has reviewed the application and recommends approval subject to conditions (refer to Appendix 1).

6.3. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX SEPP”)

A satisfactory BASIX certificate has been submitted in accordance with the requirements of the BASIX SEPP. A condition is provided to ensure compliance with the BASIX certificate.

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 provide for the housing needs of the community, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability, 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)	12m	11.9m measured from the eastern ridge (RL 80.63) above existing ground level (RL 68.86). Notwithstanding due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level.	Complies
Cl 4.4: Floor space ratio (max)	1.4:1 (583.52m ²) in conjunction with the bonus FSR afforded by the ARH SEPP. maximum and	1.39:1 (583m ²). It is noted that the GFA calculation does not include any of the basement including the surplus car parking space given that the ARH SEPP excludes all parking as GFA. Notwithstanding, due to impacts upon the heritage conservation area a condition is recommended to delete the uppermost level, which will result in an FSR of 1.08:1 (452.3m ²).	Complies
Cl 5.10 Heritage conservation	Consider the effect of development on the heritage significance of a heritage item or a heritage conservation area.	Refer to assessment below.	Complies

6.4.1. Clause 5.10 - Heritage conservation

The subject site is part of the St Marks heritage conservation area identified in Schedule 5 of the RLEP. The site does not contain a heritage item but is within proximity to local heritage items including:

- Immediately to the west: properties 11A to 23 Rae Street identified as item I435, “part of historical residential streetscape”.
- To the south: 54 Dutruc Street identified as item I362, “Victorian Italianate residence”.
- To the north-east: 21 Dutruc Street identified as item I361, “Victorian Italianate villa”.

Clause 5.10 of the RLEP requires the consent authority, before granting consent, to consider the effect of a proposed development on the heritage significance of a heritage item or a heritage conservation area. Council's Heritage Planner has assessed the proposal and recommends approval subject to conditions (refer to Appendix 1). A summary of Council's Heritage Planner comments is provided below:

- Despite the amended drawings, the scale and form is still considered to be inconsistent with the scale and form of the existing streetscape and character of the conservation area to the south, including the adjacent two storey Victorian terraces, and nearby heritage item. As a result, the proposal continues to visually dominate at the upper levels and this is further enhanced with the protruding blade walls and roof awnings to the front elevation at level 3. The front balcony to Level 3 on the northern portion of the building is supported by solid wide rendered posts which contribute to the bulk of the building at level 2, and would interrupt streetscape views towards the conservation area.
- It is recommended that the entire upper floor level be deleted and an alternate design such as habitable roof space shall be implemented. In addition, it is also recommended that the protruding blade walls be removed or reduced to sit flush with the front building line.
- The proposed modifications at the rear would retain existing views appreciated from the northern end of Wood Lane and it is considered the proposal would have a neutral effect on the significance of the streetscape character of Wood Lane and setbacks would continue to be consistent with the main rear building lines of adjacent buildings.

Subject to conditions as recommended by Council's Heritage Officer, including deletion of the upper level, the proposed development will not adversely affect the heritage significance of the heritage conservation area or nearby heritage items.

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 4.

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 4 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 'Matters for Consideration'	Comments
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues (variations to the ADG and RDCP)

Communal Open Space

The design criteria (objective 3D-1) of the ADG requires communal open space to have a minimum area equal to 25% of the site (104.2m²). 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 is required. 42m² communal open space is proposed.

Objective 3D-1 states:

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.

The design guidance that supports the design criteria states:

- *Communal open space should be consolidated into a well-designed, easily identified and usable area*
- *Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions*
- *Communal open space should be co-located with deep soil areas*
- *Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies*
- *Where communal open space cannot be provided at ground level, it should be provided on a podium or roof*
- *Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:*
 - *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
 - *provide larger balconies or increased private open space for apartments*
 - *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

A variation to the design criteria is supported for the following reasons:

- Subject to a condition to delete the upper level, 3 units are proposed in total that are each provided with POS that exceeds minimum requirements. Therefore the area of communal open space is proportionate to the number of units and adequate area of communal open space is provided.
- The communal open space will receive more than 2 hours direct sunlight to more than 40% of the area and exceeds the minimum 3m dimension recommendation (approximately 5m x 7m). The communal open space will therefore be highly usable and is provided with a mixture of soft landscaping and furniture in accordance with the submitted landscape plan.
- The communal open space is provided as part of the deep soil area that is directly accessible from a common pathway that connects Dutruc Street to Wood Lane.

Visual Privacy

The design criteria (objective 3F-1) of the ADG takes precedence over the RDCP with regards to visual privacy and provides minimum separation distances from buildings to site boundaries to ensure visual privacy is maintained (the setback controls in the RDCP do however still apply and are also assessed).

For buildings up to 12m in height (4 storeys), a 3m setback to side boundaries is required for non-habitable rooms and 6m for habitable rooms. The northern side boundary setback to north-facing windows is 1m increasing to 2.5m. The northern side setback to the balconies on the first, second and third floors is 1m. The southern side boundary setback to south-facing windows is 1m increasing to 2m. The southern side boundary setback to the balcony on the second floor is 0.4m, and to the balcony on the third floor is 1.2m.

Objective 3F-1 states:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

The relevant design guidance that supports the design criteria states:

- *New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:*
 - *site layout and building orientation to minimise privacy impacts (see also section 3B Orientation)*
 - *on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)*
- *No separation is required between blank walls.*

A variation to the design criteria is supported for the following reasons:

- The site has a 10.8m frontage width, therefore 6m setbacks to habitable room windows cannot be achieved.
- All north and south-facing windows are highlight windows and therefore will not result in direct visual privacy impacts.
- Adequate building separation distances are shared equitably between neighbouring sites and a reasonable levels of external and internal visual privacy is achieved, subject to conditions (notably to delete the upper level).
- The building orientation is in accordance with section 3B of the ADG given:
 - the building defines the street by facing it and incorporating direct access from the street.
 - living areas, POS and communal open space receives compliant solar access in accordance with sections 3D and 4A.

- solar access to living rooms, balconies and POS of neighbouring building has been considered in that the submitted shadow diagrams indicate neighbouring properties will continue to receive 3 hours solar access to living room windows and to at least 50% of landscaped areas in accordance with Part C2 of the RDCP (refer to other Key Issues).
 - overshadowing to the south is minimised with increased side setbacks to the third floor.
- The semi-detached dwelling to the south is not provided with north-facing windows, however does have a rear-facing balcony at the second floor. The proposed rear-facing balconies will not directly overlook neighbouring balcony, however will directly overlook the ground floor POS and therefore, a condition is recommended to delete these balconies and for privacy treatment to be provided to the southern window of the secondary living area of unit 2.

Side Setback

Clause 3.4.3 of Part C2 of the RDCP requires a merit assessment for side setbacks for lots with a site frontage width <12m. The site has a site frontage width of 10.8m, therefore a merit assessment applies.

The majority of the building is setback 0.9m from the northern side boundary, with 2 small sections having a nil setback. The majority of the building is setback 0.9m from the southern side boundary, with a nil setback proposed towards the frontage.

The relevant objectives of the standard are as follows:

- *To ensure adequate separation between buildings for visual and acoustic privacy, solar access, air circulation and views.*
- *To reserve contiguous areas for the retention or creation of open space and deep soil planting.*

The proposed side boundary setbacks are supported for the following reasons:

- The northern side setback is appropriate noting the portions of the building with a nil setback are located towards the middle of the site and away from the frontage, which will provide a visual separation to the boundary when viewed as part of the heritage conservation area. The portions of building with a nil setback are minimal and separated by a portion of building with an increased setback of 2.6m, therefore adequate separation is provided to the northern RFB that will not result in adverse amenity impacts.
- The southern neighbouring property is provided with a nil northern side boundary setback and does not comprise north-facing windows. Therefore the portion of the building proposed with a nil southern side setback is appropriate.
- The development does not result in visual and acoustic privacy impacts on neighbouring properties, subject to conditions.
- Neighbouring properties will continue to receive compliant solar access in accordance with the RDCP.
- Sufficient open space and deep soil landscaping that complies with the ADG is provided.

External Wall Height

Clause 4.4 of Part C2 of the RDCP allows a maximum external wall height of 10.5m for sites subject to a 12m building height. The external wall height is 11.9m on the southern elevation, and 11.7m on the northern elevation.

The objectives of the development standard are as follows:

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

As proposed, the development does not provide for an interesting roof form, is not compatible with the streetscape character, provides inadequate floor to floor heights, and will result in adverse visual

amenity impacts on neighbouring properties and the significance of the heritage conservation area. These concerns are entirely associated with the design of the third floor (fourth storey), which is provided as a full storey and not as a habitable roof space. Although some increased side and rear setbacks are provided, this does not provide sufficient visual relief when viewed from neighbouring properties, with the upper level resulting in adverse impacts upon the character of the street as part of the heritage conservation area. Subject to conditions recommended by Council's Heritage Planner (refer to Appendix 1), which includes deletion of the upper level, the development will be provided with a 9.6m wall height, which complies.

Solar Access for Surrounding Development

Clause 5.1 of Part C2 of the RDCP requires part of a living room window and at least 50% of the landscaped areas of neighbouring dwellings to receive a minimum 3 hours access to direct sunlight between 8am and 4pm on 21 June. Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further. The following comments are provided based upon the 4 storey development as proposed. It is noted that due to impacts upon the heritage conservation area, the upper level is recommended to be deleted that will lessen overshadowing of neighbouring properties.

Based on the submitted shadow diagrams, additional overshadowing will occur to the southern properties at 48, 50, and 52 Dutruc Street.

- 48 Dutruc Street: Additional overshadowing will occur to the semi-detached dwelling throughout the day. Based on approved drawings, 48 Dutruc Street comprises ground floor east, west, and south-facing living room windows. The east-facing windows will continue to receive 1 hour solar access from 8:00am until 9:00am, and west-facing windows from 2:00pm until 4:00pm, which therefore remains compliant with the development standard.

Additional overshadowing will occur to the landscaped areas from 11:00am until 1:00pm. Landscaped areas are provided in the front (approximately 27m²) and rear (approximately 38m²) of the property. Therefore, 32.5m² (50%) landscaped area must receive at least 3 hours solar access between 8:00am and 4:00pm. Based on an overlay of the shadow diagrams at hourly periods, the following landscaped area will receive solar access:

8:00am – 9:00am = 24.6m²
 9:00am – 10:00am = 22.8m²
 10:00am – 11:00am = 22.2m²
 11:00am – 12:00pm = 15.6m²
 12:00pm – 1:00pm = 12.9m²
 1:00pm – 2:00pm = 7.6m²
 2:00pm – 3:00pm = 0.3m²
 3:00pm – 4:00pm = 0.1m²

Therefore, 106.1m² / 8 = 13.2m² landscaped area that will receive 1 hour solar access. Therefore, 13.2m² x 3 = 39.7m² landscaped area that will receive a total of 3 hours direct solar access between 8:00am and 4:00pm, which therefore remains compliant with the development standard. The main private open space for this dwelling is at the rear of the property, which based on the submitted shadow diagrams will continue to receive approximately 3 hours solar access from 11:00am until 2:00pm mid-winter.

- 50 Dutruc Street: Additional overshadowing will occur to the rear of the building from 8:00am until 11:00pm. Approved drawings could not be obtained to ascertain location of living rooms, however east-facing windows will continue to receive solar access from 8:00am until 10:00am and west-facing windows from 12:00pm until 4:00pm. This is reasonable noting the east-west configuration of the site.

Additional overshadowing will occur to the landscaped areas from 10:00am until 12:00pm. Landscaped areas are provided in the front (approximately 25.3m²) and rear (approximately 123.4m²) of the property. Therefore, 74.3m² (50%) landscaped area must receive at least 3 hours solar access. Based on an overlay of the shadow diagrams at hourly periods, the following landscaped area will receive direct solar access:

8:00am – 9:00am = 16.4m²
 9:00am – 10:00am = 18.5m²
 10:00am – 11:00am = 23.4m²
 11:00am – 12:00pm = 32.2m²
 12:00pm – 1:00pm = 54.9m²
 1:00pm – 2:00pm = 59.5m²
 2:00pm – 3:00pm = 56m²
 3:00pm – 4:00pm = 59.6m²

Therefore, $320.5\text{m}^2 / 8 = 40\text{m}^2$ landscaped area that will receive 1 hour solar access. Therefore, $40\text{m}^2 \times 3 = 120.1\text{m}^2$ landscaped area that will receive a total of 3 hours direct solar access between 8:00am and 4:00pm, which therefore remains compliant with the development standard. The main private open space for this dwelling is at the rear of the property, which based on the submitted shadow diagrams will continue to receive approximately 4 hours solar access from 11:00am until 3:00pm mid-winter.

- 52 Dutruc Street: No additional overshadowing will occur to the building. Additional overshadowing will occur to the landscaped area from 9:00am until 12:00pm. However it is clear from the submitted shadow diagrams that >50% of the landscaped areas will continue to receive at least 3 hours solar access to the front area from 8:00am until 11:00am, and to the rear area from 11:00am until 4:00pm. The main private open space for this dwelling is at the rear of the property, which based on the submitted shadow diagrams will continue to receive approximately 4 hours solar access from 11:00am until 3:00pm mid-winter.

9. Conclusion

That the application for demolition of existing structures, construction of a 4 storey residential flat building with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the relevant objectives and requirements contained within the ARH SEPP, SEPP 65 and the ADG.
- The proposal is consistent with the specific objectives of the R3 Medium Density Residential zone in that the proposed activity and built form will provide for the housing needs of the community, provide a variety of housing types, contribute to the desired future character of the area, protect the amenity of residents and encourage housing affordability, subject to conditions.
- 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 development will not adversely impact the heritage qualities of the heritage conservation area.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

Background:

This addendum report is prepared in response to the amended architectural drawings prepared by Aleksander Projects, received by Council on 18 April 2019. A heritage response report prepared by Zoltan Kovacs Architect, dated 28 March 2019 was also received by Council 18 April 2019.

The proposal for the demolition of the existing building and construction of four storey residential flat building, with basement parking has been amended in response to a number of issues raised by Council and the Design Review Panel.

Demolition of the existing building has been addressed within the previous memorandum dated 14 March 2019.

With regard to the proposed new residential flat building, Council's previous heritage comments included the following recommendation:

The front setback of levels 2 and 3 on the northern half of the building be increased to match the front setback line of the southern side to reduce the visual dominance of the building, ensure consistency with the predominant scale of the adjacent buildings within the conservation area, and retain existing views to the conservation area and nearby heritage item in accordance with Part B, Sections 1.10, 2.2, 2.3 and 2.4 of the Randwick DCP 2013.

The amended proposal includes a number of modifications to the setbacks from the front boundary line at levels 2 and 3. Modifications include (but are not limited to):

- *Level 2 front balconies will retain a setback of 3.5m.*
- *Increase in setback of the balcony on Level 3 from front boundary on the northern side of the building, and an increase in front setback of balcony on the southern portion of the building.*
- *Setback of Level 3 (to the eastern edge of the roof awning and blade walls) from the front boundary line on the northern side, and a decrease in setback on the southern side.*
- *The balcony to level 3 on the northern side is supported by wide solid rendered masonry pillars which form a roof structure over the second floor balcony.*
- *The proposal retains the blade walls which run vertically through the façade, and includes minor setbacks. The northern blade wall has been modified to align with the neighbouring residential building to the north (no. 44) and as recommended by the DRP.*
- *Alterations to the rear ground floor elevation and access and rear side setbacks.*

Relevant Controls:

As previously indicated, the following heritage controls apply to the site.

Randwick LEP 2012 - Clause 5.10 Heritage conservation

(1) Objectives; (2) Requirements for consent; (4) Effect of a proposed development in heritage significance; and (5) Heritage assessment.

The site is not listed as a heritage item, however it does fall within the St Marks Heritage Conservation Area identified within Schedule 5 of the Randwick LEP 2012 (C18). The site is also located within the vicinity of a local heritage listed item identified as:

- *Victorian Italianate residence, 54 Dutruc Street, Randwick (HI 362).*

The NSW State Heritage Register provides the following Statement of Significance for the site:

*'Excellent example of Boom Style architecture. Considerable streetscape potential on prominent corner in historic St. Marks Precinct.'*¹

Randwick DCP 2013 - Section B2 of the Randwick DCP 2013 applies to the proposal, and the following sections are particularly relevant: 1.9 Demolition, 1.10 Infill buildings, 2.1 Heritage items and Heritage Conservation Areas, 2.2 Design and character, 2.3 Scale and Form, 2.4 Siting and Setbacks, 2.5 Detailing, 2.6 Materials, Finishes and Colour Schemes.

St Mark's Conservation Area is recognised as having aesthetic, historic, scientific and social significance. Section 4.18.1 of the DCP makes particular reference to the 'recently restored house on the pivotal corner of Rae and Dutruc Streets has become something of a landmark, and is an outstanding example of a Late Victorian villa'². It also recognises that there is a notable view south along Dutruc Street to the Brigidine Convent on the other side of the Coogee Valley.

Comment:

It was highlighted within the previous memorandum that the subject site lies on the northern edge of (and wholly within) the St Marks Conservation Area and provides a visual transition from the higher density built forms existing outside the conservation area to the Victorian terraces and heritage item to the south.

The amended proposal continues to provide a four storey residential flat building with basement parking of contemporary design which incorporates a flat roof, articulated frontage to Dutruc Street, and floor levels visually corresponding to the horizontal lines of the adjacent Victorian terraces.

While the amended proposal includes a number of modifications to the setbacks from the front boundary line, these are marginal changes, and the resulting scale and form is still considered to be inconsistent with the scale and form of the existing streetscape and character of the conservation area to the south, including the adjacent two storey Victorian terraces, and nearby heritage item.

The amended front setbacks at the upper levels will partially reduce the visual bulk at the upper level, however, the setback to the northern portion of the building is only marginal, and the amended scheme now involves a decreased front setback to its southern portion. As a result, the proposal continues to visually dominate at the upper levels and this is further enhanced with the protruding blade walls and roof awnings to the front elevation at level 3.

In addition, the front balcony to Level 3 on the northern portion of the building is supported by solid wide rendered posts which contribute to the bulk of the building at level 2, and would interrupt streetscape views towards the conservation area. As such, the proposal in its current form is not considered to respect the scale and character of the conservation area, nor conserve existing views along Dutruc Street towards the conservation area, and heritage item further south.

Notwithstanding the above, the construction of a new residential flat building on the site is supported in principal, and it is recommended that the design be further amended to reduce its visual dominance, sit more cohesively with the heritage character of the adjacent buildings to the south and allow for conservation of views looking south along the street. It is recommended that the entire upper floor level be deleted and an alternate design such as habitable roof space shall be implemented. In addition, it is also recommended that the protruding blade walls be removed or reduced to sit flush with the front building line.

The amended proposal also includes some modifications to the rear including an increased side setback to the southern side at rear, and addition of side setback to northern side, as well as an extended roof awning at ground level and the addition of access to communal space from Wood Lane. The proposed modifications at the rear would retain existing views appreciated from the northern end of Wood Lane and it is considered the proposal would have a neutral effect on the significance of the streetscape character of Wood Lane and setbacks would continue to be consistent with the main rear building lines of adjacent buildings.

¹ NSW State Heritage Register, 10 September 2018

² Randwick DCP 2013

Should the application be approved, it is recommended that the design changes are approved by Council prior to the issue of a construction certificate.

Recommendation:

The following conditions should be included on any consent:

- *The approved plans and documents must be amended in accordance with the following requirements:*
 - *The upper floor levels be deleted to reduce the visual bulk and appearance;*
 - *The roof/awning structure including the supporting posts to the eastern balcony at Level 2 shall be deleted and an awning having a maximum depth of 500mm (measured from the eastern façade) shall be provided.*

The revised drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

- *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 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 colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building. 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 Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

Assessing Officer's Comment: The Heritage Officer's concerns are noted, with the upper level also resulting in a variation to wall height and ceiling height controls. The recommended conditions have been included.

1.2. Design Excellence Panel

It is noted that the DEP comments below are based on the original submitted drawings. The revised drawings were not referred back to the DEP given the concerns raised by the DEP were adequately addressed. Planning comments are provided below where necessary.

INTRODUCTION

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.

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.

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

The DA submission proposes demolition of the existing dwelling houses, and construction of a three-storey residential flat building, comprising of four units, including two affordable housing units.

Panel members are familiar with the site and the surrounding area. The architect for this project is Aleksandar Projects Architects.

Principle 1: Context and Neighbourhood Context

The site lies on the western side of Dutruc Street between Rae Street to the south and Chapel Street to the north. The area is well serviced by local shops, schools, recreational facilities, and a bus service.

Principle 2: Scale and Built Form

The bonus density allowed by the ARH without associated height and setback bonuses, puts pressure on the amenity of sites in transition such as this.

Understanding the issues created by the bonus, the Panel applauds the acknowledgement of the rear setback line between the built form of No. 44, and No. 48, by the stepping western façade, providing sufficient solar access to the rear garden of No. 48.

The zero-setback line, which runs for approximately 13.7 metres of the northern boundary is not acceptable to the Panel. If the recessed garden between bed two and bed three is dimensioned as a minimum of 2.4 metres x 3.9 metres, and the setbacks of the family room and living/dining room are dimensions as a minimum of 0.9 metres, zero setback for bed two and bed three maybe acceptable.

Side setbacks to the southern boundary vary from 0m to approximately 900mm. The Panel sees some justification for 0m setback here (allowing for tolerances and buildability). This isolated lightwell should however be open to the west at a minimum of 900mm setback for light and ventilation.

Assessing Officer's Comment: The garden between bed 2 and 3 was marginally increased from 3.9 to 3.95m, however this in conjunction with the increased side setback to the western portion of the building sufficiently articulates the façade with no wall exceeding 12m in length in accordance with the RDCP, which is acceptable.

This slot to the south should have a minimum setback of 2 metres on level three for the length of bed one and it's ensuite to reduce the scale of the southern wall from the attic bedroom of No. 48.

Assessing Officer's Comment: 48 Dutruc Street is not provided with north-facing windows. Notwithstanding, the increased setback was provided, which will assist in natural light and ventilation.

The Panel would like to see the living room and balconies facing Dutruc Street reversed with the balcony oriented to the north and east, and the northern living room doors opening onto the balcony.

Assessing Officer's Comment: This has been incorporated.

The fin wall to the north of the new balcony position, should not project further forward in the main body of the building on No. 44. This should be possible to achieve whilst maintaining the relationship and form to No. 48. Details At 1:20 scale of the wall paneling with brick inserts and metal panels, and 800 metre deep planters on the ground floor should be shown in the DA drawings.

Assessing Officer's Comment: This has been incorporated, with the fin walls now behind the front building line of 44 Dutruc Street. Notwithstanding, conditions are recommended by Council's Heritage Planner to further reduce the bulk of these walls and to delete the upper level unit.

The detail of the waterproof junction between the proposed building and the northern wall of No. 48 should be shown.

Drawings:

- *On drawing DA 14 DR neighbour on accurately including the attic bedroom windows.*
- *The streetscape elevations are missing lines and need to be corrected.*
- *The Panel did not see your survey drawing of the existing and could not confirm compliance with height.*
- *Show the existing ground line, wall hard-lined, and overall height on wall elevations and sections.*
- *Show all structural columns in the basement.*
- *Is there a requirement for visitor parking? Show vehicle turning circles in the basement.*

Assessing Officer's Comment: Sufficient details were provided as part of the amended drawings for DA assessment.

Principle 3: Density

The density proposed for this site by use of the ARHS SEPP bonus, without other compromises in controls is not supported by the Panel. In this case the compromise is zero setbacks to both sides. See comments above.

The services cupboard to the north of the lift on ground floor should be counted as floorspace.

Assessing Officer's Comment: FSR complies with the bonus afforded by the ARH SEPP. Subject to a condition to delete the upper level, the FSR will be far less than the maximum afforded by the bonus. According to the applicant, the services cupboard is associated with the mechanical services of the elevator and stair pressurization, which is excluded from the definition of GFA pursuant to the RLEP.

Principle 4: Sustainability

Key considerations

- *All bathrooms and bed/living rooms on external walls including the main bathroom 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.*
- *Awning windows provide poor ventilation options. Louvres should be considered.*
- *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 are shown on the plans and no air conditioning is shown. The Panel supports this approach.*

- *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.*
- *The skylights to apartment 6 bring natural daylight, and northern winter sun should ideally be pop-ups with vertical louvres.*
- *Natural ventilation solutions should be clearly documented, and in accord with the architectural solutions.*
- *Window types and operation to accommodate different weather conditions, and allow occupants a variety of ventilation options whilst maintaining security.*
- *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.*

Assessing Officer's Comment: All rooms including bathrooms are provided with operable windows. Awnings are not proposed. Sufficient sun shading is provided to main living areas via balconies. Other details are not necessary for DA approval and will be detailed for Construction Certificate stage.

Principle 5: Landscape

The Panel requested that the applicant investigate whether all northern planters could achieve more depth by resurfacing down into the parking garage. As part of this investigation the applicant should demonstrate why unit three and four garages can't move south and allow deep soil for the 900 slot to the north of the front sections of the ground floor apartment.

Assessing Officer's Comment: The proposal complies with deep soil landscaping requirements, and Council's Landscape Officer has assessed the development and recommends approval subject to conditions.

The proposal should comply with communal open-space and ensure that communal open-space is accessible down the southern elevation from the vertical circulation.

Assessing Officer's Comment: Communal open space has been incorporated as part of the rear garden and is accessible down the southern elevation.

Principle 6: Amenity

These large affordable housing units may have young children. Communal open-space for external play should be provided on the site.

Principle 7: Safety

The front door and lift are visible from the entry pass and this is supported.

Principle 8: Housing Diversity and Social Interaction

The applicant should justify the demand for a four bedroom apartment (three bedrooms plus a family room that can be used as a bedroom) as affordable housing in the application.

Assessing Officer's Comment: The ARH SEPP does not dictate maximum number of bedrooms. Conditions are recommended to enforce the use of these units as ARH for a minimum of 10 years.

Principle 9: Aesthetics

The forms and modulation of the building is strong and helped by the variation in the design of the planters. The language relies on the horizontal louvres shown on elevations, however, all the sections do not allow for these louvres to exist. The detail of the head of the louvre needs to be shown.

Assessing Officer's Comment: No louvers are proposed. Sufficient details were submitted for DA assessment.

Photomontages from the east should be shown with the trees shown, and with the trees turned off to make the drawings useful during assessment.

The nature of the metal panels to the northern elevation should be detailed. The colour and texture of the brickwork should be shown.

Assessing Officer's Comment: Sufficient details were submitted for DA assessment. Council's Heritage Planner has recommended a condition so that a revised colours and materials schedule is submitted to Council for approval prior to the issue of a Construction Certificate.

SUMMARY AND RECOMMENDATIONS

The rear setback has been set to preserve solar access to the rear garden of No. 48 Dutruc Street. The east facade reduces in scale to acknowledge the form of the east facade of No. 48 Dutruc Street. The aesthetics are generally supported.

With the above points and the modifications as requested by the Panel, including the depth of the planting in mind, the Panel is supporting minor noncompliance with side setbacks.

Assessing Officer's Comment: Side setbacks are assessed on merit given the lot width is <12m. The side setbacks are supported (refer to Key Issues and Appendix 4).

1.3. Development Engineer / Landscape Officer

Amended plans have been received that include a reduction in floor area, reconfiguration of basement storage, front and rear balconies and internal layout, provision of additional bedroom for unit 3, changes to windows, increase front/rear setbacks and provision of communal open space at rear.

Original proposal: Demolition of existing structures, construction of part 3/part 4 storey residential flat building with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, landscaping and associated works.

This report is based on the following plans and documentation:

- Architectural Plans by Aleksandar projects sheets DA01-24 Rev B dated 8/4/2019;
- Amended Statement of Environmental Effects by ABC Planning dated April 2019;
- Detail & Level Survey by Benchmark Surveys dated 28/11/2017;
- Traffic and Parking Report by traffix dated 12th December 2018;
- Geotechnical Report by STS Geoenvironmental Pty Ltd dated Nov 2018;
- Landscape Plans by Canvas Landscape Architects, dgw's DA-L01 – 02, rev B, dated 12/04/19.

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 Dutruc Street.
- ii. Directly into Council's underground drainage system located in street via a new and/or existing kerb inlet pit; or

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

Parking Comments

Parking Requirements for the future development have been assessed as per the following applicable parking rates specified in SEPP Affordable Housing for Infill Housing.

- 0.5 space per 1 bedroom unit
- 1 spaces per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit

The development comprises of 3 x 4 bedroom units + 1 x 3 bedroom unit

Parking required under SEPP = 4 x 1.5
= 6 spaces

Parking proposed = 8 spaces (complies)

The SEPP is silent on the provision of visitor parking however under the DCP one space would be required for visitor parking, which has not been provided.

Given there is a 2 space surplus on the amount of vehicle parking which is accessed from the rear lane (Wood St) the non-provision of a visitor carspace is acceptable in this instance.

On-street parking is available on Dutruc Street (be it in high demand) however the application is not proposing any removal of on-street parking which was an issue with a previous DA on the site.

Motorbike Parking

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

Motorbike Parking Required = 0.05 x 6
= 0.3

Motorbike Parking is not required as the DCP requirement amounts to 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 = 4/2 + 4/10
= 2.4
= 2 spaces

Bicycle Parking proposed = 2 spaces

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.

The layout is not ideal as some of the spaces will require some point turns to enter and exit however given the low number of dwellings and the excess aisle width, the carpark will be able to function satisfactorily.

Access Driveway

The access driveway does not comply with the requirements of AS 2890 in that the driveway exceeds a grade of 1 in 20 for the first 6m. As the access driveway exits onto a laneway with little pedestrian and vehicular traffic a variation is supportable in this instance however to minimize the

potential for scraping the access driveway design shall be amended so that the first 2.5m does not exceed a maximum of 1 in 10 (10%). This has been conditioned in this report.

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 = 2 each

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 1 x 240L bins also be provided for green waste.

*Number of BINS required = 2(normal) + 2(recycling) + 1(green waste)
= 5 x 240L BINS*

Number of BINS proposed = 5 x 240L BINS (complies)

Comments on Waste Bin Collection

The assessing officer is advised that Council bin collection is not available from Wood Lane at the rear of the site as Council collection vehicles are unable to make the tight right angle bend in Wood Lane. Hence waste bins must be presented to Dutruc Street for collection.

The location of the bin presentation area in the basement does not easily facilitate this as there is only direct access from Wood Lane available. Bins must therefore be transported via the lift or up a set of stairs to Dutruc Street. This is feasible although direct access is always preferred.

Geotechnical Comments

Although no ground water was encountered in the geotechnical investigation it was observed that soil at the soil/rock interfaced was observed to be "very moist". Some seepage flows would therefore be expected along the top of soil rock interface especially after periods of wet weather. Excavation for the basement will intersect with this interface.

Any Seepage water and subsoil drainage must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system. Suitable condition in relation to the management of seepage water have been included in this report.

Tree Management Comments

*The inspection of 22 August 2019 confirmed two trees on the Dutruc Street verge, being a 5m x 5m *Acmena smithii* (Lilly Pilly) just past the southern site boundary, whose northern aspect overhangs partially in front of the subject site, then a slightly larger *Tristaniopsis laurina* (Watergum), towards the northern site boundary.*

Both are native species that are covered by the DCP and contribute to the streetscape, with their retention to assist with integration of this development into the street and area, and as access during both construction and upon completion will be gained solely from the rear, Wood Lane, this will be possible, with relevant protection measures and a bond imposed.

*The two *Salix chilensis* 'Fastigiata' (Willows) in the front setback, around the northeast site corner, are in very poor condition, and as they are also an undesirable species, which are exempt from Council's DCP, can be removed, even irrespective of this application, to allow for the works and more desirable landscape treatment to be provided in this same area as shown.*

*Similarly, in the rear setback, the only established vegetation is a mature, 10m tall *Cupressus sempervirens* (Italian Cypress) along the southern site boundary, which while performing a partial screening function between this area of private open space and the adjoining two story dwelling, is also a low value exotic species, and as major works associated with all levels and aspects of the development will be performed in this same area, no objections are raised to its removal, as has been shown, with the same also applying to the *Privet* immediately to its west, as well as the *Cocos Palm* adjacent the northwest corner of the existing dwelling.*

The various other smaller shrubs throughout this rear portion are all insignificant, so can also be removed, with those shrubs on higher ground, on the adjoining private property to the north, no.44, adjacent the garage within the subject site not to be affected by the new boundary masonry wall given their small size.

Appendix 2: Compliance with the ARH SEPP for the Infill Affordable Housing

PART 2 – NEW AFFORDABLE RENTAL HOUSING Division 1 – In-fill Affordable Housing			
Clause	Control	Proposal	Compliance
Clause 10 - Development to which Division applies	<p>(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</p> <p>(a) the development concerned is permitted with consent under another environmental planning instrument, and</p> <p>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i>.</p> <p>(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</p>	<p>The proposed RFB is permitted with consent in the R3 Medium Density Residential zone.</p> <p>The site does not contain a heritage item.</p> <p>The site is within an accessible location as a bus stops is located within 400m of the site.</p>	Complies
Clause 13 - Floor space ratios	<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p> <p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher.</p>	<p>The total proposed GFA = 583m². Total affordable housing GFA = 307m², which is 52.6% of the total GFA. It is noted that due to impacts upon the heritage conservation area, the upper level (unit 4) is recommended to be deleted.</p> <p>The existing max permissible FSR pursuant to the RLEP is 0.9:1. As the percentage of affordable housing is >50% of the total GFA, a bonus FSR of 0.5:1 applies, being 1.4:1 (583.52m²). The proposed FSR = 1.39:1. Notwithstanding, the FSR would be reduced to 1.08:1 (452.3m²), which represent approximately 0.18:1 bonus as a result of the deletion of Unit 4 and therefore only one dwelling (either Unit 2 or</p>	Complies

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		3) is needed to be dedicated as affordable dwelling.	
Clause 14 - Standards that cannot be used to refuse consent	<p>(1) Site and solar access Requirements A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) (Repealed)</p> <p>(b) site area if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	The site area is 416.8m ² , however the site is suitably sized to accommodate the proposed development (refer to discussion as part of Section 6).	Site area does not comply, however the site is suitably sized.
	<p>(c) landscaped area if:</p> <p>(i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii) in any other case—at least 30 per cent of the site area is to be landscaped,</p>	<p>The Standard Instrument defines landscaped area as <i>part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i></p> <p>The development application is not made by a social housing provider. The proposed landscaped area is approximately 30.7% (128m²).</p>	Complies
	<p>(d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:</p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>	The proposed deep soil zone is 15.1% (63m ²) with two thirds located at the rear.	Complies
	<p>(e) solar access if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>As proposed, 75% of units comply with solar access requirements:</p> <ul style="list-style-type: none"> Unit 1 = 3 hours to rear living and 6 hours to front and rear POS. 	Complies as proposed.

		<ul style="list-style-type: none"> Unit 2 = 5 hours to front and rear living and 1 hour to front POS. It is noted that the secondary POS at the rear of Unit 2 is not supported (refer to Key Issues). Unit 3 = 5 hours to front living and 3 hours to front POS. Unit 4 = 6 hours to front living and 5 hours to front POS. <p>Subject to a condition to delete unit 4 due to heritage impacts, 2 out of 3 units will comply (66%). However, this is acceptable noting only the POS for unit 2 does not comply and the communal open space will receive >3 hours solar access.</p>	
	<p>(2) General A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) parking if:</p> <p>(i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p>	<p>All units have 3 or more bedrooms, therefore 6 car parking spaces are required. 8 spaces are provided.</p>	Complies

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	<p>(b) dwelling size if each dwelling has a gross floor area of at least:</p> <ul style="list-style-type: none"> (i) 35 square metres in the case of a bedsitter or studio, or (ii) 50 square metres in the case of a dwelling having 1 bedroom, or (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms. 	<p>All units are provided with 3 or more bedrooms:</p> <ul style="list-style-type: none"> • Unit 1 = 146m² • Unit 2 = 153m² • Unit 3 = 154m² • Unit 4 = 130m² 	Complies
	(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted. The only non-compliance related to lot size and despite this, the consent authority may consent to the development.	Noted
Clause 16 - Continued application of SEPP 65	Nothing in this Policy affects the application of <i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> to any development to which this Division applies.	Noted. SEPP 65 applies to the development as proposed and an assessment is carried out against SEPP 65 below.	Noted.
Clause 16A - 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 amended development is considered to be compatible with the character of the local area. Refer to detailed discussion as part of Section 6.	Complies
Clause 17 - Must be used for affordable housing for 10 years	<p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</p> <ul style="list-style-type: none"> (a) for 10 years from the date of the issue of the occupation certificate: <ul style="list-style-type: none"> (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (j) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property 	Conditions will ensure compliance with this part.	Complies subject to conditions.

	on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i> , that will ensure that the requirements of paragraph (a) are met.		
Clause 18 - Subdivision	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	Subdivision is not proposed.	N/A

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Appendix 3: Compliance with ADG Design Criteria

Apartment Design Guide – Compliance Table								
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 (104.2m²).</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 9am and 3pm on 21 June (mid-winter).</p>	42m ² communal open space is provided that will receive at least 2 hours direct sunlight.	Does not comply. Refer to Key Issues section.						
<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>Less than 6500m²</td><td>-</td><td>7% (29.1m²)</td></tr> </tbody> </table>	Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	Less than 6500m ²	-	7% (29.1m ²)	63m ² (15%) deep soil provided.	Complies
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)						
Less than 6500m ²	-	7% (29.1m 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> <table border="1"> <thead> <tr> <th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Setbacks of windows to side boundaries are between 1m and 2.5m.	Does not comply. Refer to Key Issues section.
Building Height	Habitable Rooms and Balconies	Non-habitable rooms						
Up to 12m (4 storeys)	6m	3m						
<p><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.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<ul style="list-style-type: none"> Unit 1 = 3 hours to rear living and 6 hours to front and rear POS. Unit 2 = 5 hours to front and rear living and 1 hour to front POS. It is noted that the secondary POS at the rear of Unit 2 is not supported (refer to Key Issues). Unit 3 = 5 hours to front living and 3 hours to front POS. Unit 4 = 6 hours to front living and 5 hours to front POS. <p>Based on the submitted shadow diagrams (and in conjunction with a condition to delete the rear POS for unit 2 – refer to Key issues), only unit 2 will receive less than 2 hours solar access (1 hour) to the POS. Therefore 75% of units will receive compliant solar access, which complies as proposed.</p> <p>Subject to a condition to delete unit 4 due to heritage impacts, 2 out of 3</p>	Complies as proposed.						

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
	units will comply (66%). However, this is acceptable noting only the POS for unit 2 does not comply and the communal open space will receive >3 hours solar access. All units will receive some solar access.	
<p><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</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> <p>Cross-over apartment <i>cross ventilating apartment with two opposite aspects and with a change in level between one side of the building and the other</i></p> <p>Cross-through apartment <i>cross ventilating apartment on one level with two opposite aspects</i></p>	<p>All apartments (100%) are naturally cross ventilated.</p> <p>All units are cross-through apartments. Units 4 and 5 are cross-through apartments with a depth of approximately 22m. The minor variation is supported however noting that 1 unit is proposed per floor with multiple aspects and therefore, good ventilation is achieved.</p>	<p>Complies</p> <p>Does not comply, however minor variation supported.</p>
<p><u>Ceiling Height</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable rooms – 2.4m 	<p>Each unit is provided with 2.7m ceiling heights, however this is from the top of the lower slab to the bottom of the upper slab and therefore does not provide adequate room for a ceiling and services. It is considered that a minimum 3.1m between floors is required, which will allow a 300mm slab, and 100mm for ceiling and services. Therefore, a condition is recommended to raise each floor to achieve 3.1m from the top of the lower slab to the top of the upper slab.</p>	<p>Complies to condition.</p>
<p><u>Apartment Layout</u> Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> Studio - 35m² 1 Bedroom - 50m² 2 Bedroom - 70m² 3 Bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m²</p>	<ul style="list-style-type: none"> Units 1 and 3 contain 4 bedrooms and 3 bathrooms. Minimum required internal area is 112m² and 146m² and 154m² proposed. Unit 2 contains 3 bedrooms and 3 bathrooms. Minimum required internal area is 100m² and 153m² proposed. Unit 4 contains 4 bedrooms and 2 bathrooms. Minimum required internal area is 107m² and 130m² 	<p>Complies</p>

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
<p>each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> 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>proposed. Notwithstanding, a condition is recommended to delete this unit due to heritage impacts.</p> <p>All habitable rooms have windows that comply with the requirements of the ADG.</p> <p>All bedrooms and living rooms comply with minimum dimensions.</p> <p>Each cross-through unit has a width exceeding 4m.</p>	
<p><u>Environmental Performance</u></p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Depth of habitable rooms (other than open plan rooms) do not exceed 2.5 x the ceiling height. Open plan rooms combining living, dining and kitchen have a maximum living room depth less than 8m from a window.</p>	Complies
<p><u>Open Space</u></p> <p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> 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>All units are provided with open space that exceeds minimum requirements.</p>	Complies
<p><u>Common Circulation Space</u></p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>1 unit per floor is proposed and the building is less than 10 storeys.</p>	Complies
<p><u>Storage</u></p> <p>In addition to storage in kitchens, bathrooms</p>	<p>Compliant storage is provided for each unit as part of the basement</p>	Complies

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
and bedrooms, the following storage is provided: <ul style="list-style-type: none">• Studio - 4m³• 1 Bedroom - 6m³• 2 Bedroom - 8m³• 3 Bedroom - 10m³ At least 50% of the required storage is to be located within the apartment.	carpark and within the units (10m ³ with 50% in the basement).	

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Appendix 4: DCP Compliance Table

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

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

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

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

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

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

The relevant provisions of the DCP are addressed below.

DCP Clause	Control	Proposal	Compliance
C2	Medium Density Residential		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (208.4m ²) is to be landscaped open space.	42.2% (176m ²). The minor variation is supported noting the development complies with the ARH SEPP, which requires at least 30% landscaped area and takes precedence over the RDCP. Notwithstanding, sufficient landscaped open space is provided for recreational activities that will afford residents with good amenity.	Does not comply, however minor variation is supported.
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (104.2m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting. (ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large	15.1% (63m ²). It is noted that the ADG requires 7% deep soil. The minor variation is supported given sufficient deep soil area is provided for	Does not comply, however minor variation is supported.

DCP Clause	Control	Proposal	Compliance
	<p>trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.</p> <p>(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.</p> <p>(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.</p> <p>(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.</p>	<p>substantial vegetation, particularly within the frontage and at the rear, which will integrate well with the heritage conservation area. Stormwater will be appropriately managed (refer to Development Engineering comments at Appendix 1) with permeable surfaces provided where possible.</p>	
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <p>(i) Directly accessible from the living area of the dwelling.</p> <p>(ii) Open to a northerly aspect where possible so as to maximise solar access.</p> <p>(iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.</p> <p>For residential flat buildings:</p> <p>(vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling.</p> <p>(vii) Private open space for apartments has a minimum area of 8m² and a minimum dimension of 2m.</p>	<p>POS complies with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).</p>	<p>Complies with ADG.</p>
2.3.2	Communal open space		
	<p>Communal open space for residential flat building is to be:</p> <p>(a) Of a sufficient contiguous area, and not divided up for allocation to individual units.</p> <p>(b) Designed for passive surveillance.</p> <p>(c) Well oriented with a preferred northerly aspect to maximise solar access.</p> <p>(d) adequately landscaped for privacy screening and visual amenity.</p> <p>(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.</p>	<p>Communal open space is provided at the rear of the site and will receive > 2 hours direct sunlight. A mixture of soft and hard landscaping is provided, which can be used for a variety of passive recreation activities.</p>	<p>Complies</p>

DCP Clause	Control	Proposal	Compliance
3	Building Envelope		
3.1	Floor space ratio		
	1.4:1 required by the LEP and ARH SEPP.	1.39:1 proposed.	Complies
3.2	Building height		
	12m required by the LEP.	11.9m proposed.	Complies
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.	Building / apartment depths comply with the objectives of the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with ADG.
3.4	Setbacks		
3.4.1	Front setback (i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	The prevailing setback line along the street is 3.5m. The proposed setback is 3.75m to the front-facing balconies, which is consistent with the group of buildings to the south that are part of the heritage conservation area.	Complies
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: <ul style="list-style-type: none">- Lots with a site frontage width less than 12m: merit assessment (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:	The site frontage width is 10.8m, and therefore a merit assessment applies (refer to Key Issues section).	Complies, refer to Key Issues section.

DCP Clause	Control	Proposal	Compliance
	<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. 		
	(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.	A standard condition will ensure compliance with the BCA is achieved.	Complies
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% (5.9m) of allotment depth or 5m, whichever is the greater.	9.3m	Complies
4	Building Design		
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. 	<p>The front façade is well articulated and will present well to the street and surrounding properties with balconies, recessed and projecting architectural elements and a change in building materials that are appropriate for the heritage conservation area.</p> <p>Subject to a condition to delete the third floor, there will be no walls as part of the northern façade that exceeds 10m in length.</p>	<p>Complies.</p> <p>Does not comply, however minor variation is supported.</p>

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DCP Clause	Control	Proposal	Compliance
		Despite the recommended condition to delete the southern walls of the rear-facing balconies, a portion of the southern façade will still exceed 10m (11.8m at the first and second floors). The minor variation is supported given the southern neighbouring property does not contain north-facing windows, and the rear setback exceeds minimum requirements and therefore, adverse amenity impacts to the rear POS of the southern property will not occur, subject to conditions.	
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</p>	<p>It is noted that a condition is recommended to delete the third floor due to heritage impacts. The resulting flat roof will minimise bulk and scale providing a suitable transition between the neighbouring 4 storey RFB to the north and 2 storey semi-detached dwellings to the south.</p> <p>The top floor unit is provided with glazing and skylights that is sympathetic to the building and street, therefore good natural light will be achieved.</p> <p>A condition is recommended to</p>	<p>Complies</p> <p>Complies.</p>

DCP Clause	Control	Proposal	Compliance
	<p>stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>ensure compliance with this part.</p> <p>None proposed.</p> <p>None proposed.</p>	<p>Complies subject to condition.</p> <p>N/A</p> <p>N/A</p>
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. 	None proposed.	N/A

DCP Clause	Control	Proposal	Compliance
	- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.		
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.	The external wall height is 11.9m on the southern elevation, and 11.7m on the northern elevation.	Does not comply. Refer to Key Issues Section.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	A condition is recommended to ensure compliance with this part.	Complies subject to condition.
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Pedestrian pathways and vehicular access is clearly distinguished.	Complies
	(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 than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the	<p>The building entries at the front and rear relate well to the pedestrian access network and are clearly defined.</p> <p>The front-facing unit to Dutruc Street is provided with separate access.</p> <p>Mailboxes are provided as part of a blade wall fronting Dutruc Street that are adjacent to the pedestrian access and at 90 degrees.</p> <p>The principal building entrance from Dutruc Street is provided with weather protection from the first floor above.</p>	Complies

DCP Clause	Control	Proposal	Compliance
	appearance of the development from the street.		
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <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. 	Building circulation requirements are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with the ADG.
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	2 pedestrian access cores are provided from Dutruc Street, and 1 access core from Wood Lane. 1 dwelling per floor is proposed.	Complies
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	Apartment layouts are not provided off a double-loaded corridor.	N/A
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	Apartment layouts are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3). Notwithstanding, all apartments have dual aspects and are naturally cross ventilated and provided with adequate natural light.	Complies with the ADG.
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.		

DCP Clause	Control	Proposal	Compliance
	(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.	All apartments are provided with compliant POS that complies with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with the ADG.
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. (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.	All apartments are provided with compliant POS that complies with the ADG, which takes precedence over the RDCP for this development standard (refer to Appendix 3).	Complies with the ADG.
4.9	Colours, materials and finishes		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <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 	Council's Heritage Planner has recommended a condition for a revised colours and materials schedule to be submitted to Council for approval prior to the issue of a Construction Certificate.	Complies, subject to conditions.

DCP Clause	Control	Proposal	Compliance
	(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.	Other than the basement, excavation and backfilling is less than 1m.	Complies.
	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 retaining walls are proposed.	Complies
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		

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DCP Clause	Control	Proposal	Compliance
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June. (ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	Apartments will receive adequate direct solar access that complies with the objectives of the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with the objectives of the ADG.
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	No single aspect apartments are proposed.	Complies
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	N/A	N/A
Solar access for surrounding development			
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	Based on the submitted shadow diagrams, additional overshadowing will occur to neighbouring properties to the south, however compliance with the standard is still achieved.	Complies – refer to Key Issues section above.
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.	All habitable rooms are provided with natural daylight via windows.	Complies
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Appropriate sun shading devices have been provided.	Complies
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	All habitable rooms are provided with window openings to outdoor areas.	Complies
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms.	All habitable rooms are capable of natural ventilation.	Complies

DCP Clause	Control	Proposal	Compliance
	Mechanical ventilation must not be the sole means of ventilation to habitable rooms.		
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	All apartments (100%) are cross-ventilated.	Complies
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	All kitchens (100%) have access to natural ventilation.	Complies
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	N/A	N/A
5.3	Visual privacy		
	(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 - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	Visual privacy is provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with the ADG subject to conditions.
5.4	Acoustic privacy		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.	Acoustic privacy will be achieved within the apartments due to	Complies

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DCP Clause	Control	Proposal	Compliance
	(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 	separation of quiet areas from noisy areas.	
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.	View sharing will be reasonably maintained given the development complies with key development standards related to building height and FSR. Loss of key iconic views or views with a clear land and water interface will not occur noting properties to the west are two storeys and properties to the north will maintain views to the east and south-east.	Complies
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Entry points to the building can be appropriately secured and will have clear lines of site.	Complies
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Direct, secure access is provided.	Complies

DCP Clause	Control	Proposal	Compliance
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	All apartments are provided with openable habitable room windows that are capable of being secured.	Complies
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No obstruction to lines of sight is proposed.	Complies
	(vi) Resident car parking areas must be equipped with security grilles or doors.	A security door to the basement access is proposed.	Complies
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Casual surveillance will be achieved to the street and communal areas from living rooms and private open spaces.	Complies.
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Access to the basement car park is proposed from Wood Lane.	Complies
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The driveway length is minimised and compliant deep soil landscaping / sufficient permeable surfaces are provided.	Complies.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	A portion of the driveway has a nil northern side boundary setback. The minor variation is supported given landscaping is	Does not comply, however minor variation is supported.

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DCP Clause	Control	Proposal	Compliance
		provided either side of the driveway at the frontage.	
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	Entry to the basement is setback 7.6m from Wood Lane.	Complies
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Parking is proposed within the basement.	Complies
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.	Vehicles will be able to enter and exit the site in a forward direction.	Complies
	(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.	The maximum driveway width is 4m.	Complies
	(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.	The proposed basement complies with the development standard.	Complies

DCP Clause	Control	Proposal	Compliance
	(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7	Fencing and Ancillary Development		
7.1	Fencing		
	(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.	No side fencing is proposed. Front and rear fencing is proposed comprising rendered blockwork and open slats.	Complies
7.2	Front Fencing		

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DCP Clause	Control	Proposal	Compliance
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</p> <p>(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.</p> <p>(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios:</p> <ul style="list-style-type: none"> - 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. <p>Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p> <p>(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.</p> <p>(vi) The preferred materials for front fences are natural stone, face bricks and timber.</p> <p>(vii) Gates must not open over public land.</p> <p>(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.</p>	<p>A 1.8m high front fence is proposed to Dutruc Street. The solid portion is up to 1m above the footpath, however this is only for a small section, which reduces to the north. The slats above are substantially open and evenly distributed. A standard condition is recommended to ensure that the non-solid portion comprises light-weight materials that are at least 30% open and evenly distributed.</p>	Complies subject to condition.
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</p>	<p>No side fencing is proposed. A 1.8m high rear fence is proposed to Wood Lane. The solid portion is up to 1m above the footpath, however reduces to the north. The slats above are substantially open and evenly distributed. A</p>	Complies subject to condition.

DCP Clause	Control	Proposal	Compliance
	<p>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>	standard condition is recommended to ensure that the non-solid portion comprises light-weight materials that are at least 30% open and evenly distributed.	
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 – 10m³</p>	Storage is provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3).	Complies with ADG.
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Sufficient area is available as part of the compliant POS for clothes drying facilities that is provided as part of the front facing balconies for units 2, 3 and 4, and rear-facing POS for unit 1.	Complies
	(ii) Provide internal laundry for each dwelling unit.	Each unit is provided with an internal laundry.	Complies
	(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.	Sufficient area is available as part of the compliant POS.	Complies

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DCP Clause	Control	Proposal	Compliance
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. 	A condition is recommended to ensure compliance with this part.	Complies subject to condition.

Attachment/s:

1. Dev Consent Conditions (med density res) - DA/948/2018 - 46 Dutruc Street, Randwick

Responsible officer

William Jones, Senior Environmental Planning Officer

File Reference: DA/948/2018

Development Consent Conditions (Medium density residential)



D48/19

Folder /DA No:	DA/948/2018
Property:	46 Dutruc Street, RANDWICK NSW 2031
Proposal:	Demolition of existing structures, construction of a 4 storey residential flat building with 4 dwellings including 2 affordable housing units, basement carparking for 8 cars, storage, motorbike and bicycle parking, 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
DA02 Rev B	Aleksandar Projects	8 April 2019
DA03 Rev B		
DA04 Rev B		
DA05 Rev B		
DA06 Rev B		
DA07 Rev B		
DA10 Rev B		
DA11 Rev B		
DA12 Rev B		
DA13 Rev B		
DA14 Rev B		
DA15 Rev B		

BASIX Certificate No.	Dated
889140M_03	17 December 2018

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements and be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a Construction Certificate being issued for the development:
- a) The entire upper floor level shall be deleted to reduce the visual bulk and scale. The finished roof level shall not exceed RL77.68 and the overall height of the lift overrun must not exceed RL77.93.
 - b) The roof/awning structure including the supporting posts to the eastern balcony at Level 2 shall be deleted and an awning having a maximum depth of 500mm (measured from the eastern façade) shall be provided.
 - c) The west-facing awning at Level 1 shall be deleted.
 - d) The west-facing balcony at Level 1 shall be made non-trafficable and the wall provided along the southern side of the non-trafficable area shall be deleted.
 - e) The south-facing living room window to the secondary living room of unit 2 at Level 1 shall have a minimum sill height of 1.6m above floor level, or alternatively, the window shall be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this height.
 - f) The west-facing balcony at Level 2 to unit 3 shall be made non-trafficable. The wall provided along the southern side of the balcony including the garden bed shall be deleted.
 - g) All roof area shall be non-trafficable and accessed only for maintenance purposes.
 - h) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must not be readily visible from the public domain.
 - i) Control visitor entry to all units and internal common areas by intercom and remote locking systems.
 - j) Provide illumination for all building entries, pedestrian paths and communal open space.
 - k) Air conditioning units shall not be installed within window frames and if installed in balconies, screened by suitable balustrades.
 - l) A privacy screen having a height of 1.2m (measured above the FL of the balcony) shall be provided to the northern sides of the east-facing balconies at Level 1 and Level 2.

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.

- m) The non-solid portion of the front and rear fences shall comprise light-weight materials and be at least 30% open.
- n) The finished floor to floor levels between each level shall be increased to 3,100mm (measured from the top of the lower finished slab to the top of the upper finished slab of each floor) so that a minimum 2,700mm finished floor to ceiling height is achieved.

Affordable Rental Housing Component

- 3. One dwelling (either Unit 2 or Unit 3) shall be provided as affordable rental housing in accordance with the SEPP (ARH) 2009.
 - a) The selected dwelling for affordable rental housing shall be in accordance with the dwelling indicated in Plans numbered DA06 and DA07, Revision B, dated 8 April 2019 and shall also form part of the stamped approved Construction Certificate plans, a copy of which should be submitted to Council.
 - b) The dwelling to be used for the purposes of 'affordable rental housing', as per the provisions of the SEPP (ARH) 2009 shall be used as such for at least 10 years from the date of the issue of the Occupation Certificate.
 - c) The affordable rental housing component (secured for a minimum of 10 years) must be managed by a registered Community Housing Provider (CHP).
 - d) The CHP must ensure compliance with the occupant restriction and others provisions of the regulatory code established through regulations under the Housing Act 2001.
 - e) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
 - f) Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

Archival Recording

- 4. 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 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.

Validation Report / Certificate

- 5. A validation Report / Certificate from a suitably qualified Access Consultant be provided within 2 months of the completion of the proposed works that confirms and details all of the recommendations from the design certificate/report have been carried out and is in accordance with AS1428.1-2009 and the Building Code of Australia.

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 to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building.

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 Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a Construction Certificate being issued for the development

Section 7.12 Development Contributions

8. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$2,776,052 the following applicable monetary levy must be paid to Council: \$27,760.50.

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

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

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

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

9. A development compliance and enforcement fee of \$2,776.05 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

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

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

Security Deposit

11. 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*:

- \$8000 - 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

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

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

The [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

13. Prior to the issue of a Construction Certificate in connection with this development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
 - (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and;
 - (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

Landscape Plans

14. 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 Canvas Landscape Architects, dwg's DA-L01 – 02, rev B, dated 12/04/19, with both this statement and plans to be submitted to, and be approved by, the PCA/Certifying Authority.

Street Tree Protection

15. In order to ensure retention of the two trees on the Dutruc Street verge, being an *Acmena smithii* (Lilly Pilly) just past the southern site boundary, and a *Tristaniaopsis laurina* (Watergum), towards the northern site boundary in good health, the following measures are to be undertaken:
 - a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of both their trunks and canopies to be clearly and accurately shown on all plans in relation to the proposed works.
 - b) Any excavations associated with the installation of new services, pipes, stormwater systems or similar over this frontage must can only be located in line with the northern site boundary; or; an equal distance between both of their trunks, with all services plans to demonstrate compliance with this requirement.
 - c) Prior to the commencement of any site works, the trunks of both trees are to be physically protected by wrapping layers of geo-textile, carpet/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 its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.

- d) 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, DO NOT REMOVE/ENTER".
- e) 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.
- f) 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.
- g) A refundable deposit in the form of cash, credit card or cheque for an amount of \$2,000.00 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 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 trees 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.

Design Certificate / Report

- 16. A design certificate/report from a suitably qualified Access Consultant be provided to Council and the Accredited Certifier prior to the issue of a Construction Certificate detailing that the proposed works will comply with the AS1428.1-2009 and the Building Code of Australia.

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

- 17. 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).

18. 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

19. 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

20. Prior to any work being undertaken on the Site a report from a suitably qualified and experienced heritage structural engineer must be provided to the satisfaction of Council detailing the following:-
 - a) 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.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings at Nos. 48 to 54 Dutruc Street.
 - c) 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.
 - d) 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*.
 - e) 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

21. Adequate provisions are to be made to provide visibility and safety. All new walls (and/or landscaping) adjacent to the vehicular crossing 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.

22. 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.
23. The first 2.5m of the internal driveway into the property must not exceed a grade of 1 in 10 (10%). Plans submitted for the construction certificate must demonstrate compliance with this requirement.

Design Alignment levels

24. 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:

Wood Lane Frontage

- 60mm above bitumen level at a point 0.5m from edge of bitumen roadway at all points opposite along the full site frontage.

Dutruc Street Frontage

- Match the back of the existing footpath at all points opposite along the full site frontage.

The design alignment levels at the property boundary as issued by Council and their relationship to the roadway/footpath 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.

25. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$595 calculated at \$55.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage

26. 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 e.g. the nature of the soil in the site and/or the presence of rock etc.
27. 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 Dutruc Street street/road; 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),

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 20% AEP (1 in 5 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) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
 - ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- h) 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.

Site seepage

- 28. 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

29. 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.

NOTE: Waste Bin Collection is not available from Wood lane, waste bins must be presented to Dutruc St.

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

30. The garbage room shall be sized to contain a minimum of 5 x 240 litre bins (comprising 2 garbage bins, 2 recycle bins & 1 green waste) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
31. 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

32. 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

33. Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Dutruc 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.

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

34. 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

35. 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

36. A dilapidation report (incorporating photographs of relevant buildings) must be obtained from a suitably qualified and experienced heritage structural 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

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

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

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

A copy of the Construction Site Management Plan must be provided to the Principal 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

38. 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

39. 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

40. 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

41. 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 Dutruc 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.

42. 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.

43. 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

44. 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

45. 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

46. 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

47. 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

48. 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

49. 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

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

Details 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

51. 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

52. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

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

Notes:

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

Public Safety & Site Management

53. 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

54. 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

55. 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

56. 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

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

Site Seepage & Stormwater

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

Details must include the following information:

- Site plan.
- Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council's drainage system.
- Volume of water to be discharged.
- Location and size of drainage pipes.
- Duration, dates and time/s for the proposed works and disposal.

- Details of water quality and compliance with the requirements of the Protection of the Environment Act 1997.
- Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the Protection of the Environment Act 1997 and associated Regulations and Guidelines.
- Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water & Energy).
- Details of compliance with any relevant approvals and licences.

Road/Asset Opening Permit

59. 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.
- 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.
- 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).
- Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
- 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.
- Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
- 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.
- 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.
- 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.

Roadway

- 60. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Traffic Management

- 61. 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.
- 62. 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.
- 63. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

- 64. 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

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

Tree Management

- 66. Approval is granted for the removal of all vegetation within the subject so as to accommodate the works and new landscape scheme as shown, including the following:
 - a) The two *Salix chilensis* 'Fastigiata' (Willows) in the front setback, around the northeast site corner, given their very poor condition, as well as being an undesirable species, which are exempt from Council's DCP, meaning they could already be removed at anytime, irrespective of this application;
 - b) Similarly, in the rear setback, the mature *Cupressus sempervirens* (Italian Cypress) along the southern site boundary, which is also a low value, exotic species, with major works associated with all levels and aspects of the development to be performed in this same area, as well as the Privet

immediately to its west, which is an undesirable, invasive, environmental weed;

- c) The Cocos Palm also in the rear setback, adjacent the northwest corner of the existing dwelling;
- d) The various other smaller shrubs throughout this rear portion, as all are insignificant.

Pruning

- 67. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the shrubs, including the Cotoneaster, that are located on higher ground, on the adjoining private property to the north, no.44, adjacent the garage within the subject site, only where they overhang the common boundary, into the site and need to be pruned in order to avoid damage to them; or; interference with the approved works.
- 68. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of these trees, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
- 69. All pruning must be undertaken by an Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

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

- 70. 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

- 71. 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

72. 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

73. 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

74. 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

75. 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.

76. 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.

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

78. 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 on Wood Lane, to Council's specifications and requirements.
 - b) Re-Construct kerb and gutter for the full site frontage in Wood Lane except opposite the vehicular entrance, to Council's specifications and requirements.
 - c) Carry out a full depth, 1 metre wide, road construction in front of the kerb and gutter along the full site frontage in Wood lane, to Council's specifications and requirements.
 - d) Re/construct a 1.3m wide concrete footpath along the full site frontage on Dutruc St. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
79. 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.
80. 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

81. 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 issuing an Occupation Certificate.

Undergrounding of Power

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

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

Stormwater Drainage

83. 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.
84. 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):

- Finished site contours at 0.2 metre intervals;
- The location of any detention basins/tanks with finished surface/invert levels;
- Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

85. 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.

86. 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

87. 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 Plans by Canvas Landscape Architects, dwg's DA-L01 – 02, rev B, dated 12/04/19.
88. 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.
89. 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 the issue of any Occupation Certificate.

Waste Management

90. 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.
91. The waste storage areas shall be clearly signposted.

OPERATIONAL CONDITIONS

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

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

Use of parking spaces

92. 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.

Management if parking on-site

93. A *Strata Parking Management Plan* must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.

Strategies and measures may include:

- Adoption of parking by-laws;
- Installation of suitable barriers, bollards, low-height fencing and gates;
- Installation of signage and notices;
- Intercom or key card systems;
- Security systems and security personnel;
- Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management

Fire Safety Statements

94. 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

95. 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.

Stormwater Detention/Infiltration System

96. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

Residential Parking Permits

97. 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.
98. 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.

- 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 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.

A11 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.

- 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.

D48/19

Miscellaneous Report No. M3/19

Subject: **Planning Proposal for Proposed Cemetery Expansion at Bumborah Point**

Introduction

Council has received a Planning Proposal for land known as Bumborah Point, located at Bumborah Point Road, Port Botany (hereafter referred to as 'the site').

The Planning Proposal seeks to amend the Randwick Local Environmental Plan 2012 (RLEP 2012) by including 'cemetery' as an additional permitted use on the site and to accommodate the expansion of the Eastern Suburbs Memorial Park (ESMP). The RE1 Public Recreation Zone currently applying to the site remains unchanged. The proposed expansion will create approximately 3,000 additional full body burial plots in addition to space for ash interments.

This report provides an overview of the Planning Proposal, summarizes key issues that have been identified through preliminary assessment by Council officers and the proponent's response to these. This report seeks advice from the Randwick Local Planning Panel (RLPP) on the merit of the proposal. Comments received from the RLPP will be considered and incorporated into the final assessment report to Council. A site specific development control plan in accordance with Clause 6.12 under the RLEP 2012 will have to be prepared by the applicant and endorsed by Council prior to the lodgement of a DA for the site.

Background

Planning Process

The Environmental Planning and Assessment Act 1979 (EP&A Act) and Regulations set out the process for amending the zoning or planning provisions (rezoning) relating to a parcel(s) of land in NSW. Changes to the zoning or planning provisions can only be made via a formal amendment to the LEP.

The original planning proposal application was received by Council on 22 December 2017. Following Council's initial assessment a request for additional information and technical studies was made in February 2018. An amended Planning proposal was submitted in July 2018 following discussions with the applicant a final planning proposal was received by Council on 17 June 2019, which is the subject of this report.

A Planning Proposal is the first step to commence changes to the zoning or planning provisions relating to a parcel of land. It is a formal application that sets out the objectives, intended outcomes, and justification for the proposed changes, and also details the community consultation to be undertaken.

Referral to the RLPP

On 23 February 2018, the Minister gave a direction (under s9.1 of the EP&A Act) to councils with a Local Planning Panel (LPP) set up (other than City of Sydney) that all planning proposals prepared after 1 June 2018 be referred to their LPPs for advice, unless the planning proposal relates to the correction of an obvious error in the LEP, matters of minor nature or matters that will not have any significant adverse impact. Accordingly, the subject Planning Proposal is referred to the RLPP.

Report to Council

A report outlining the outcomes of the preliminary assessment including advice received from the RLPP will be presented to Council.

Gateway Determination

If Council resolves to proceed with the subject Planning Proposal, it will be forwarded to the Minister for Planning for a 'Gateway Determination'. The 'Gateway Determination' is essentially a checkpoint for planning proposals, and enables those proposals that are not well founded, or not in the public interest to be stopped early in the process, before significant resources are committed in carrying out technical studies or investigations.

The Minister's 'Gateway Determination' will stipulate whether the subject Planning Proposal should proceed, whether it needs to be resubmitted, the timeframe for its completion (usually nine months from the date of the Determination), the community consultation and State/Commonwealth agency requirements and whether a public hearing is needed.

Exhibition and Making of Amendments

Following the 'Gateway Determination', the Planning Proposal will be formally placed on public exhibition for comment. The final LEP and any accompanying maps which amend the Council's principal planning instrument (i.e. the RLEP 2012) are made by the Minister for Planning (and notified on the NSW legislation web site) in accordance with the EP&A Act. Certain LEPs which are of local significance can be finalized by Council via delegation from the Minister (this is determined at the Gateway stage).

Planning Proposals vs. Development Applications

The Planning Proposal is not seeking consent for development on the site. It is seeking Council's support to commence a planning process for an amendment to the RLEP 2012. Should the proponent wish to proceed with a development proposal (once the LEP is amended), a separate Development Application (DA) is required to be lodged for assessment under relevant planning framework.

Council resolution

A Councillor briefing was held on 4 April 2017, where the representatives from the Southern Metropolitan Cemeteries Land Manager (SMCLM) presented the cemetery expansion proposal. The La Perouse Local Aboriginal Land Council (LALC) were also present at the briefing. It should be noted that there has been a prior agreement between the SMCLM, La Perouse LALC and NSW Aboriginal Land Council in relation to the removal of Aboriginal Land Claims over Bumborah Point in exchange for future dedicated Aboriginal burial plots. Following the briefing, Council considered the matter at its meeting on 18 April 2017 and resolved to:

- a) *give its in principle support for a rezoning application of Lot 4858 at Bumborah Point for cemetery use subject to a detailed assessment of all relevant planning and environmental issues in the associated planning proposal including flora and fauna, geotechnical investigation, contamination and remediation, visual impact, public access, traffic, parking and easements, and,*
- b) *Require the creation of a foreshore buffer zone incorporating a coastal walkway.*

The Subject Site

The site (see Figure 1) is bounded by Military Road to the north, Yarra Bay to the south, Prince of Wales Drive and the Port Botany freight and logistics precinct to the west and the existing Eastern Suburbs Memorial Park (ESMP) to the east. With a total area of approximately 4.45ha, the site contains three land parcels, including a Council owned road reserve (Military Road Reserve) and two crown reserves (Lot 4858 in DP 752015 and part of Lot 7302 in DP 1139143).

The site accommodates a car park of 20 car spaces, a driveway from Military Road, an existing coastal walkway linking to the broader network and numerous informal dirt tracks. It is free of built structures and largely covered in thick scrub and weeds. The site is by traversed by a number of easements for services, including:

- Easement for Circulating Water Tunnels, Manholes and Inlets – expires 28/06/2036
- Easement for Sewerage 4.265m wide
- Easement for Services 18.29 wide
- Easement for Salt Water Intake 3.05, 4.42 & 10.73 wide

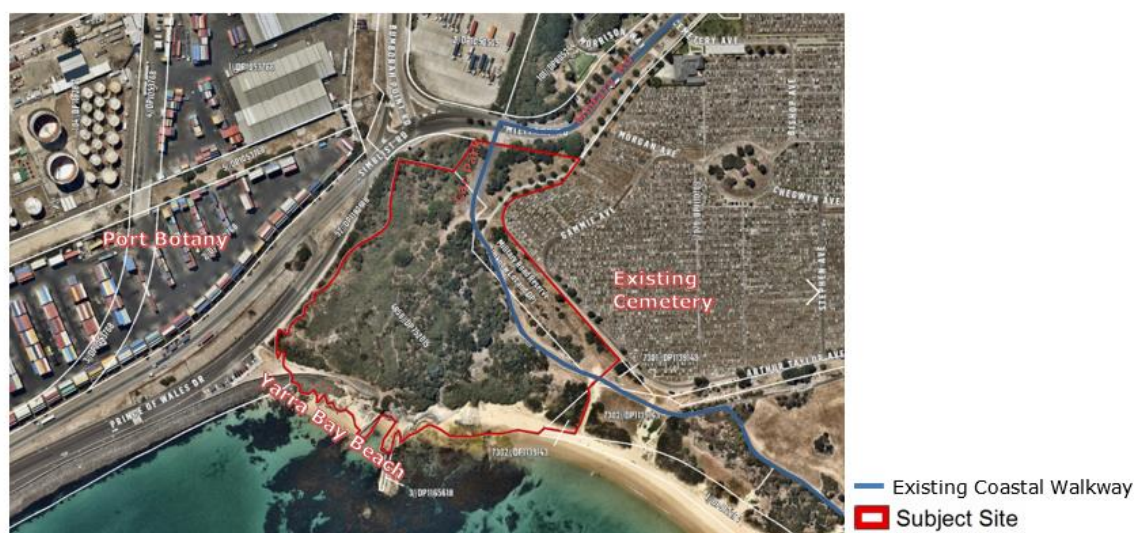


Figure 1: The Subject Site

Local Planning Framework

Randwick Local Environmental Plan 2012

The site is zoned RE1 Public Recreation under the RLEP 2012 (as shown in Figure 2). The RE1 zone permits a range of uses to support public open space and recreational activities. Key objectives of the zone are provided below:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To protect, manage and restore areas with high biodiversity, ecological and aesthetic values, including buffer areas and habitat corridors

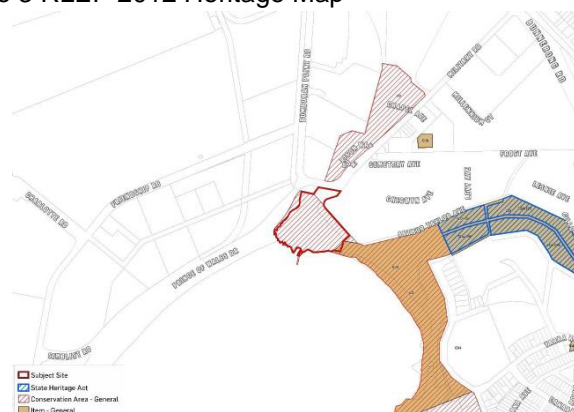
Development for the purpose of a cemetery is prohibited under this zone.

The site is located within the Botany Bay National Park Heritage Conservation Area, as indicated in Figure 3. This heritage area covers an extensive stretch of coastal strip facing Botany Bay and the Pacific Ocean, from Yarra Bay to the former Prince Henry Hospital site. The south eastern corner of the site constitutes a small portion of Yarra Bay Beach and Reserve which is identified as a local heritage item.

Figure 2 RLEP 2012 Zoning Map



Figure 3 RLEP 2012 Heritage Map



Development Control Plan Preparation Requirements

Clause 6.12 under the RLEP 2012 specifies that sites over 10,000sqm require the preparation of a DCP. A DCP for the proposal is required to be lodged by the applicant and endorsed by Council prior to the lodgement of a DA for the site.

The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan. A future DCP will be required to address more detailed planning controls such as landscaping, landscape treatments, public access, environmental management, heritage, circulation, parking and drainage.

Randwick Development Control Plan 2013

The Randwick Development Control Plan 2013 (DCP) contains controls (section F1) for development in recreation zones (RE1 and RE2). This DCP section requires development proposed in recreation zones to carefully address any potential adverse impacts on the recreational and ecological values and intended public access/use of the land. In the case of RE1 zone, any development proposal is also required to address any relevant plan of management. The plan of management applicable to the subject site is Council's Beach and Coastal Reserves Generic Plan of Management and this will be a matter for consideration at any future DA stage.

The Planning Proposal

The Planning Proposal has been prepared by Urbis on behalf of the SMCLM (the proponent).

The proponent distributed a notification letter to the residential area around Yarra Bay and the Port Botany in mid-June 2019 notifying them of the Planning Proposal and expected timeframes for the future stages of the proposal (Attachment 1).

The purpose of the Planning Proposal is to amend the RLEP 2012 to facilitate expansion of the ESMP onto the site. This will be achieved by amending Schedule 1- Additional permitted uses of the RLEP 2012, to state that development for the purpose of a cemetery is permitted with development consent on part of the site, as identified on the proposed Additional Permitted Uses Map (Figure 4).

The proposed cemetery expansion will enable the creation of approximately 3,000 full body burial plots (with a maximum capacity of 6,000 double-depth graves) in addition to space for ash interments.

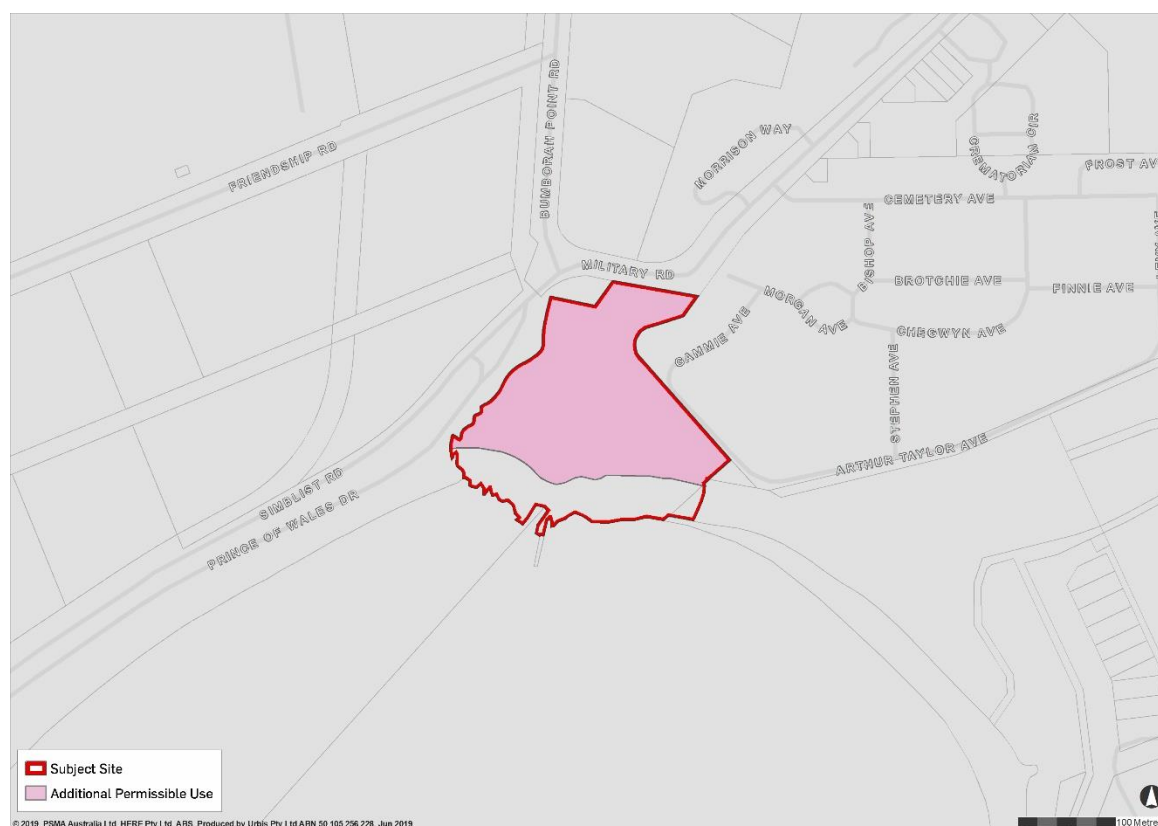


Figure 4 Additional Permitted Uses Map (purple coloured area)

Concept Landscape Plan

The site is to be designed primarily as a contemporary lawn cemetery, with two sections for monumental graves proposed at the interface with the existing cemetery. The proposed landscape is predominantly lawn, with a hierarchy of pathways and cycle ways provided to enhance public access through the site and along the foreshore of Yarra Bay.

The Concept Landscape Plan (Figure 5) proposes a 20-metre wide foreshore buffer zone, to ensure that this critical foreshore corridor is reserved for public open space and environmental protection. Natural vegetation within this zone will be largely retained and a foreshore walk (Item No. 6, Figure 5), in the form of a boardwalk (1.8m wide), will be located directly to the north of the buffer zone to provide access to the beach and link with the regional coastal walkways to the east. It is important to note that the proposed additional permitted use (i.e. the subject Planning Proposal) will not apply in this foreshore buffer zone (as indicated in Figure 4).



01: A PARKLAND CEMETERY

As an extension to Eastern Suburbs Memorial Park, the site is to be developed as a predominantly lawn burial facility. This approach is appropriate in providing a parkland setting to transition the Yarra Bay foreshore with the monumental graves of the existing cemetery and completing the open space infrastructure that extends to the east.

02: MONUMENT INTERFACE

The provision of monumental burial plots at the interface with the existing cemetery will provide an integrated transition to the new extension area.

03: LANDSCAPED COLUMBARIA

Contemporary ash interment is to be provided within the fabric of the landscape, utilising retaining structure as opportunity for memorialisation embraced in the landscape.

04: ABORIGINAL CEMETERY & MEMORIAL GARDENS

A defined and protected area of 125 plots to be allocated to the La Perouse LALC and consecrated as Aboriginal Cemetery.

05: A COMMUNITY FORESHORE

The Bumborah Point foreshore is to remain a public accessible open space. A shared zone promenade is to be established behind the sea-wall at the western end that provides a gateway to the foreshore zone.

06: FORESHORE WALK

Proposed as a boardwalk skirting the interface between vegetated coastal slopes and the sandstone beach-head, the walk provides secure access to the beach and links with regional coastal walkways to the east.

07: A SENSE OF PLACE

Interpretive media celebrating the areas rich history is to be incorporated through the site, with a landmark destination proposed on the foreshore as a central point to contemplate and appreciate the site and its context.

08: FORESHORE VEGETATION ZONE

The natural vegetation of the foreshore slopes is characteristic of the landscape setting and is to be retained and enhanced.

09: PARKING

The existing car park off Military Road is to be retained and upgraded to improve access and circulation. The existing car park on Prince of Wales Drive will continue as a public facility for accessing the foreshore.

10: LINKS TO REGIONAL RECREATION NETWORK

Cycleway / shared path is to be provided through the site linking to with existing routes adjoining the site.

11: AN INTEGRATED FACILITY

The site is to be developed as an integrated extension of the Eastern Suburbs Memorial Park. Internal road and footpaths are to link with the existing cemetery at the north-east boundary, with clear visual connections through an incidental canopy line transitioning from the parkland setting to the traditional monumental graves.

12: LANDSCAPE BUFFER

In creating a desirable landscape amenity for the site, existing trees along Prince of Wales Drive are to be enhanced to create a vegetated buffer to the Port Botany Terminals.

Figure 5 Concept Landscape Masterplan

Proponent's Justification

The proponent claims that the Planning Proposal will increase the usability, accessibility and functionality of the RE1 zoned land and facilitate the dual use of the site for a cemetery and publicly accessible open space. The proponent states that the Planning Proposal facilitates the intended development outcomes sought in the zone.

The Planning Proposal is supplemented by a number of supporting technical studies to help justify the requested amendments to the RLEP 2012. These are summarised below.

Inner Sydney Cemetery Demand Assessment

This assessment report indicates that there was a total of around 8,260 burial plots available as at September 2017 within the Eastern City District, with almost 90% estimated to be within the ESMP. If demand for burial plots remains constant, the current stock of burial plots would be fully absorbed in approximately five years from 2017 (to 2022). The report notes that with the additional 3,000 proposed burial plots, capacity will be reached in approximately seven years from 2017 (to 2024), allowing for an additional two years of supply.

The assessment confirms that there is very limited available burial space within the Eastern City District and new burial space needs to be made available to meet medium and long term local demand.

Contamination Report

Preliminary contamination assessment of the site has been prepared by JBS&G. The assessment has been informed by a desktop review of available information relating to the environmental setting of the site; a site inspection to document site conditions and visual indicators of potential contamination, and a soil sampling program.

The investigation seeks to draw conclusions regarding the potential contamination status of the site to support the rezoning application as per the requirements of SEPP 55.

The assessment concludes that while the site has a long history of disturbance including importation of fill, *"...the investigation did not identify the potential for gross or widespread contamination which may preclude rezoning of the site. Identified potential soil and groundwater impacts are considered representative of common contaminants and potentially contaminating land use activities which can be readily dealt with during the DA stage (i.e. including completion of preliminary and detailed site investigations consistent with relevant Council development control plans (DCPs) and SEPP 55 requirements) for redevelopment and assessment for site suitability"*.

Accordingly, the assessment recommends that a detailed site investigation be completed as part of the development application process to confirm site suitability in accordance with SEPP 55 requirements. Completion of a detailed site investigation to be undertaken in accordance with SEPP55 and relevant EPA Guidelines is to be submitted with the development application. Council will also require a site audit statement to be completed by an EPA accredited site auditor as part of any future development application process.

Flora and Fauna Assessment

The Flora and Fauna Assessment for the site has been undertaken by Eco Logical Australia (ELA). The assessment report states that no threatened species of flora or fauna listed under the Biodiversity Conservation Act 2016 (BC Act) and Environment Protection Biodiversity Conservation Act 1999 (EPBC Act) were recorded during the site inspection. According to the assessment, the dominant vegetation communities on the site are Coastal Sand Tea-tree Banksia Scrub and Beach Spinifex Grassland. The site also contains several weeds species.

The Proposal would remove approximately 0.65ha of native vegetation (a reduction from 1.32ha proposed in original 2017 landscape plan) as part of the Concept Master Plan which is above the clearing threshold for a lot of this size under the BC Act and therefore offset obligations under the BC Act would apply. This matter is further discussed in this report.

The BC Act, which came into effect on 25 August 2017, introduces new requirements for biodiversity assessment, including preparation of a Biodiversity Development Assessment Report (BDAR) to identify how the proponent proposes to avoid and minimise impacts, and the offset obligation

required to offset the likely biodiversity impacts of the development or clearing proposal, expressed in biodiversity credits. The BDAR is required to be completed in accordance with the Biodiversity Assessment method (BAM) by a Biodiversity accredited assessor under the BC Act and to be submitted along with the Development application for the proposal.

Geotechnical Report

A preliminary geotechnical investigation has been undertaken by Douglas Partners. The investigation comprised cone penetration tests and sampling and testing using hand-held equipment, followed by laboratory testing of selected samples.

According to the assessment, the primary geotechnical issues at this site relate to excavation conditions, earthworks, foundations and groundwater and given the proposed burial plots, groundwater and seepage flow conditions will be important to the performance of the proposed cemetery.

The study concludes that, from a geotechnical perspective, the site may be made suitable for use as a cemetery and suggests a minimum burial setback of 20m from the existing sandstone outcrops as shown in Figure 6 below.

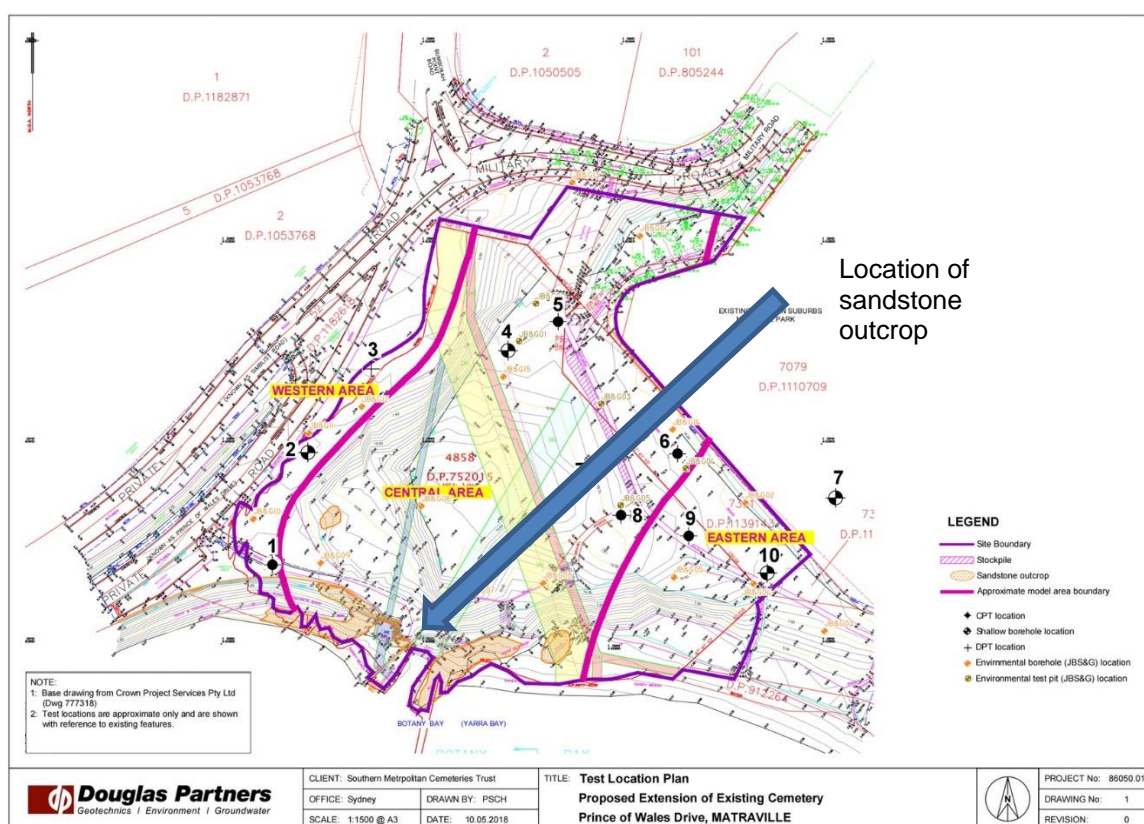


Figure 6 Geotechnical Model for the site

Traffic and Parking Assessment Report

Prepared by Transport and Traffic Planning Associates, the traffic and parking assessment concludes that the proposal will not have unsatisfactory traffic implications and the proposed parking, vehicle access, circulation and servicing provisions will be adequate and suitable for the proposal. Traffic and parking related impacts will be assessed at the DA stage when further information is available on expected attendances to the site.

Coastal Engineering Study

The study, prepared by Horton Coastal Engineering, indicates that the site is unlikely to be impacted by erosion/recession for at least 60 years (based on conservative hazard line delineation) and if this planning period can be accepted, the general layout of the cemetery is acceptable from a coastal engineering perspective. Over the longer term (i.e. beyond 60 years), management of

erosion/recession will be required such as beach nourishment, coastal protection works and possible mechanical sand relocation.

The study also provides specific comments on the proposed foreshore boardwalk. It concludes that the proposed foreshore walkway would be exposed to significant wave action at times and recommends that the boardwalk be piled down to bedrock or sufficiently below -1m AHD in sandy areas, with allowance for wave and sand slumping forces. The study also notes that if the foreshore walkway could be located further landward, the risk of undermining by wave action would be lower. This matter will be assessed at the DA stage and appropriate conclusions will be attached to any future consent.

Visual Impact Assessment

An assessment of the visual impact has been undertaken by Urbis. The assessment indicates that the site has a limited degree of visual exposure and overall, has a low visual sensitivity. It concludes that developing the site for the purposes of a cemetery:

- Can be accommodated into the landscape without significant adverse impacts on the landscape quality of the surrounding area;
- Could achieve a suitable 'environmental fit'; and
- Would increase the functionality and useability of the RE1 zoned land for passive recreational activities.

The visual assessment has been assessed by the Randwick Waverley Design Excellence Panel (see separate discussion of panel findings).

Heritage Assessment

An Aboriginal Heritage Due Diligence Assessment report, prepared by Artefact Heritage is provided as part of the Planning Proposal. The report considers the study area of low sensitivity for Aboriginal archaeological values.

The Planning Proposal also includes a Heritage Impact Statement (HIS) prepared by Urbis. In terms of heritage significance, the HIS notes that the site has historical and heritage value associated with its use in providing infrastructure for the former Bunnerong Power Station, including an underground water inlet tunnel to draw water from Botany Bay into the Power Station. The remnant sections of the tunnel are the only physical remains of the Power Station today.

In terms of heritage impact, the HIS notes that the proposed lawn cemetery and associated landscaping works will occur within the central portion of the site, contained by a foreshore buffer zone. The HIS argues that the retention of a 20-metre vegetated buffer zone of natural shrubbery along the foreshore will retain the site's connection with the broader Botany Bay National Park Heritage Conservation Area. The HIS also advises that future burials would avoid the significant underground infrastructure associated with the former Bunnerong Power Station as well as typical underground services.

The HIS concludes that the proposal will not impact on the contribution of the site to the natural bushland character of the Botany Bay National Park heritage conservation area, and that there will be no physical or visual impact on the state significant Chinese Market Gardens in the vicinity of the site.

An addendum to the heritage impact statement received by Council on 17 June 2019 notes that no definitive conclusive records of military fortifications were observed during historical research undertaken at the national archives of Australia.

Randwick Waverley Design Excellence Panel Assessment

The original 2017 proposal was referred to the joint Randwick Waverley Design Review Panel (DEP). The original version of the proposed Concept Landscape Plan and Visual Impact Assessment Report on 10 September 2018. The Panel's comments are intended to assist Council in its design consideration of any future site specific DCP and development application for the proposal to ensure urban design and visual impact principles are upheld.

The panel recommended that with respect to landscaping, consideration should be given to providing a stronger series of 'hedgerow' banks of trees to maintain the wooded view from a

distance and greater protection from the sun and wind and the loop road should be pulled away from the 20m foreshore buffer, which could also be further reinforced with additional planting along its western side.

In regards to the visual impact of the proposed development, the Panel recommended that, the view shown at the confluence of Simblist Rd and Prince of Wales Drive should be relocated south to the point, as this is where there is a public gathering point. It is agreed that this is not a view of High Sensitivity and an additional view should be provided just to the south of View 2 where the path turns prior to entering the new memorial park. This will be a view of High Sensitivity and should be assessed. View 7 - Yarra Bay Sailing Club concerns that the proposal will increase views through/into the port.

Overall, the DEP advises that, given the site's topography and visibility from both short and long distances, the proposal will alter the current image of the site as a wooded foreshore. As such, while a scattering of new trees has been proposed in the landscape plan, landscape treatments in the form of more continuous windbreaks along major paths could help retain the image of the site as a wooded foreshore when viewed from outside the site.

Urbis was provided with the DEP comments and advises that the visual impact of the proposed development can essentially be addressed by way of greater retention of native vegetation in addition to new planting within the buffer zone in the eastern portion of the foreshore. Furthermore, the existing vegetation to the south of Military Road and north of the existing Memorial Park will be retained and enhanced and formal tree planting along the existing shared path, internal footpaths and proposed internal road network which would assist to filter views towards the port infrastructure once mature.

The Proponent's advice in relation to mitigating any adverse visual impacts is considered reasonable and can be addressed further when more details of the proposal are shown as part of any future DCP and DA process.

Preliminary Assessment by Council officers

A preliminary assessment of the Planning Proposal has been undertaken by Council's Strategic Planning team. Following this preliminary assessment Council officers raised a number of issues with the proponent regarding the following matters:

- Extensive removal of native vegetation

Concerns were raised by Council officers on the proposed removal of native vegetation. The Planning Proposal will result in the removal of the majority of native vegetation from the site, including 0.65ha of Coastal Sand Tea-tree Banksia Scrub. The proposed vegetation removal will trigger a BDAR under the BC Act, to be prepared with any future development application.

The Concept Landscape Plan includes a foreshore buffer zone where a small section of the natural vegetation is to be retained and enhanced. The retention of the native foreshore vegetation is supported as the vegetation cover on beach dunes is critical for stabilising and retaining healthy sand deposits for the beaches they support. This area also provides important habitat corridor linkages east to Kamay Botany Bay National Park, west towards Penrhyn Estuary and the Botany wetlands and northeast through Crown lands to Malabar Headland National Park and the south Maroubra beach sand dunes. It should be noted that Council has invested resources in the management of the site over the last 15 years in conjunction with a community Bushcare group. This site management has involved weeds management and stabilising and revegetating the sand dunes with local native species.

As such, the Concept Landscape Masterplan has been revised to reduce the volume of native vegetation to be cleared and to retain and a larger section of Coastal Sand Tea-tree Banksia Scrub. This version provides an opportunity for native vegetation to be enhanced on the site.

- Potential Coastal Processes/Hazards

The Coastal Engineering Study concludes that the site is unlikely to be impacted by erosion/recession for at least 60 years. In particular, the Study indicates that the proposed coastal/foreshore walkway would be exposed to significant wave action at times. In this regard, the NSW Coastal Risk Management Guide 2010 in relation to coastal hazard assessment states that:

It is important to estimate the extent of land that could be impacted upon by coastal processes and hazards (including sea level rise) over longer-term planning horizons (such as 2050 and 2100). These areas encompass the immediate hazard area whilst incorporating allowances for underlying long-term recession of the shoreline that could result from long-term sediment imbalance within the active beach system or from measured and projected sea level rise.

Accordingly, it was noted that the Proponent's Coastal Engineering Study had not addressed coastal hazard along the foreshore of the subject site consistent with the necessary longer-term planning horizons required under the NSW guidelines. The Proponent's study only provided for a short 50 year planning period.

In June 2018, Council appointed BMT Pty Ltd, a coastal engineering and management consultancy, to undertake a peer review of the Proponent's coastal engineering study, in particular, the location and safety of the proposed coastal/foreshore walkway in relation to a suitable planning horizon for assessing coastal hazards including potential wave overtopping events. BMT's peer review report dated August 2018 supported Council's initial concerns regarding the Proponent's short 50 year planning horizon for coastal hazards. BMT recommended that the location and design of the proposed coastal walkway be substantially modified given the potential impacts of coastal hazards in the longer 100 year planning period including wave overtopping events.

In view of the concerns raised in the peer review, the Proponent has amended the Concept Master Plan in June 2019 to include, among other things, relocation of the proposed coastal walkway further inland north of the 100 year (2119) coastal erosion hazard line. This, effectively, ensures that the proposal responds to the coastal processes and hazards over the 100-year planning period.

It should be noted that with the recommended relocation of the coastal walkway beyond the 100 year coastal erosion hazard line and inclusion of all the necessary safeguards against long term (ie 100 year) coastal processes and hazards in the amended planning proposal, Council's desk-top calculation indicates that there will be a reduction in the area of the proposed additional permitted cemetery use from that originally proposed in the Proponent's initial planning proposal submission.

- Heritage

The Heritage Study submitted by Urbis includes a section addressing Heritage Conservation which advised that a Heritage Impact assessment would be undertaken as part of the DA process to assess the heritage significance of registered and potentially unregistered heritage items on the site and surrounding area. The submission also included an Aboriginal Heritage Due Diligence Assessment prepared by Artefact Heritage.

In relation to Aboriginal Archaeological sensitivity, the report notes that the study area is within two areas of legislated archaeological sensitivity, being a headland and within 200m of water, and that one site not formally re-identified since 1897 may be present. The report notes however, that a study of historical land uses indicates that it has been subject to significant disturbance that may include considerable changes to landform, associated with installation of a range of subterranean infrastructure, and possible deposition of material from the Bunnerong Power Station. The report considers the study area of low sensitivity for Aboriginal archaeological values.

In relation to Aboriginal archaeological values, the report notes that final recommendations in relation to Aboriginal cultural heritage values in the study area can only be made after the completion of geotechnical and contamination reporting, in order to inform the feasibility and need for any archaeological subsurface testing. The report also notes that geotechnical testing should avoid the potential location of the existing recorded site and a buffer area around it (mapped). The report also recommends that the La Perouse Aboriginal Land Council be consulted as to their knowledge of this existing recorded site and to establish their opinion of the desirability or feasibility of its relocation.

Concerns were raised that no Heritage Impact Assessment, had been prepared to address the impact of the proposal on recorded and unrecorded heritage, including the Botany Bay National Park heritage conservation area and the surrounding State and local heritage sites. Such potential heritage impacts should be identified at planning proposal stage, rather than at development application stage. Following a request from Council, a subsequent submission in June 2019

included a Heritage Impact Statement (HIS) prepared by Urbis. The HIS included a Historical Overview of the subject site and Bunnerong Power Station, and provided a Statement of Significance for the subject site, and an Impact Assessment for the Planning Proposal. However, community concerns that the site may contain historical archaeological relics relating to the possible previous use of the site for defence purposes had not been addressed adequately in the HIS. The Proponent was further requested to provide advice on this matter in August 2019. In response, the proponent has provided further heritage documentation comprising a *Heritage Assessment Bumborah Point, Port Botany* prepared by Urbis and dated 27 August 2019 and *Identifying Historical Archaeological Potential Bumborah Point, Port Botany* prepared by Urbis and dated 27 August 2019.

These additional documentation have been assessed by Council's Heritage Planner who advises that, overall, the *Heritage Assessment* and *Identifying Historical Archaeological Potential* report have carried out a thorough investigation of the historical archaeological potential of the site based on site visits and a review of the considerable quantity of documentary evidence available to date. Furthermore, the *Identifying Historical Archaeological Potential* report includes a Summary Time-line for the subject site and provisions for the preparation of a more detailed Archaeological Assessment for the site, and any application for an archaeological excavation permit, if required. Council's Heritage Planner considers that appropriate conditions can be applied at development application stage to address any possible findings that may arise when future works are undertaken onsite.

- Site Contamination

While the findings of the Proponent's Preliminary Site Contamination report (that *the potential for gross or widespread contamination to preclude rezoning of the site would be minimal*) is noted, Council has requested the proponent to provide a more clearer statement in the specific terms required under clause 6 of SEPP 55 – Remediation of Land in relation to planning proposals for rezonings or change of use. In response, the Proponent's contamination consultant has provided additional advice indicating that site contamination is consistent with the requirements of Clause 6 of SEPP 55, that *"the land can be made suitable for the intended land use subject to development and implementation of an appropriate contamination management strategy, including remediation where required"*. The Proponent's advice is considered reasonable and acceptable in relation to the requirements of Clause 6 of SEPP 55.

- Land Transfer

As indicated earlier in this report, the site includes a Council owned road reserve forming the tail end of Military Road. Any future DA for the proposed cemetery will require a separate parallel process to close this section of Military Road reserve under Council ownership as per the requirements of the Roads Act, 1993. It is proposed to swap the Council owned Military Road road reserve with the section of the site that will be dedicated as a foreshore buffer zone for public open space and environmental protection. The closure of Council's Military Road road reserve is required before any land swap arrangement can be effected. It is considered appropriate that the proponent contribute to the long term maintenance and management of the foreshore area. This would require an agreement to be entered into with the proponent to determine the scope. A similar approach was undertaken for the Randwick Environment Park near the Bundock Street Defence site.

Conclusion

The Planning Proposal is supported by a range of technical studies on a variety of planning and environmental issues, including the draft concept design, contamination, flora and fauna, traffic and parking, visual and heritage impact, and geotechnical and coastal engineering investigations.

Council's Strategic Planning Team has undertaken a preliminary assessment of the Planning Proposal to determine if the proposal has strategic merit. Key concerns raised with the applicant have been addressed by the applicant through correspondences and meetings with Council. The proponent at Council's request undertook further technical studies and investigations to address Council's concerns.

The Planning Proposal has addressed all matters raised by officers in relation to the planning proposal which has been amended and re-submitted in June 2019. The main issues relating to the Planning Proposal resulting from the technical studies and assessments that will require

consideration in any future site specific development control plan and/or development application are:

- submission of site contamination assessment to confirm the site's suitability for the intended uses subject to a future Site Audit Statement;
- review of the Concept Landscape Plan, including (but not limited to) the boundary of the proposed foreshore buffer zone and the location of the proposed foreshore walkway to respond to any potential coastal hazards;
- investigation of alternative design options for the Concept Landscape Plan to minimise native vegetation clearing from the site;
- landscape treatment to provides more continuous windbreaks along major paths to help retain the image of the site as a wooded foreshore when viewed from outside the site; and;
- terms of an agreement to be entered with the proponent for the care, management and maintenance works including bush restoration, environmental management, erosion control and prevention of degradation of the foreshore area for the long term period.
- recognition of the sites possible use for WWI and WWII fortifications and considerations regarding the impact of the proposal on any remaining military installations that may exist on the site.

Any additional issues raised by the RLPP will be considered and incorporated in the final assessment report to Council.

As identified in the Greater Sydney Commission's Metropolitan Strategy and the Cemeteries and Crematoria NSW 2017 Metropolitan Sydney Cemetery Capacity Report, cemeteries and crematoria are key social infrastructure and there is an acknowledged shortage of burial space across Metropolitan Sydney and within the Eastern City District. Specifically, Planning Priority E3 in the Eastern City District Plan, states as follows in relation to cemeteries and crematoria:

"Cemeteries and crematoria are key social infrastructure that also need to be accessible geographically and economically, and reflective of a diversity of cultures and backgrounds. A growing Greater Sydney requires additional land for burials and cremations with associated facilities such as reception space and car parking" (p26).

The planning proposal, therefore, has strategic merit and is consistent with the Greater Sydney Region Plan and the Eastern City District Plan objectives in relation to cemeteries as key social infrastructure.

Having regard to assessment comments from relevant Council officers as well as the subsequent revised planning proposal of June 2019, it is considered that the site can potentially accommodate the proposed cemetery and public open space uses.

Recommendation

That:

1. The RLPP provides advice to Council that the Planning Proposal for the Bumborah Point cemetery expansion be supported for submission to the NSW Department of Planning, Industry and Environment requesting a gateway determination under s3.34 of the EP&A Act to enable public exhibition as the Planning Proposal is considered to have relevant site specific and strategic merit to proceed to gateway determination.

Attachment/s:

1.   Near neighbour notification letter



Southern Metropolitan Cemeteries Land Manager

14 June 2019

Dear Neighbour,

For over 130 years, Eastern Suburbs Memorial Park has been a welcoming parkland of contemplation as well as celebration.

The Southern Metropolitan Cemeteries Land Manager is currently exploring options to respond to the shortage of burial space in the Greater Sydney area. The Department of Planning, Industry and Environment estimates that existing cemetery capacity will likely be exhausted in Greater Sydney by 2050 and by 2024 in the Eastern Suburbs district.

To provide future burial options, Southern Metropolitan Cemeteries Land Manager are lodging a Planning Proposal with Randwick Council at the end of this week. It is important for Southern Metropolitan Cemeteries Land Manager to ensure near neighbours are notified of this proposal.

The proposal incorporates current Crown land site, known as Bumborah Point, and will be designed as a contemporary parkland cemetery to accommodate approximately 3,000 burial plots and additional space for ash interments.



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Southern Metropolitan Cemeteries Land Manager

Parkland cemeteries are designed to protect open space for the community. Memorials and plaques are predominately level to the lawn, with minimal protrusion above ground level. There may also be some low scale monuments and ash interment structures, which will not detract from the parkland concept.

Bumborah Point is currently unsafe for recreational uses as it is highly vegetated and does not contain clear access paths, lighting or usable spaces. There is currently no formal or safe pedestrian access to the beach.

To help rectify this issue, the proposal aims to improve the public access of Bumborah Point and the safety of access to Yarra Beach and foreshore through active walkways and cycleways throughout the site. A boardwalk to Yarra Beach with a viewing platform that can be accessed along a foreshore promenade is also included in the proposal.

TRAFFIC AND PARKING

Whilst the proposal seeks to increase the capacity of the cemetery, it will not increase the frequency of ceremonies undertaken at Eastern Suburbs Memorial Park and is not expected to increase traffic within the area.

The existing car park on Prince of Wales Drive will continue as a public facility for accessing the foreshore. Vehicular access to Bumborah Point is proposed to be a left turn in and a left turn out of Military Road.

The proposal requests the existing car park off Military Road be retained and upgraded to improve access and circulation, linking Bumborah Point to the existing Eastern Suburbs Memorial Park internal road network.

Footpaths and cycleways throughout the site will link Military Road to Yarra Beach for safe and easy public use.

PROTECTING THE ENVIRONMENT

Bumborah Point is a unique headland landscape that is valued by local residents and the wider community. To maintain this outlook, a 20-metre buffer zone of natural shrubbery will be retained to preserve the existing appearance of the headland and provide a visual barrier to the cemetery and parkland space.

Southern Metropolitan Cemeteries Land Manager will also be collecting the seeds from native trees and shrubs to plant across the site, enhancing the natural environment and maintaining the current vegetation and existing appearance of the headland.

When planning for burials on site, care will be taken to avoid the underground infrastructure associated with the former Bunnerong Power Station, as well as other services.



Southern Metropolitan Cemeteries Land Manager

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PLANNING PATHWAY

Bumbarah Point is zoned RE1 Public Recreation within the Randwick Local Environmental Plan 2012 (RLEP 2012). The proposal lodged with Randwick Council will seek the inclusion of 'cemetery' as an additional permitted use on the site. Timing for this proposal is likely to be the following:

- **Stage 1:** Lodgement of Planning Proposal – June 2019
- **Stage 2:** Public exhibition of Planning Proposal – September/October 2019
- **Stage 3:** Determination of Planning Proposal – late 2020.

THE SOUTHERN METROPOLITAN CEMETERIES LAND MANAGER

The Southern Metropolitan Cemeteries Land Manager, consisting of Woronora Memorial Park and Eastern Suburbs Memorial Park, was established under NSW Gazette official notices on the 3 August 2012. Cemetery operations commenced at Matraville in 1893 and Woronora in 1895.

MORE INFORMATION

Southern Metropolitan Cemeteries Land Manager have commissioned community engagement company, Urbis Engagement, to collect feedback and provide further information about this proposal. Members of the community are encouraged to contact Urbis Engagement on engagement@urbis.com.au or phone **1800 244 863** if they have any questions.

Yours Sincerely,

Eddie Swat

Manager, Capital Works



Southern Metropolitan
Cemeteries Land Manager